

Sonablate Corp Standard Terms and Conditions of Purchase

1. TERMS AND CONDITIONS: The supplier identified on the purchase order ("Seller") agrees to sell, and Sonablate Corp or its subsidiary Focus Surgery, Inc. ("Sonablate Corp") agree to purchase, the products or services identified in the purchase order, which incorporates these terms and conditions (collective, the "Order"). While Seller may acknowledge receipt of this Order by signing and returning it, any Seller terms and conditions in any specific order acknowledgment documentation, invoice, or other writing, preprinted or otherwise, shall be inapplicable and shall not modify this Order.

2. INVOICES: The Order shall not be filled at a price higher than shown on the face of this order, and any change to the purchase price or condition of this order must be authorized in writing by Sonablate Corp. Sonablate Corp is a medical manufacturing company and is exempt, in certain cases, from Sales, Use and Excise Tax. The amount of such invoice shall not be due until thirty (30) days from acceptance of the products or services furnished under this Order. Payment shall not constitute acceptance.

3. INSPECTION: Seller shall allow Sonablate Corp to return for a full refund, including shipping or other related costs, any product which is determined by Sonablate Corp to be non-conforming within the later of (a) sixty (60) days after Sonablate Corp's receipt of such products or services or (b) thirty (30) days after installation of the products or completion of services by Seller.

4. NOTICE OF CHANGES. Seller agrees to advise Sonablate Corp in writing, at least one hundred eighty (180) days in advance, of any changes that would materially affect the fit, form, function and/or appearance of the products governed by this Order; provided, that such notice shall not (a) cause Sonablate Corp to forfeit its right to inspection pursuant to Section 3 or (b) modify the specifications of the products or services identified in this Order, unless agreed explicitly by Sonablate Corp in writing.

5. PACKAGING AND SHIPMENT: Seller shall comply with Sonablate Corp's shipping instructions. Seller shall suitably wrap, box, and/or crate all products to protect against hazards of shipment, storage, and exposure. All shipments shall be DDP (Incoterms) to the Sonablate Corp receiving dock at the Sonablate Corp facility specified in the Order.

6. DELAY: Seller shall immediately notify Sonablate Corp of any matter which may delay Seller's performance under this Order. Seller shall not be liable for excusable delays which arise out of causes beyond the control and without the fault or neglect of Seller, including acts of God or of the government, fires, floods, strikes, embargoes, or unusually severe weather; provided that Sonablate Corp may terminate any Order which is subject to an excusable delay without any liability.

7. DEFAULT: Sonablate Corp may terminate this Order in whole or in part upon written notice to Seller if Seller fails to deliver products or perform services within the Order schedule. Upon any termination for default of Seller, Sonablate Corp may require Seller to transfer title and deliver, as directed by Sonablate Corp, (a) any completed products or services, and (b) such partially completed products and materials, parts, tools, dies, jigs, fixtures, plans and drawings Seller obtained from or on behalf of Sonablate Corp. The rights and remedies of Sonablate Corp provided in this Order and by law are cumulative. Sonablate Corp shall not be liable for penalties or for any amounts in excess of the price allocable to the units of product or work giving rise to the claim.

8. WARRANTY: Seller warrants that all products and services to be of new material, merchantable, free from defects, and unreasonable hazards, in design, material, and workmanship, fit for the purposes described in this Order, and to conform to applicable specifications of Seller and to Order requirements. Seller acknowledges that Sonablate Corp may include the products in end products manufactured by Sonablate Corp and will extend any and all of Seller's warranties to the purchaser of any Sonablate Corp end product.

9. INTELLECTUAL PROPERTY RIGHTS: The term "Inventions" means each invention, improvement, method, design, idea, information, and discovery (copyrightable, patentable, or not) by Seller, or any of its subcontractors or suppliers, conceived or first reduced to practice during or in the performance of this Order or related work request. Seller shall promptly notify Sonablate Corp of all Subject Inventions and obtain promptly intellectual property rights (including United States and foreign patents, copyrights, and applications for them) to all Inventions and assign them to Sonablate Corp. Seller shall obtain

and deliver promptly to Sonablate Corp full written descriptions of Inventions (including any drawing). Seller will assist Sonablate Corp in obtaining patent and other proprietary protection for any and all Subject Inventions and shall assist in the execution and delivery of all requested applications, assignments and other documents, and take such other measures as Sonablate Corp shall reasonably request, in order to perfect and enforce Sonablate Corp's rights in any and all Inventions.

10. FURNISHED PROPERTY: All items provided to Seller by Sonablate Corp shall be kept confidential, be and remain Sonablate Corp's property, not be used without Sonablate Corp's permission, and be returned to Sonablate Corp immediately upon request.

11. INDEMNIFICATION: Seller shall indemnify, defend and hold Sonablate Corp and its affiliates and their directors, employees, and agents harmless from and against any and all actions, claims, liabilities, costs, damages and expenses (including reasonable attorneys fees) for physical damage to or loss of tangible property, for injury or death of any person and for any product recall or retrofit, in each case to the extent arising out of, resulting from or caused by: (a) Seller's negligence, recklessness, or willful misconduct, or (b) any defect in design, workmanship, or materials carried out or employed by Seller or its employees, agents, or subcontractors, or (c) entering upon premises occupied by or under the control of Sonablate Corp, any of its customers, or suppliers in the course of performing this order, except in each case to the extent that any such damage to or loss of property and injury or death of any person is caused by acts or omissions of Sonablate Corp, its employees, agents and subcontractors. This indemnification shall be in addition to warranty obligations of Seller.

12. GOVERNING LAW AND DISPUTE RESOLUTION: This Order shall be construed under and governed by the law of the State of North Carolina without regard to conflicts of laws rules. Sonablate Corp and Seller shall meet in good faith to attempt to resolve informally any disputes arising out of this Order. If the parties are unable to resolve such disputes informally, either side may initiate legal action for relief. Venue shall be in the state and/or federal courts of Mecklenburg County, North Carolina, which shall have the exclusive jurisdiction over the subject of such disputes. In any action to enforce this Order, the prevailing party shall be awarded all court costs and reasonable attorneys' fees incurred, including such costs and attorneys' fees incurred in enforcing and collecting any judgment.

13. ASSIGNMENT: Seller may not assign any rights nor delegate or subcontract any duties under this Order without the prior written consent of Sonablate Corp; except that Seller may enter into subcontracts for purchases of parts and supplies, and subcontracts for commercial products, and may assign its right to receive payment upon written notice. Sonablate Corp may assign or otherwise transfer this Order, in whole or in part, to a subsidiary or affiliate, or a purchaser or transferee of substantially all of the assets used by Sonablate Corp in its business to which this Order relates upon written notice to Seller.

14. ENTIRE AGREEMENT, MODIFICATION, WAIVER, NOTICES: This Order, including any attached Schedules and Exhibits, constitutes the entire agreement of the parties hereto with respect to the sale of products and services by Seller to Sonablate Corp and supersedes all prior representations, warranties, agreements, and understandings, of any kind, written and oral, of the parties hereto. It may not be modified or amended except by written amendment specifically referencing this Order signed by the authorized representatives of the parties. No waiver of any term of this Order shall imply a subsequent waiver of the same or any other term or constitute a continuing waiver. All notices shall be given in writing and be personally delivered or sent by postage prepaid mail addressed to the parties at their addresses first mentioned above or as otherwise designated to the other by notice as herein required.