



Vicor Corporation  
25 Frontage Road  
Andover, Massachusetts 01810-5416  
(978)470-2900

## SALES ORDER Acknowledgement

| CUSTOMER # | ORDER #   | SALES ORDER DATE | PURCHASE ORDER # |
|------------|-----------|------------------|------------------|
| 42921      | VCR381984 | 06-JUL-2011      | 1111017          |

**BILL TO:** MBARI  
7700 SANDHOLDT ROAD  
MOSS LANDING, CA 95039-9644  
United States

**SHIP TO:** MBARI  
7700 SANDHOLDT ROAD  
MOSS LANDING, CA 95039-9644  
United States

**Sales Representative:** Taarcom, Inc.

**If you have any questions  
concerning this order call:** 800-735-6200

|                                  |                   |                     |     |
|----------------------------------|-------------------|---------------------|-----|
| Payment Terms:<br>Freight Terms: | NET30<br>FACT_PPD | Method of shipment: | UPS |
|----------------------------------|-------------------|---------------------|-----|

| ITEM                | PRODUCT #                                                   | DESCRIPTION              | QTY | SCHEDULED<br>SHIP DATE | UNIT PRICE | EXTENSION |
|---------------------|-------------------------------------------------------------|--------------------------|-----|------------------------|------------|-----------|
| 1-1                 | V300C12E150BL                                               | E 180/375/300 12v/ 12.5A | 1   | 07-JUL-2011            | 108.00     | 108.00    |
|                     | SHIP VIA: UPS                                               |                          |     |                        |            |           |
| 2-1                 | V300C12T150BG                                               | T 180/375/300 12v/ 12.5A | 1   | 07-JUL-2011            | 140.00     | 140.00    |
|                     | SHIP VIA: UPS                                               |                          |     |                        |            |           |
| 3-1                 | V300B48E250BL                                               | E 180/375/300 48v/ 5.21A | 1   | 07-JUL-2011            | 143.00     | 143.00    |
|                     | SHIP VIA: UPS                                               |                          |     |                        |            |           |
| 4-1                 | V300B48E250BG                                               | E 180/375/300 48v/ 5.21A | 1   | 07-JUL-2011            | 143.00     | 143.00    |
|                     | SHIP VIA: UPS                                               |                          |     |                        |            |           |
| 5-1                 | V300C24E150BG                                               | E 180/375/300 24v/ 6.25A | 1   | 07-JUL-2011            | 108.00     | 108.00    |
|                     | SHIP VIA: UPS                                               |                          |     |                        |            |           |
| 6-1                 | V300C24C150BL                                               | C 180/375/300 24v/ 6.25A | 1   | 14-JUL-2011            | 127.00     | 127.00    |
|                     | SHIP VIA: UPS                                               |                          |     |                        |            |           |
| 7-1                 | FARM2H21                                                    | FARM "H" 1KW LP SLOT     | 2   | 07-JUL-2011            | 150.00     | 300.00    |
|                     | SHIP VIA: UPS                                               |                          |     |                        |            |           |
|                     | Hdr: BUYER & PHONE NUMBER<br>DUANE THOMPSON<br>831-775-2003 |                          |     |                        |            |           |
|                     | SALES TAX:                                                  |                          |     |                        |            | 77.50     |
| TOTAL ORDER AMOUNT: |                                                             |                          |     |                        | USD        | 1,146.50  |

# Standard Terms and Conditions of Sale

## 1. Terms of Sale

These standard terms and conditions ("Terms") govern all sales of products (collectively, the "Products") by Vicor Corporation or any of its subsidiaries, divisions, affiliates or related entities ("Vicor") to Buyer regardless of whether Buyer purchases the Products through the medium of written purchase orders, electronic orders, verbal or written quotations, or any other writings or communications from Vicor and/or Buyer relating to the Products (collectively, the "Purchase Orders"). Upon Vicor's express acceptance by its issuance of a written Sales Order Acknowledgment ("SOA") or upon commencement of performance by Vicor, these Terms and the Purchase Orders become a binding contract between Buyer and Vicor (the "Sales Agreement"). In case of any conflict between these Terms and the terms of a Purchase Order, these Terms prevail except where Vicor has expressly accepted the conflicting term from the Purchase Order in its SOA. Absent such express written acceptance, any such conflicting or additional terms proposed by Buyer are expressly rejected by Vicor. Except as otherwise set forth in these Terms, Vicor must specifically agree to any addition or change to the Sales Agreement in a non-electronic writing signed by a duly authorized representative of Vicor before becoming binding on Vicor.

## 2. Price

In addition to the price of the Products as set forth in the Sales Agreement, Buyer agrees to pay to Vicor sales, use, excise, or similar taxes applicable to the sale of the Products and such other costs and expenses described in these Terms.

## 3. Payment

Buyer must make payment to Vicor in the currency stated on the invoice within thirty (30) days of Buyer's receipt of the Products or the date of the invoice for the Products, whichever is sooner. Payments not received by Vicor when due may, at Vicor's sole discretion, bear interest at the lower of twelve percent (12%) per annum or the maximum rate allowed by applicable law. Vicor reserves the right to limit or cancel the credit of Buyer, and Vicor may require or demand advance payment and/or adequate assurances of performance from Buyer prior to taking any preparatory steps for performing under the Sales Agreement or beginning the manufacture of the Products. Vicor will not schedule Products for manufacture with payment terms of "Cash in Advance" until paid in full by Buyer. Vicor may impose order limits on Buyer if payment terms are "Cash on Delivery." If Buyer becomes the subject of a bankruptcy or other insolvency proceeding, or fails to pay Vicor's invoices as they become due, Vicor reserves the right to: (a) delay or cancel any Sales Agreement then outstanding and receive full reimbursement for its cancellation damages pursuant to Paragraph 12 below; (b) modify terms prior to shipment; (c) require "Cash in Advance" terms; or (d) delay or cancel any shipment.

## 4. Standard Specifications

Unless otherwise agreed to in writing between Vicor and Buyer, Vicor will manufacture all of the Products in accordance with its own specifications ("Standard Specifications").

## 5. Packaging

Vicor will endeavor to comply with Buyer's packaging specifications, if any, but Vicor reserves the right to substitute any other methods of packaging that is reasonably comparable to the specifications furnished by Buyer.

## 6. Delivery

Vicor will deliver the Products EX Works Vicor's facility ("EXW"; as defined and governed by ICC Incoterms 2000), pursuant to applicable freight classifications. Buyer must pay all transportation costs of the Products. Vicor may make partial shipments at Vicor's sole discretion. If Buyer refuses to accept tender or delivery of any of the Products, such Products will be held by Vicor awaiting Buyer's instruction for twenty (20) days, after which Vicor may deem the Products abandoned and dispose of them as it sees fit, without crediting Buyer's account. A delivery date indicated in a SOA is not binding on Vicor. A delivery date indicated in a SOA by Vicor is estimated but is not guaranteed. Vicor will endeavor to meet the delivery date specified by Buyer. If Vicor is unable to meet that date, Buyer has no claim for damages resulting from any such delay in delivery. Buyer acknowledges that notwithstanding the foregoing, the following events may cause Vicor's failure to perform any of Vicor's obligations under the Sales Agreement (collectively, the events are "Delaying Events" and each event is a "Delaying Event"): (a) any cause beyond Vicor's reasonable control, including, but not limited to, a labor dispute, industry disturbance, fires, unusually severe weather conditions, earthquakes, floods, declared or undecared war, epidemics, computer malfunctions, civil unrest, riots, lack of supplies, delay in transportation, governmental, regulatory or legal action, act of God; or (b) by acts or omissions of Buyer, including, but not limited to, Buyer's failure to promptly comply with the terms of payment under the Sales Agreement. Any date of delivery may be extended for a period equal to the time lost by reason of any Delaying Event. Vicor reserves the right to cancel without liability any Sales Agreement, the shipment of which is or may be delayed for more than thirty (30) days by reason of any Delaying Event. Vicor reserves the right to allocate in its sole discretion among customers or potential customers, or defer or delay the shipment of, any of the Products, which is in short supply.

## 7. Title and Risk of Loss

Title to the Products and all risk of loss to the Products pass to Buyer upon the EXW delivery of the Products by Vicor. Buyer must obtain adequate insurance to cover the Products from the time risk of loss has passed from Vicor. Any special tools, dies or fixtures which are used by Vicor to develop or manufacture any of the Products shall become and remain Vicor's property.

## 8. Express Limited Warranty and Disclaimer

Vicor warrants that the Products are free from non-conformity to its Standard Specifications (the "Express Limited Warranty"). This warranty is extended to the original Buyer for the period expiring two (2) years after the EXW delivery of the Products and is not transferable. **UNLESS EXPRESSLY STATED IN THE SALES AGREEMENT, VICOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND (WHETHER ARISING BY IMPLICATION OR BY OPERATION OF LAW) WITH RESPECT TO THE PRODUCTS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANY OTHER MATTER. THIS PARAGRAPH SURVIVES THE TERMINATION OR CANCELLATION OF THE SALES AGREEMENT.** Use of Buyer's part number in any documents evidencing the Sales Agreement or on the Products is for convenience only and does not constitute any representation by Vicor with respect to performance, specifications, or fitness of any part for any purpose.

## 9. Conditions of Applicability of Express Limited Warranty

The Express Limited Warranty is of no effect if: (a) the Products are not stored, handled or serviced appropriately; (b) the non-conformity of the Products resulted from damages occurring after the EXW delivery of the Products, whether by misuse, accident or improper application or maintenance; (c) the non-conformity of the Products has not been reported to Vicor in writing within two (2) years after the EXW delivery of the Products; or (d) the non-conformity should have been discovered by Buyer in Buyer's inspection and it is not reported in writing within ten (10) days after the EXW delivery of the Products. If Buyer or any purchaser from Buyer shall alter or modify the Products without Vicor's prior written consent, and any claims are asserted against Vicor by reason of such alteration or modification, Buyer shall defend, indemnify, and hold Vicor harmless against any and all damages, liabilities, expenses and costs in connection therewith or resulting therefrom.

## 10. Non-Conforming Products

If the Products are in breach of the Express Limited Warranty, and the Express Limited Warranty is not rendered ineffective by Paragraph 9, Buyer must promptly notify Vicor in writing. If Vicor determines that the Products are in breach of the Express Limited Warranty, then Vicor will, at its sole discretion, either repair or replace the non-conforming Product at no cost to Buyer. Except as provided in this Paragraph 10, **SUCH REPAIR OR REPLACEMENT IS THE ONLY REMEDY OF BUYER FOR ANY BREACH OF THE EXPRESS LIMITED WARRANTY.** For service under the Express Limited Warranty, Buyer must contact Vicor to obtain a return material authorization ("RMA") number and shipping instructions. If Buyer returns Products to Vicor without an RMA number, such Products will be held by Vicor for twenty (20) days, after which Vicor may deem the Products abandoned and dispose of them as it sees fit, without crediting Buyer's account. For Products returned with a valid RMA number, absent any contrary written instructions from the Buyer, such Products will be held by Vicor for twenty (20) days after completion of testing and then will be deemed abandoned and disposed of as Vicor sees fit, without crediting Buyer's account. Vicor reserves the right to verify any non-conformity of the Products at the module or sub-assembly level. Vicor, at its sole discretion, may perform a destructive physical analysis of any non-conforming Product if requested by Buyer, provided the Products are within the two (2) year Express Limited Warranty Period and upon payment by Buyer of the greater of (a) \$250 per unit, or (b) Vicor's actual costs associated with the physical analysis.

## 11. Liability Limitation

**IN NO EVENT IS VICOR RESPONSIBLE TO BUYER FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, ALL DIRECT AND INDIRECT LOSSES (INCLUDING LOST PROFITS AND ANY OTHER FORM OF ECONOMIC LOSS) REGARDLESS OF WHETHER THOSE DAMAGES WERE FORESEEABLE. THE LIABILITY OF VICOR ARISING OUT OF OR RELATING TO THE PRODUCTS SHALL BE LIMITED TO THE ACTUAL AMOUNTS PAID BY BUYER TO VICOR FOR THE PRODUCTS GIVING RISE TO SUCH DAMAGES.** Vicor will not be liable for any inaccuracies of information published by Vicor relating to the Products.

## 12. Termination / Cancellation

In the event of a breach by Buyer, Vicor may terminate the Sales Agreement upon giving ten (10) days' written notice of termination. If the Sales Agreement is terminated by Vicor because of Buyer's breach, Vicor is entitled to reasonable reimbursement for any labor, material or other expenses incurred in connection with the Sales Agreement, plus a reasonable amount for overhead. All cancellations and reschedules by Buyer require a minimum of: forty-five (45) days prior written notice for standard module Products; sixty (60) days prior written notice for standard configurable Products; and ninety (90) days' prior written notice for all

other Products, unless otherwise agreed to in writing by Vicor. Vicor will ship all completed Products scheduled for delivery during such periods unless an exception is negotiated and agreed to in writing by both parties. In the event of any cancellation of a Sales Agreement, Buyer shall pay Vicor: (a) the price for any Products manufactured to firm orders; (b) the cost of any work in process; (c) the cost of materials and components ordered with authorization to meet forecast; and (d) a reasonable mark-up on the cost of work in process and the ordered materials and components. If Buyer requires Vicor to cancel any authorized orders for materials or components, Buyer shall be responsible for any cancellation costs or restocking charges incurred as a result.

## 13. Indemnification

To the maximum extent allowed by law, Buyer must defend and indemnify Vicor and its employees and agents against all sums, costs, liabilities, losses, obligations, suits, actions, damages, penalties, fines, interest and other expenses (including investigation expenses and attorneys' fees) that Vicor may incur or be obligated to pay as a result of: (a) Buyer's negligence, use, ownership, maintenance, transfer, transportation or disposal of the Products; (b) any infringements or alleged infringement of the industrial and intellectual property rights of others arising from Non-Standard Specifications (including Buyer's trademarks and brand names) or production of configurable Products and/or custom Products ordered by Buyer; (c) Buyer's violation or alleged violation of any Federal, state, county or local laws or regulation, including without limitation, the laws and regulations governing product safety, labeling, packaging and labor practices; or (d) Buyer's breach of the Sales Agreement.

## 14. Use

Unless specifically otherwise agreed in writing by Vicor, Buyer acknowledges that Products sold by Vicor are not intended for and will not be used in life support systems, human implantation, nuclear facilities or systems or any other application where product failure or malfunction of the component could lead to loss of life or catastrophic property damage (each, a "High Risk Activity"). Buyer will indemnify and hold Vicor harmless from any loss, cost or damage resulting from Buyer's use of the Products to perform any High Risk Activity.

## 15. ITAR / Government Use

Certain of the Products may be categorized as Defense Articles by the U.S. Department of State and are subject to the International Traffic in Arms Regulations. If Buyer's Purchase Order is placed under a contract with the United States Government (the "Government"), Vicor agrees to comply with those contract provisions and regulations with which, pursuant to law, it must comply and of which Buyer has, at the time of order placement, placed Vicor on notice. In no event will United States Government Cost Accounting Standards apply. All rights in technical data owned or licensed by Vicor are hereby reserved and deemed restricted or limited. No provision of Buyer's contract with the Government will be binding on Vicor except as expressly set forth in this paragraph.

## 16. Entire Agreement

The Sales Agreement comprises the complete and final agreement between Vicor and Buyer, except as specifically set forth in Paragraph 1, and supercedes all prior negotiations, proposals, representations, commitments, understandings or agreements between Vicor and Buyer, either written or oral. Any other representations or warranties made by any person, including employees or other agents of Vicor, that are inconsistent with the Sales Agreement must be disregarded by Buyer and are not binding upon Vicor. If any model or sample were shown to Buyer, such model or sample was used merely to illustrate the general type and quality of goods and not to represent that the Products would necessarily conform to the model or sample.

## 17. Successors and Assigns

The Sales Agreement binds and inures to the benefit of Buyer and Vicor and their respective successors and permitted assigns. The Buyer may not assign any interest in, nor delegate any obligation under the Sales Agreement, without Vicor's prior written consent.

## 18. Governing Law

The validity, construction and performance of the Sales Agreement is governed by, and must be construed in accordance with, the laws of the Commonwealth of Massachusetts, without regard to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sales of Goods does not apply to the Sales Agreement and all of the terms of the Sales Agreement must be construed in accordance with the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts.

## 19. Export Controls

With respect to the resale, export or any other disposition of the Products or technical information furnished hereunder, Buyer will comply fully with all export control laws and regulations of the Government. Buyer agrees not to export or re-export either directly or indirectly, any technical data furnished hereunder or the direct product of such technical data to any country which, as set forth in the Export Administration Regulations of the United States Department of Commerce, is prohibited.

## 20. Dispute Resolution

Vicor reserves the right to invoke the jurisdiction of any competent court to remedy or prevent violation of any provision of the Sales Agreement or to otherwise protect its interest. Any dispute with Buyer in connection with the Sales Agreement may, at Vicor's sole discretion, be resolved through binding arbitration in the Commonwealth of Massachusetts, pursuant to the commercial arbitration rules of the American Arbitration Association ("Arbitration"). Vicor, may, in its sole discretion, elect to have a judicial forum for dispute resolution. Buyer's only forum for dispute resolution is Arbitration. The Arbitration proceedings must be conducted in the English language and all submissions must be made in English or with an English translation.

Witnesses may provide testimony in a language other than English if simultaneous English translation is provided. The results of Arbitration will be final and nonappealable.

## 21. Jurisdiction and Venue

Buyer irrevocably submits and agrees to the jurisdiction of the state courts of the Commonwealth of Massachusetts and the Federal courts within the Commonwealth of Massachusetts, in any action, suit or proceeding related to, or in connection with, the Sales Agreement. To the extent permitted by applicable law, Buyer waives and agrees not to assert as a defense in any such action, suit or proceeding any claim: (a) that Buyer is not personally subject to the jurisdiction of the state courts of the Commonwealth of Massachusetts and/or the Federal courts within the Commonwealth of Massachusetts; (b) that the venue of the action, suit or proceeding is improper; (c) that the action, suit or proceeding is brought in an inconvenient forum; or (d) that the subject matter of the Sales Agreement may not be enforced in or by the State and/or Federal courts of the Commonwealth of Massachusetts. Without prejudice to any other mode of service, Buyer consents to service of process relating to any such proceedings by personal or prepaid mailing (air mail if international) in registered or certified form a copy of the process documents to the Buyer at the address set forth in Paragraph 24.

## 22. Waiver

The waiver by Vicor of any breach by Buyer of any provision of the Sales Agreement may not be construed to be either a waiver of the provision itself as to subsequent application or any other provision of the Sales Agreement.

## 23. Severability

If any provision of the Sales Agreement is held by a court of competent jurisdiction to be contrary to law or public policy, the remaining provisions of the Sales Agreement remain in full force and effect.

## 24. Notices

No notice or other communication under the Sales Agreement is sufficient to affect any rights, remedies or obligations of either party unless the notice or communication is in writing and (as elected by the party giving the notice) is: (a) personally delivered; (b) transmitted by facsimile (with a receipt acknowledgment); (c) transmitted by electronic computer mail; (d) transmitted by a recognized courier service; or (e) mailed (air mail if international) in registered or certified form, to the party to which notice or communication is being given at the following address:

If to Vicor, at the address on the SOA

If to Buyer, at its last address designated on the Purchase Orders.

Except as otherwise specified in the Sales Agreement, all notices or communications are deemed to have been duly given:

(a) on the date of receipt if delivered personally; (b) on the date of transmission if delivered by facsimile or electronic computer mail; (c) one day after pickup by courier if delivered by courier; or (d) five days after mailing if delivered by the postal service. Either party may change its address by notice to the other party.

## 25. Construction

The headings of the paragraphs in these Terms are provided for convenience only and may not be considered in the interpretation of the Sales Agreement. The parties agree that the provisions of the Sales Agreement may not be construed in favor of or against either party by reason of the extent to which a party or its professional advisors participated in the preparation of the Sales Agreement.

## 26. Survival

The terms of the Sales Agreement that by their nature are reasonably intended by the parties to survive its expiration or earlier termination, survive the expiration or termination of the Sales Agreement.