



CONDITIONS OF PURCHASE

DEFINITIONS

The term "Buyer" means Radius Power, Inc. The term "Seller" means the company identified on the face of the purchase order. The term "Product" means items as listed the purchase order. The term "Nonconformance" means the failure to comply with, or failure to operate due to noncompliance with, applicable Seller drawings or having defects in workmanship or material.

APPLICABILITY

Purchase orders placed by Buyer for Products are governed solely by these Conditions of Purchase. Except as provided in the "Purchase Orders" section below, these terms of Purchase shall constitute the only agreement applicable to Buyer's purchases and expressly exclude the application of the supplier's general terms of sale. These Terms may only be modified by a written provision signed by the authorized representative of the Buyer. Buyer will not be deemed to have waived these Conditions of Purchase if it fails to object to provisions submitted by Buyer.

PURCHASE ORDERS

Purchase orders may specify: (1) Seller's Product partnumber; (2) requested delivery dates; (3) applicable price; (4) quantity; (5) location to which the Product is to be shipped; and (6) location to which invoices will be sent for payment. All purchases must be made through a purchase order issued by the Purchasing Department. In the event of an emergency, the Supply can be delivered against purchase order number given by the same. The supplier shall acknowledge receipt of the order within two (2) working days as of the date of the order by e-mail or fax, by returning a duly signed copy to the issuing Purchasing Department. Where no such acknowledgment of receipt is issued, the commencement of the completion of the order shall be considered by the fact itself as an implicit acceptance of the terms of the order. Buyer at its discretion, reserves the right to reschedule of the delivery dates. Any requests by the buyer for cancellation and/or reschedule of delivery dates must be acknowledged within five (5) business days. Cancellation requests not confirmed within sixty (60) days of written request will be deemed accepted.

DELIVERY

The delivery term is indicated on the purchase order and the Seller shall be responsible for taking the necessary measures to meet the delivery date and also as regards to the technical, administrative and shipping documents. The seller should follow the routing instructions as stated on the purchase order. All charges arising from shipments made not according to the routing instructions will be charged back to the Seller. The Seller shall not be entitled to deliver the product before the due date without the Buyer's specific authorization in writing, and will bear all costs related to any advanced delivery. In the event of a non conforming product or late delivery, Buyer shall be entitled to proceed forthwith, without notice, to the purchase of the product from another Seller and terminate the purchase order with the Seller. Any extra cost arising from this new order shall be borne by the defaulting Seller. Regardless of the terms and conditions of transportation, the transfer of risks with respect to the Product delivered, shall be delayed until the final receipt of the product at the address indicated on the purchase order.



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ACCEPTANCE

Buyer will inspect Products within a reasonable period after delivery not to exceed 10 calendar days including damages in transit arising from poor packaging. Seller receives written notice of rejection explaining the basis for rejection within the same timeframe. Seller will be afforded a reasonable opportunity to repair or replace, at Seller's option, rejected Product. In particular, Buyer reserves the right to refuse the Supply by issuing a simple letter, e-mail or facsimile in the following cases: (1) non conformity of the product with respect to the quantity or quality specifications of the purchase order, (2) non compliance with the dates and delivery hours, (3) excess or shortfall in the delivery

PRICES

Prices are stated in U.S. currency. Buyer reserves the right to correct any inaccurate invoices or errors in purchase order prices.

PAYMENTS

Payment terms are net 30 calendar days from date of invoice. Payments will be made in U.S. currency. Buyer expressly reserves the right to automatically deduct from the payments made to the Seller, any and all sums which it may owe Seller for whatever reason.

RECOUP

Seller will not recoup any portion thereof against sums that are due or may be come due from affiliates and/or subsidiaries of the Buyer.

WARRANTY

Seller warrants that at time of shipment to Buyer its Products will comply with applicable Seller drawings and will be free from defects in workmanship and material. These warranties run to the Buyer, its successors, assigns, and customers. Buyer will notify Seller in writing of any Nonconformance within 30 days after discovery and return the Product to Seller's designated facility within 10 days after receipt of Seller's issued Return Material Authorization number. Seller assumes round trip shipping costs for Nonconforming Products in an amount not to exceed normal surface shipping charges to and from Buyer's facility for such Products.

TERMINATION

Either party may terminate any or all unperformed purchase orders by giving written notice to the other party upon the occurrence of any of the following events: (1) the other party materially breaches these Conditions of purchase and fails to remedy the breach within 60 calendar days after receipt of written notice that specifies the grounds for the material breach; (2) any insolvency or suspension of the other party's operations or any petition filed or proceeding made by or against the other party under any state, federal or other applicable law relating to bankruptcy, arrangement, reorganization, receivership or assignment for the benefit of creditors or other similar proceedings.

DISPUTES

Any dispute arising out of or relating to a purchase order, including the breach, termination or validity thereof will be finally resolved by arbitration. If Seller is incorporated in the United States any dispute will be finally resolved by a sole arbitrator in accordance with the CPR Institute for Dispute Resolution Rules for Non-Administered Arbitration then currently in effect. Either party may apply to the arbitrator



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seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this purchase order, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the arbitrator's determination of the merits of the controversy. If any dispute, or response to any dispute, includes an allegation that potentially concerns whether any intellectual property right owned, controlled or licensable by either party is invalid, unenforceable or infringed or misappropriated, or is otherwise limited in scope or application, then either party may, in its sole discretion, elect to have such dispute adjudicated before a court of competent jurisdiction and this section will not be binding on either party with respect to such dispute in its entirety or any related dispute, including any portions of such dispute that do not concern intellectual property rights.

APPLICABLE LAW

These Conditions of Purchase will be governed by the laws of the State of California, U.S.A. without regard to conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods, 1980, and any success or thereto, will not apply. Any suit must be brought in a state or federal court in the State of California, U.S.A., and Buyer and Seller irrevocably consent to personal and exclusive jurisdiction and forum of, and agree to be bound by any judgment and orders rendered by, these courts.

LIMITATION OF LIABILITY

Seller's liability for damages arising out of or relating to this purchase order includes incidental damages, consequential damages, special damages, indirect damages, loss of profits, loss of revenues, or loss of use, even when uninformed of the possibility of such damages.

NONDISCLOSURE AND NON-USE OF SELLER'S DATA AND INFORMATION

These Conditions of Purchase do not supersede any confidentiality agreement executed by Buyer and Seller that otherwise applies to Products, Services, technical data or other information delivered in connection with a purchase order. In the absence of such an agreement, Seller may use Buyer's confidential information only in the normal operation. Further, Seller, will protect information against inadvertent disclosure, and will not disclose information to any third party without Buyer's prior written consent.

INDEMNITY AGAINST PATENT AND COPYRIGHT INFRINGEMENT

Buyer will have no obligation or liability with respect to Products provided pursuant to Seller's designs, drawings or manufacturing specifications.

SPECIAL TOOLING AND DATA

Buyer owns all rights to all specifications, drawings, engineering instructions, data, material, equipment, software, processes, facilities and tooling, including, but not limited, to jigs, dies, fixtures, molds, patterns, taps, gages, test equipment, manufacturing aids and replacements items, now existing or hereafter created, except to the extent that title is specifically transferred in writing from Buyer to Seller.



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EXPORT

Seller is responsible for compliance with all import and export control laws and regulations. Seller will obtain import, export, re-export approvals and licenses required for goods, transfers, services and technical data delivered and will retain documentation to support compliance with those laws and regulations. Buyer will not be liable to Seller for any failure to provide goods, services, transfers, or technical data as a result of government actions which impact Seller's ability to perform, including: (1) the failure to provide or the cancellation of export or re-export licenses; (2) any subsequent interpretation of any applicable import, transfer or export law or regulation, after the date of a purchase order or commitment, that has a material adverse effect on Seller's performance; or (3) delays due to Seller's failure to follow applicable import, export, transfer, or re-export laws and regulations.

TAXES

Seller's pricing excludes all taxes (including, but not limited to, sales, use, excise, value-added or other similar taxes), duties and charges. Buyer is responsible for all such taxes, duties, and charges resulting from a purchase order or Seller's performance, whether or not hereafter imposed, levied, collected, withheld or assessed. If Seller is required to impose, levy, collect, withhold or assess any such taxes, duties or charges on any transaction under a purchase order, then in addition to the purchase price, Seller will invoice Buyer for such taxes, duties, and charges unless at the time of order placement Buyer furnishes Seller with an exemption certificate or other documentation sufficient to verify exemption from such taxes, duties or charges.

NOTICES

Every notice between the Parties relating to a purchase order will be made in writing and, if to Buyer, to Buyer's authorized representative or, if to Seller, to Seller's authorized representative. Notices will be deemed received when delivered either:

1. Two (2) calendar days after mailing by certified mail, return receipt requested and postage prepaid; or
2. One (1) business day after deposit for next day delivery with a commercial overnight carrier provided the carrier obtains a written verification of receipt from the receiving party