

## TERMS AND CONDITIONS

### ACCEPTANCE

All orders are subject to confirmation via e-mail or other from an official of ANYWAVE. The banking by ANYWAVE of any funds paid by the Purchaser shall not constitute acceptance of any order.

### PRICES

All prices are in US dollars, Ex Works, Knightsbridge Parkway, Suite 150, Lincolnshire IL, USA or OEM manufacturer's shipping point. Prices are based on net cash transactions and do not include taxes, duties, fees, bank charges, special equipment tests or non-standard service or equipment requirements, all of which are for the account of the Purchaser. Until order is confirmed all prices are subject to change without notice, and orders are filled based on prices and specifications in effect at the time of shipment otherwise specified in the order.

### PACKING, SHIPPING and INSURANCE CHARGES

All such charges applicable to any order are estimated on the face thereof and are for the account of the Purchaser. Charges are estimated based on normal land freight packing, inland and ocean freight rates (where applicable). Should ANYWAVE incur any additional charges with respect to these services, Purchaser agrees to reimburse ANYWAVE for such additional costs.

### LICENSES AND PERMITS

Purchaser shall promptly obtain and forward copies or documents necessary to permit Anywave to ship and Purchaser to receive delivery of ordered equipment. All permits necessary in importation, installation, erection and operation of equipment covered by any order shall be the sole responsibility of the Purchaser. The Purchaser expressly agrees to comply with all applicable United States of America laws pertaining to the sales of any and all equipment ordered.

### DELIVERY

All equipment will be delivered Ex-Works, Knightsbridge Parkway, Suite 150, Lincolnshire IL, USA or OEM manufacturer's shipping point. An estimated factory shipment schedule is usually provided with the order acknowledgement. ANYWAVE's delivery obligations are subject to delays incident to: labor difficulties; fires, casualties and accidents; acts of the elements; act of a public enemy; component failures on test; transportation difficulties; inability to obtain equipment, materials or qualified labor sufficient to fill its orders, in which latter case ANYWAVE may apply or prorate shipments of its products to or among its customers as in its judgment is reasonable in the circumstances; governmental interference or regulations; and causes beyond ANYWAVE's control. If Purchaser delays shipment, payments are to be made as though shipment has been stored by Anywave at Purchaser's expense. Purchaser assumes all responsibility for and risk of loss of, or damage to the equipment upon delivery at ANYWAVE's shipping point, notwithstanding the fact that ANYWAVE selected the carrier.

### PAYMENT ARRANGEMENTS

ANYWAVE's standard payment arrangements if not otherwise noted in the footer or in the content of the proposal are through the medium of a wire transfer or U.S. check. Checks to be paid in U.S. dollars and made payable to Anywave Communication Technologies Inc., or via wire transfer to: JP Morgan Chase Bank. Account name: ANYWAVE COMMUNICATION TECHNOLOGIES INC Account number: 918897299 ABA/Routing #: 071000013 SWIFT Code: CHASUS33

### PAYMENT TERMS

ANYWAVE's standard payment terms if not noted in the footer or in the content of the proposal are as follows; Fifty percent (50%) deposit with signed order, and fifty percent (50%) upon notification of availability of shipment Ex-Works, IL.

To assure expeditious handling of parts orders, or any equipment needed urgently, ANYWAVE recommends that orders be accompanied by full payment in the form of a bank draft or certified check in U.S. dollars. ANYWAVE will consider other payment arrangements. However, no order is to be considered accepted by ANYWAVE until a

payment schedule is agreed by ANYWAVE and Purchaser. Until full payment of all obligations by Purchaser, ANYWAVE reserves title to all equipment furnished, notwithstanding any definitions of terms to the contrary.

### CANCELLATION POLICY

If this order is cancelled by the Purchaser for any reason whatsoever, the following penalties will be applied from date of accepted order: Zero percent (0%) for less than five (5) working days, forty percent (40%) for greater than five (5) but less than twenty (20) working days, Sixty percent (60%) for greater than twenty (20) working days and One hundred (100) percent for any date after notification of availability of shipment ex-works Lincolnshire, IL.

### OTHER CONDITIONS.

ANYWAVE and or its suppliers reserve the right to modify at any time the design or specification of equipment orders, provided that any modifications shall not adversely affect the performance of the equipment so modified. ANYWAVE may at any time withdraw its offer to sell any equipment not of ANYWAVE's manufacture. In no event shall ANYWAVE be liable under any provision of this contract for loss of business or of anticipated profits by Purchaser, damages of any kind, or for damages on account of negligence. Any contract resulting from an order by Purchaser shall be governed by the laws of the State of Illinois, United States of America.

### LIMITED WARRANTY

The limited warranty covers defects in materials and workmanship under normal use and does not apply: to damage arising from improper installation, maintenance, or service; to malicious damage or damage arising from accident, abuse, modification, abnormal use or misuse; to damage caused by a power surge or a disaster such as fire, flood, wind, earth-quake, or lightning.

Unless otherwise stated in the proposal herein ANYWAVE warrants equipment of its manufacture against defects in material or workmanship at the time of delivery thereof, that develop under normal use within a period of one year (6 months on moving parts) from the date of shipment, of which Purchaser gives delivery thereof, that develop under normal use within a period of one year (6 months on moving parts) from the date of shipment, of which Purchaser gives ANYWAVE prompt written notice. Other manufacturers and Supplier's equipment and services, if any, including electron tubes, solid state devices, transmission line, antennas, towers, related equipment and installation and erection services shall carry only such manufacturers' or Suppliers' standard warranty.

A defect is defined as a failure of any unit or component manufactured or supplied by ANYWAVE which is not attributable to lack of care in operation, maintenance or handling. The written notice of claim of defect must include a description of the defect with detailed information which will enable ANYWAVE to identify the defect and determine its probable cause. Components claimed to be defective by Purchaser must be available to ANYWAVE for inspection and test. No defective equipment or parts are to be returned without first receiving written authorization and instructions from ANYWAVE. Customs clearance (where applicable) for all replacement parts under this warranty or otherwise will be the sole responsibility of the Purchaser.

In the event that this order includes service parts, the following warranty period shall apply: Replacement parts, with the exception of tubes, are warranted by ANYWAVE for a period of 90 days from the date of shipment.

ANYWAVE's sole responsibility for any breach of the foregoing provision of this contract, with respect to any Equipment or parts not conforming to the warranty or the description herein contained, is at its option, (a) to repair or replace such Equipment or parts, Ex-works ANYWAVE's shipping point, upon the return thereof, freight prepaid, within the period aforesaid, or (b) to accept the return thereof FOB Purchaser's point of installation, whereupon ANYWAVE shall either (1) issue a credit to Purchaser's account hereunder in the amount equal to an equitable portion of the total contract price, without interest, or (2) if the total contract price has been paid, refund to Purchaser an equitable portion thereof without interest. If the Equipment is

described as used, it is sold "as-is" and where is if the contract covers equipment not owned by ANYWAVE at this date it is sold subject to ANYWAVE's acquisition of possession and title. ANYWAVE assumes no responsibility for design characteristics of special equipment manufactured to specifications supplied by or on behalf of Purchaser and shall not be liable for any expenses whether for repairs, replacements, material, service, labor or otherwise, incurred by Purchaser or for modifications made by Purchaser to the Equipment without prior written consent of ANYWAVE. Except as set forth herein there are no warranties, or affirmations of fact or promises by ANYWAVE, with reference to the equipment, application, signal coverage infringement, or otherwise, which extend beyond the description.

The building where the equipment is to be located must comply with the following environmental conditions. Failure to comply with these environmental conditions will void the limited warranty of the equipment. The equipment should operate in a clean, dust free, temperature controlled room.

- 1) The equipment room should be kept at a temperature of 75° F, +/- 10° F. Elevated temperature is a major factor in electronic component deterioration and failure.
- 2) The equipment should be well insulated and shielded from any potential water leaks (due to internal plumbing or external storms).
- 3) A relative humidity of up to 95% non-condensing is allowable for the operation of the transmitter.
- 4) The internal equipment, tower, incoming transmission line, and electrical panel should all be bonded to the building lightning protective ground
- 5) A well-regulated and conditioned AC Main supply is required to protect the electronic equipment from externally induced transients, dropouts and brownouts.

## **INSTALLATION AND MAINTENANCE**

Purchaser is responsible for properly installing and maintaining the equipment and furnishing all necessary facilities, equipment, personnel, materials and services not specifically set out in any order.

### **INSTALLATION CONDITIONS**

Unless otherwise specified in writing, ANYWAVE's price does not include any installation services or performance testing. Installation services, when covered by this offer, will be performed by ANYWAVE's as specified in the offer provided, however, that all the Purchaser's obligations have been met. Any installation services to be performed shall be subject to the following conditions provided at purchaser's expense: The building where Equipment is to be located must be satisfactory to ANYWAVE and complete to the extent that:

- (1) It is dust free, weather proof, and secured from unauthorized entry.
- (2) Satisfactory heat, lighting, telephone, toilet facilities, and electrical service are available at the building for use by the ANYWAVE employees or agents.
- (3) Sufficient electrical service to the area within which the Equipment will be installed may include, but not limited to, 3-phase power, main disconnect switches, circuit breakers, water pump and heat exchanger motor starters, disconnect switches, conduit runs, service panels, and service wiring to ANYWAVE'S equipment.
- (4) Services of a properly licensed electrician to install and connect items listed above in accordance with ANYWAVE's requirements and applicable codes.
- (5) \* If applicable, sufficient quantities of water, distilled water, and glycol to flush and fill Equipment's cooling system according to ANYWAVE's recommendations.
- (6) \* Ventilated protective roofing and sun-shielding for outdoor components (if applicable).
- (7) Adequate heating and/or air conditioning to maintain optimal environmental conditions for Equipment according to industry standard recommendations.

- (8) Structurally suitable roof, ceiling, and floors to support Equipment loading and location according to industry standard recommendations.
  - (9) Minimum doorway, ceiling height clearances, and floor capacities appropriate for Equipment purchased.
  - (10) Adequate devices or systems to protect personnel and Equipment from harm or damage from electrical hazards. ANYWAVE requires that the Purchaser install sufficient grounding systems. ANYWAVE recommends that Purchaser installs transient and lightning protection systems to satisfactorily protect the equipment from external damaging environmental conditions.
  - (11) Purchaser will be responsible for the resolution of disputes arising from conflicts during installation with professional or trade union regulations. Purchaser will be responsible for delays or additional cost or expense incurred by ANYWAVE as a result of any labor regulations.
  - (12) Purchaser will provide tower riggers to perform any adjustments to external transmission line systems and or antenna as needed.
- \* On site liquid requirements are applicable to Liquid cooled transmitters only.

### **ON SITE PROOF-OF-PERFORMANCE TESTING**

If offered in this quotation and subject to the following conditions, ANYWAVE agrees to test transmitter into the system's test load and measure performance in accordance with applicable FCC's Rules to demonstrate compliance with the Commission's transmission standards. In order for ANYWAVE to test the Equipment, the following conditions must be met:

(a) Equipment must be installed in accordance with ANYWAVE's instructions and by reasonable and standard installation practice.

(b) Installation workmanship must be deemed by ANYWAVE to be of an acceptable quality.

Should ANYWAVE's employees or agents determine that conditions stated above have not been met, ANYWAVE reserves the right to delay performance testing until Purchaser resolves the situation to the satisfaction of ANYWAVE. Any delay in this regard shall not relieve Purchaser of making timely payments when originally due. Unless otherwise agreed in writing, ANYWAVE will not be responsible for any documentation such as but not limited to FCC license application. Unless otherwise agreed in writing, ANYWAVE will not be responsible for providing any test equipment. All test equipment (unless otherwise stated) will be provided by the Purchaser. ANYWAVE will make its best efforts to utilize the aforementioned test equipment to provide sufficient demonstration of the transmitter's performance and compliance. If sufficient test equipment is not provided by the Purchaser, ANYWAVE will be not be held responsible for any further compliance or proof of performance beyond that what the test equipment is capable of obtaining. All protection and insurance of the test equipment provided by ANYWAVE and left at the site will be the responsibility of the Purchaser.