



Disclaimers

LightPointe Communications, Inc. reserves the right to add, delete or change product configurations periodically. Please contact your Channel Manager to confirm pricing before submitting a Purchase Order. All information contained herein is subject to change with or without notice.

The prices disclosed in this Price List are net of freight, duties, and any export / import taxes that may apply. All products are shipped EXW (INCOTERMS 2000) LightPointe Communications, Inc., 11686 Sorrento Valley Rd, Ste. 101, San Diego, California 92121, United States unless otherwise stated in writing by the Company.

All orders are subject to the LightPointe Standard Terms and Conditions of Sale of copy of which is located in the next section of this Price List.

Standard Terms and Conditions of Sale

1. Your order acceptance is expressly conditioned upon acceptance by you of the terms and conditions contained herein. Seller objects to and shall not be bound by any additional or different terms, whether printed or otherwise, in any document furnished or otherwise proposed by Buyer which attempt to impose any conditions at variance with Seller's terms included herein. Seller's failure to object to provisions contained in any of Buyer's forms shall not be deemed a waiver of the provisions of Seller's terms and conditions which shall constitute the entire, final and exclusive contract between the parties. This agreement between Seller and Buyer (the "sales contract") with respect to the products (the "products") and/or services (the "services") shall consist of the terms contained herein together with any additions or revisions of such terms mutually agreed to in writing by Seller and Buyer. The sales contract shall be for the benefit of Seller and Buyer and not for the benefit of any other person. Prior courses of dealing and verbal agreements not reduced to a writing signed by Seller, to the extent they modify, add to or detract from the sales contract, shall not be binding on Seller.
2. The sales contract may not be modified or rescinded except by a writing signed by Seller and Buyer. If all or part of the sales contract is terminated by such modification or rescission, Buyer, in the absence of a contrary written agreement between Seller and Buyer, shall pay termination charges based upon cost determined by accepted accounting principles, plus a reasonable profit on the entire order. Cost shall include any amount Seller must pay to its suppliers due to any termination by Seller of a purchase order for products or services intended for Buyer.
3. Unless otherwise agreed to in writing, Buyer shall pay the purchase price (a) for the products within thirty (30) days upon Company Credit Approval from the date of shipment of the products, and (b) for the services within thirty (30) days from the date the services are rendered unless stated otherwise, in writing by Seller. Cash discounts do not apply to transportation charges. The purchase price for the products is EXW (INCOTERMS 2000). Title to and risk of loss of the products pass to Buyer upon delivery to the carrier. In the event Buyer fails to pay the total purchase price within said thirty (30) day period, Seller shall be entitled to collect an interest charge of the lesser of 1.5% per month or the maximum rate allowed by applicable laws applied to the unpaid purchase price. Seller shall also be entitled, in addition to all other remedies available at law or in equity, to recover reasonable attorney's fees and/or other expenses in collecting the purchase price or otherwise enforcing or successfully defending itself in respect of this sales contract.
4. Any tax or other governmental charge upon the provision of services, or the production, sale, shipment, transfer, consumption, or use of the products which Seller is required to pay or collect from Buyer shall be paid by Buyer to Seller, unless Buyer furnishes Seller with exemption certificates acceptable to taxing authorities. Such amount shall be due whether or not included on the invoice.
5. Shipping date or other applicable performance date is estimated on the basis of immediate receipt by Seller of Buyer's order and all information, drawings and approvals to be furnished by Buyer, and the absence of delays, direct or indirect, resulting from or contributed to by circumstances beyond Seller's reasonable control. Seller will in good faith endeavor to ship products or perform services by the estimated date. Seller shall have the right to make partial shipments. Prior to shipping, Seller, if requested, will afford Buyer a reasonable opportunity to inspect the products in Seller's plant. If no packaging, loading or bracing requirements are stated, Seller will comply with specifications for the method of transportation specified. If no method of transportation is specified, shipment will be by a reasonable method of transportation.
6. Buyer shall submit all claims for shortages in writing to Seller within ten (10) days from the date products are received by Buyer; otherwise such claims shall be waived. Unless otherwise agreed to in writing, quantities are subject to normal manufacturing allowances. The purchase price for products will equal the unit price multiplied by the quantity shipped. Installation shall be by Buyer, unless otherwise specifically agreed to in writing. Final inspection of products prior to installation thereof will be the obligation of Buyer.
7. In some cases, Seller passes on and assigns to Buyer the warranties made to Seller by its suppliers, which at a minimum, include a warranty that the products at the time of shipment to Buyer will be free from defects in materials and workmanship, and will be materially in accordance with specifications provided by the manufacturer. Seller's warranty in its entirety shall be deemed limited to and shall not extend beyond such manufacturers' warranties. The length of the warranty period will be the length established by the manufacturer of the product and if no length is specified by the manufacturer, shall in no event extend beyond one (1) year with LightPointe from the date of shipment unless specified otherwise. Buyer shall proceed exclusively and directly against such supplier at Seller's request. This warranty does not cover wear and tear and shall be ineffective and shall not apply to products that have been subjected to misuse or abuse, neglect, accident, damage, improper installation, or maintenance. Buyer will inspect the products upon delivery and will promptly notify Seller in writing of any defect in the products. Seller's sole obligation under these warranties will be limited to either, at Seller's option and expense, repairing or furnishing a replacement for the products or parts thereof which Seller reasonably determines do not conform to these warranties, and Buyer's exclusive remedy for breach of any such war-



8. All product specifications, including limitations have been disclosed by Seller to Buyer. Buyer understands that exceeding said limitations may result in decreased performance and/or loss of connectivity. Limitations may include, but are not limited to mount locations, operational distances, atmospheric or weather conditions and power fluctuations. Buyer is responsible for risk mitigation and where appropriate link redundancy.

9. IN NO EVENT SHALL SELLER OR ITS SUPPLIERS BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING, INCLUDING SUCH DAMAGES OCCASIONED BY SELLER'S NEGLIGENCE, nor shall Seller's liability on any claims for damages arising out of or connected with the sales contract or the manufacture, sale, delivery or use of the products exceed the purchase price of the products and/or services. Seller shall not be liable for any failure to perform its obligations under the sales contract resulting directly or indirectly from or contributed to acts of God, acts of Buyer, civil or military authority, fires, strikes or other labor disputes, accidents, floods, war, riot, inability to secure material or transportation facilities, acts or omissions of carriers, or any other circumstances beyond Seller's reasonable control. Seller shall have no liability under this sales contract than otherwise expressly provided in this sales contract.

10. Foreign Shipment - This Agreement is made subject to all laws, regulations, orders or other restrictions on the export from the United States of Products and accompanying documentation, or of other technical data and information about such Products, which may be imposed from time to time. Buyer will comply with all applicable export laws and restrictions and regulations of any domestic or foreign agency or authority. Buyer agrees not to export, directly or indirectly, any such Products or information to any country for which an export license or other governmental approval is required without first obtaining such license or approval. Distributor/Reseller is prohibited to selling, exporting to Individuals / Countries / Destinations that are prohibited by the USA State Department including but not limited to: Cuba, Iran, North Korea, Sudan, Syria. Buyer is solely responsible, at its own expense, for obtaining all necessary import and re-export permits and certificates and for the payment of any and all taxes and duties imposed upon the movement and delivery of Products.

11. Seller will hold Buyer harmless against any rightful claim of any third person by way of infringement of any United States Letters Patent by products which are of Seller's own manufacture, but if Buyer furnishes specifications to Seller, Buyer will hold Seller harmless against any such claim which arises out of compliance with the specifications; provided that the party seeking to be held harmless notifies the other party and gives it the right to defend. Except as is provided in this paragraph, Seller makes no warranty that the products will be delivered free of the rightful claim of any third party by way of infringement of any intellectual property rights or the like. Seller's obligation under this paragraph shall not apply to any infringement consisting of the use of products as part of goods manufactured by Buyer or others.

12. This sales contract shall be governed by the Uniform Commercial Code as adopted in the State of Seller's principal place of business as effective and in force on the contract date. Wherever a term defined by said Uniform Commercial Code is used in these terms and conditions, the definition contained in the Uniform Commercial Code is to control. Any action for breach of the sales contract or any covenant or warranty must be commenced within one (1) year after the cause of action accrues.

13. Return Authorization (RMA) issued from LightPointe must be issued in advance before returning for credit or exchange. RMA authorizations expire 30 days from issue from LightPointe.

14. Cancellation of Purchase Orders. The Buyer may not, without the prior written consent of Seller, cancel an order, including, without limitation, any order for goods that involve special requirements of the Buyer, once the order has been accepted by Seller. Should Seller provide consent to cancel an order, the cancellation will be subject to a handling charge of twenty percent (20%) of the invoiced value of the Goods. There are no exchanges, discounts, or cancellations on all "Special Order" Goods (defined as Goods that are designed, produced, and/or manufactured to explicit specifications per Buyer's request). Sales of all "Special Order" Goods are final at the time the order is placed.

15. The buyer of the 70/80 GHz equipment, distributor, reseller or end-user is aware of the fact that the 70/80 GHz mm-wave systems require National License by user with frequency coordination and registration thru Comsearch, Micronet Communications or Frequency Finder, Inc in the USA. Outside the USA, please contact the national frequency regulation agency if such a license is needed. Buyer shall indemnify LightPointe Communications, Inc. and its directors, officers, employees or agents harmless from and against all third party claims, actions, losses, expenses, costs or damages which buyer may suffer from or cause to third parties as a result of any radio interference issues, registered or not registered with the appropriate government authorized agencies or coordination bodies. Buyer is solely responsible to apply for authorized frequency coordination.

16. Credit Card charges are subject to a 3.5% processing fee.

All **LightPointe AireLink radio products** are commodities that fall under ECCN 5A002 of the Department of Commerce. These products are "ENC restricted" under section 740.17(b)(1) of the Export Administration Regulations (EAR). This License Exception ENC does not authorize export or re-export to, or provision of any service in any country listed in Country Group E:1 in Supplement No. 1 to part 740 of the EAR. Diversion contrary to U.S. law is expressly prohibited.

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