



Proposal Terms and Conditions

The following pages are part of the complete integrated proposal from US Tower Corp. to the customer.

No other previous or contemporary oral or written representation by any UST employee or agent is valid if not found herein. Each part of these terms and conditions shall become part of any resultant binding contract with the customer unless changes in writing are signed by an authorized UST agent.

US Tower is a Kansas corporation in good standing, owned and controlled by US citizens. Kansas law in the District Court of Lincoln County, KS is the venue for and Kansas law shall govern the resolution of any dispute arising from this proposal or resultant contract or any interpretation thereof.

1. Negotiated Changes to Proposal - General Procedure

In response to this proposal an authorized representative of the Customer may make written requests for change to any item. The request will be promptly considered by UST and oral discussions will generally ensue. If a change request is accepted, a written notice of acceptance signed by an authorized UST representative will be accompanied by formal revisions to the price, schedule and other parts of the proposal as required and the proposal number above will be modified with a revision number.

2. Proprietary Design, Engineering and Data Rights

UST product(s) which are the subject of this proposal are commercial components and commercial items as defined in Part 2.101 of the Federal Acquisition Regulations (Title 48 of the U.S. Code of Federal Regulations).

UST owns the designs and specifications of lists of materials, part descriptions and rights in data (technical and non-technical) of, and related to, the proposed product(s), and all modifications and substitutions thereto, including MRB authority. Sale of the proposed product(s) to the Customer does not include the sale or lease of related data or intellectual property to the Customer, to any entity controlled or owned in common with the Customer (**affiliated party**), or to any third party. Sale of the proposed product(s) does not include and shall not be deemed to include any license to reverse engineer or manufacture such product(s) without an explicit written agreement signed by US Tower.

Unless explicitly included on a following page, no costs of accepting Customer requests for design changes, reengineering, value engineering, test protocols, engineering analyses or similar work to modify, verify or test the proposed product(s) are included in the proposed price(s) for this proposal. All UST-accepted technical changes to the product(s) as originally proposed shall result in defined technical product(s) which shall continue to be deemed commercial products. No UST-accepted technical changes shall be cause to define any resultant contract as a research, advanced development, new product development, or other form of contracted-for research, development, test or evaluation (**RDTE**) contract or work for hire, unless in writing and signed by an US Tower authorized

3. Schedule, Acceptance, Title, Delivery and Special Services

Except for contracts being performed by UST under US Department of Defense DX or DO production priority ratings (refer to the Department of Defense Priorities and Allocations Manual) UST's normal practice is to manufacture and ship products on a first-ordered, first-made basis. Therefore the manufacturing schedule for the product(s) proposed herein shall be confirmed or adjusted by UST upon Customer acceptance of this proposal. UST is not responsible for schedule slippages caused by events

beyond its control, such as but not limited to labor disputes, natural and human-made disasters, or actions or inactions by the Customer or a governmental agency.

Product(s) as proposed shall be accepted by the Customer at the UST Factory, unless another point of acceptance is explicitly shown in this proposal. Ownership of the product(s) shall vest in the Customer at acceptance; the Customer assumes all subsequent risk of damage, injury or loss during storage, transport or use. Product(s) are proposed to be delivered to the Customer F.O.B. Woodlake, CA 93286 unless another point of delivery is explicitly shown in this proposal.

Special services may be requested by the Customer for storage, shipping, insurance or other matters related to the finished product(s). If UST agrees to provide such special services, it shall do so as agent of the Customer and shall submit a proposed price to the Customer for providing such services.

4. Proposal Information, Contract Type and Payment Terms

This proposal is based on information provided to UST by the Customer and its employees and agents. Unless explicitly stated otherwise in this proposal, this is a proposal for a firm fixed price contract and not for any form of RDTE contract. All accepted technical changes to the proposed product(s) herein shall continue to result in a firm fixed price revised proposal.

The UST product(s) invoice date shall be the day of Customer acceptance. Invoiced amounts are due in full on or before 30 days from the UST invoice date, whether or not the invoice is provided in person or by fax, mail or electronically to the designated Customer representative. Any balance due shall incur interest at 1.5% of that balance for each month or partial month beginning on the 31st day from the UST invoice date. If a Customer fails to pay in full within 60 days from the UST invoice date UST may declare the contract to be in default and seek all remedies available to it in law or equity.

If an order is cancelled by the Customer, the Customer shall nonetheless be liable to pay UST for the percentage of work already completed, whether or not delivered and accepted. A restocking fee will also be charged for any cancelled order if the cancellation comes after work has been commenced and/or long lead time items have been irrevocably ordered by UST. The restocking fee will range from a minimum of 15% of the fixed-price order (for raw materials commonly used by UST) to 35% of the fixed-price order (for rarely used purchased modules, assemblies, and sub-assemblies).

5. Proprietary and Confidential Information

In addition to the requirements of any Non-Disclosure Agreement signed by Customer, this proposal contains proprietary and confidential UST information. The Customer shall not reproduce or disclose to any third or affiliated party any part of this proposal without UST's prior written consent. No information contained in this proposal shall be used, reproduced or disclosed to any employee or agent of the Customer or any third or affiliated party except to evaluate or negotiate contract terms herein with UST. The proposal is submitted on the condition that the Customer shall protect its contents herein as proprietary and confidential.

6. Export Issues

Acceptance by and delivery to the Customer of the proposed product(s) shall be within the United States. The Customer has full responsibility for compliance with all U.S., international and recipient-nation regulations, laws and programs concerning exports to non- U.S. intermediate or final destinations or end users. For the U.S. this includes but is not limited to the **EAR** (Export Administration Regulations), **ITAR** (International Traffic in Arms Regulations), **AXCA** (Arms Export Control Act), **FMS** (Foreign Military Sales) program, and the regulations and practices of the U.S. Department of Commerce's **BIS** (Bureau of Industry and Security) and the Department of State's **DDTC** (Directorate of Defense Trade Controls). The Customer should direct any questions about

Export Control Classification Numbers, Commodity Jurisdiction, Shipper's Export Declarations or similar rules or documents to competent professionals in these matters.

As information, UST has a good-faith belief that its proposed product(s) and the components of its proposed product(s) are "NRL" (No License Required) under EAR rules, with a classification of EAR99.

7. Disclaimer

UST only warrants its products for use when used in accordance with UST instructions for operations, maintenance, tower loading and transportation/handling. UST does not stand behind or otherwise warrant any repairs, maintenance or modifications to a UST tower or system unless (1) all parts and labor for such work are supplied by UST or (2) UST has provided prior written approval to use specific non-UST parts and/or labor in such work. The customer shall hold UST harmless from any and all costs, claims and liability for property damage or personal injury if these conditions are not fully met in operations, transportation, repairs, maintenance and/or modifications.

8. Warranty

UST warrants the original purchaser for the period of one (1) year from the date of delivery that each US Tower(s) product is free of defects in material or workmanship. If, in the judgment of UST., any such product is defective, then UST will, at its option, repair or replace the product at its expense within thirty (30) days of the date the product is returned (at the purchaser's expense) to UST. This warranty is in lieu of all other warranties, either expressed or implied. As may be allowed by law, UST shall not be liable for incidental or consequential damages which are claimed to be caused by any defect. This warranty does not extend to any products that have been subject to misuse, neglect, act of nature, accident, or improper installation. Any alterations, modifications, or repairs made outside of the UST factory will void this warranty. UST does not warrant the materials, workmanship or design of any articles manufactured and/or supplied by any third party, which are used by Buyer and/or its customers in conjunction with the above-designated items. UST does not warrant the means by which, nor the wisdom of, any physical attachment to or integration of such articles with UST-supplied products without the explicit prior written approval of UST.

9. Hold Harmless

The buyer shall hold US Tower harmless, including its employees, managers, officers, and affiliates, for any/all costs associated with injury or death if the equipment is modified by non US Tower personnel, overloaded, abused, or misused.

10. UST Point of Contact:

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