



## **Terms and Conditions for Products Effective March 1, 2023**

These Terms and Conditions for Products shall apply to Customer's purchases of systems products, equipment and other hardware that Calix makes available for sale (collectively, the "Products") for Customer's end use. These terms and conditions are made a part of and incorporated into the Master Purchase and License Agreement entered into between Customer and Calix (the "Agreement").

1. **Scope.** Calix agrees to sell to Customer the Products that Calix makes available for general sale based on purchase orders duly authorized and placed by Customer and accepted by Calix as set forth below. This Agreement is non-exclusive. Products are sold for use by Customer and its end users only and may not be resold to third parties. Calix customer support services shall be extended only to Products purchased directly from Calix or its specifically authorized resellers and are subject to Calix standard terms and conditions for support services. Under no circumstances shall provision to Customer of any product road maps, or other documents or oral presentations of any kind concerning Calix's future product development plans, be construed as a binding commitment to provide any such new products, features or enhancements to Customer on any specific timetable or at all.

2. **Forecasts.** Within five days of the beginning of each calendar quarter, Customer shall provide Calix with a written good faith rolling 12-month forecast (the "Forecast") which sets forth Customer's projected demand for Products for each of the 12 months following delivery of such Forecast. Forecasts are provided for informational purposes and shall not create any binding obligations on behalf of either party. Notwithstanding the foregoing, Customer may elect to issue a binding forecast to secure specific delivery dates and volumes mutually agreed with Calix.

3. **Purchase Orders.** Customer shall order Products by issuing written purchase orders ("POs") in accordance with its customary procurement practice for authorizing such purchases. Calix shall have the right, in its sole discretion, to accept or reject POs, and no PO shall be binding unless acknowledged by Calix in writing. Any terms included on a PO are expressly rejected and shall not be considered binding on Calix. Each PO will set forth the following minimum information: the Product(s) and quantities desired, specific requested shipment date, ship-to location(s), billing address, and any shipping instructions (including requests for cargo insurance). A PO constitutes a firm purchase obligation of Customer, provided that Customer may cancel or change any PO prior to the Scheduled Ship Date (as defined below) of the affected Products, subject to payment of a 15% fee if canceled or changed fewer than 25 business days before the Scheduled Ship Date. POs cannot be canceled or changed on or after the shipment of the affected Products.

4. **Scheduled Ship Date.** Calix will schedule the shipment date (the "Scheduled Ship Date") for the Products in each accepted PO. Calix shall use commercially available methods for shipment of Products, and may ship up to 7 business days in advance of Scheduled Ship Date. Time of any delays and holds resulting from Customer activity or inactivity shall be applied to extend the Scheduled Ship Date. Should Calix be unable to make shipment of a Product by the Scheduled Ship Date, it shall inform Customer of the revised Scheduled Ship Date. Calix may ship Products in partial shipments and such partial shipments may be invoiced individually.

5. **No Returns.** All purchased Products shall be deemed accepted once provided to the carrier for shipment. Products do not carry any right of return. Customer may request a return within 30 days of shipment, which may be approved by Calix in its sole discretion. Any approved returns must be received by Calix unopened in original packaging and in original condition within 30 days of approval. Product returns are subject to a 15% restocking fee, which Calix may deduct from amounts credited as a result of the return. Customer is responsible for return shipping and will not be entitled to freight credit on the original shipment.

6. **Prices; Shipping; Title.** Customer shall pay the Product prices provided to Customer by Calix in authorized written quotations from time to time. Calix shall have the right to revise prices upon 30 days' written notice to Customer. Revised prices shall apply to all POs submitted after the effective date of the revision. All prices are exclusive of shipping, insurance and installation charges, all of which are Customer's sole responsibility. Prices are exclusive of all sales, use, excise, value added, withholding and other taxes, and all customs duties and tariffs. In the event Calix is required to pay any such tax, duty or charge, Customer will promptly reimburse Calix. All shipments are EXW (Incoterms) Calix's designated manufacturing facility, and title and risk of loss will pass to Customer when Calix places the Products at the disposal of the carrier. The carrier shall be deemed Customer's agent, and any claims for damages in shipment must be filed by Customer with the carrier. Further, Calix is authorized to designate a carrier under Calix's standard shipping practices, which excludes obtaining cargo insurance for the value of the shipment, unless instructed by Customer. Shipping charges will be added to the Product invoice or subsequently charged separately to Customer.

7. Invoicing; Payment Terms; Security Interest. Calix shall invoice for Products upon shipment. Calix may determine and grant credit terms from time to time and may change or withdraw credit terms at any time in its sole discretion. Unless otherwise specified in Calix's invoice, all payments shall be made in US dollars payable within 30 days from the date of invoice. Amounts not paid when due will accrue interest at the greater of 1.5% per month, or the maximum allowed by law. If any payment is more than 30 days overdue, Calix shall have the right to suspend performance under this Agreement, including without limitation all warranty, support and services under any Calix agreement with Customer, until all payments are made current. Customer shall pay all costs (including reasonable attorneys' fees) incurred by Calix in connection with collection of late payments. In the event Customer is delinquent in payment of invoices, Calix shall have a right of set-off against any sums payable or reimbursable to Customer. Customer has no right of set-off as to any invoices issued by Calix whether against other POs or other transactions with Calix. Customer hereby grants Calix a security interest in the Products in the amount of any unpaid balance of the purchase price until paid. Customer is obligated to cooperate with Calix to perfect such security interest rights if requested by Calix for unpaid balances.

8. Intellectual Property Rights. Calix and its licensors own and retain all rights to all Intellectual Property Rights ("IPR") embodied in the Products. Calix at no time waives or assigns any rights or ownership to any IPR, and Customer shall not contest the ownership of any IPR.

9. Ancillary Software License. Any firmware for the Products or ancillary embedded software provided by Calix as part of the Products, including updates or modifications to such software (collectively, "Ancillary Software") that Calix has not made subject to separate license terms is authorized for Customer's limited end use with the Products under the following license grant, terms and restrictions. For clarity, Calix operating systems, platforms and application software are subject to separate license grants by Calix and not included in the license grant in this Section 9.

(a) Calix hereby grants Customer a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to use the Ancillary Software solely for Customer's internal business end use in conjunction with the Products for so long as the Products are deployed by Customer. Customer shall not, and shall not authorize any third party to, (i) transfer, copy, modify or distribute the Ancillary Software, (ii) decompile, reverse engineer or otherwise gain access to Ancillary Software source code, or unbundle embedded Ancillary Software from any Product, (iii) permit any third party to access or use the Ancillary Software, or (iv) remove or alter any copyright or trademark notice. Customer shall not modify or copy any Product Documentation. Any reference in this Agreement to purchase or sale of Ancillary Software means the acquiring or granting of this license. Customer acknowledges that except for the above license, Calix retains all right, title and interest in and to the Ancillary Software. If any derivative work is created by Customer from the Ancillary Software, Calix or its licensors shall own all right, title and interest in such derivative work(s). Customer acknowledges that the Ancillary Software and documentation constitute Calix Confidential Information and Customer agrees to abide by the confidentiality provisions of this Agreement in the use and handling of the Ancillary Software and documentation. Customer's use of the Ancillary Software in accordance with the terms and restrictions are subject to Calix's audit rights under this Agreement.

(b) THE ANCILLARY SOFTWARE IS PROVIDED "AS IS" TO THE FULLEST EXTENT PERMITTED BY LAW. CALIX EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, NON-INFRINGEMENT, TITLE, AND OWNERSHIP. CALIX DOES NOT WARRANT THAT THE ANCILLARY SOFTWARE: (i) IS ERROR-FREE; (ii) WILL PERFORM UNINTERRUPTED; OR (iii) WILL MEET CUSTOMER'S REQUIREMENTS. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD PARTIES.

10. Limited Product Warranty. Calix warrants that for the period specified herein ("Warranty Period"), Products will be free from material defects in materials and workmanship and will conform to Calix's product specifications in effect as of the date of manufacture: for Products intended to be deployed to end user premises – one year from date of shipment; for any other Product – five years from date of shipment. The limited warranty terms of this Section 10 extend only to Customer as original purchaser. If during the Warranty Period (i) Calix is notified promptly in writing upon discovery of a material breach of the above warranty, including a detailed description of the alleged breach, (ii) the Product is returned, shipping prepaid, to a designated manufacturing facility under Calix's then-current return procedures, and (iii) Calix determines that the Product is defective and not subject to any exception provided in this Section 10, then, as Customer's sole remedy and Calix's sole obligation, Calix will, at its option, repair or replace the Product without charge. Any Product repaired or replaced under warranty shall have warranty coverage for the longer of 90 days from return or the remaining Warranty Period. Replacement parts used in the repair of Products may be new or reconditioned.

(a) The above warranty shall not apply if the Product (i) has been subjected to abuse, misuse, accident, improper testing, improper storage, or other use contrary to Calix instructions, (ii) has been repaired or modified by persons other than Calix, (iii) has not been installed, operated, repaired and maintained in accordance with its documentation, (iv) has failed due to an act of God, including without limitation fire, flood, tornado, earthquake, hurricane or lightning or (v) has been used with any third-party software or hardware, including without limitation any third-party optical interfaces, not previously approved in writing by Calix. In addition, the above warranty shall not apply to Products (A) marked or identified as “sample,” (B) loaned or provided at no cost, (C) which have had their serial numbers or other identifying marks removed or altered, or (D) sold “as is”.

(b) CALIX MAKES NO ADDITIONAL WARRANTY, EXPRESS, IMPLIED OR STATUTORY, FOR ANY PRODUCT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ARISING FROM USAGE OF TRADE, COURSE OF PERFORMANCE, OR DEALING. CALIX DOES NOT WARRANT ANY THIRD-PARTY HARDWARE OR SOFTWARE PRODUCTS PROVIDED UNDER THIS AGREEMENT. CUSTOMER’S SOLE REMEDY WITH RESPECT TO THIRD PARTY PRODUCTS SHALL BE UNDER THE ORIGINAL MANUFACTURER’S OR LICENSOR’S WARRANTY, IF ANY.

11. Product Indemnity. Calix will indemnify Customer against any third-party action alleging that a Product directly infringes a U.S. patent, and will pay any damages and costs (including attorneys’ fees) finally awarded against Customer by a court of competent jurisdiction and attributable to the Product, subject to the limitations and conditions in this Agreement. If any Product, or part thereof, becomes, or in Calix’s opinion may become, the subject of an infringement claim, Calix may, at its option: (i) procure for Customer the right to continue using the Product, (ii) modify or replace the Product with substantially equivalent non-infringing products, or (iii) require return of the Product and refund Customer a pro-rata portion of the purchase price paid for the Product based on straight line depreciation over a three-year economic life. This Section 11 states the entire liability of Calix for any claims of infringement of intellectual property rights for the Products.

(a) Notwithstanding any other provision of this Agreement, Calix shall have no indemnification obligations in the event of Customer’s nonpayment for the Products or with respect to (i) use of any Product in combination with products not supplied by Calix, (ii) use of any Product in an unauthorized manner or in a manner inconsistent with Calix’s published Product Documentation or this Agreement, (iii) modifications to the Products not expressly certified or authorized by Calix, (iv) any service or process using any Product, or (v) Customer’s continued use of the Product or other allegedly infringing activity contrary to requests by Calix. In such event Customer shall indemnify Calix against such action, and pay all settlements entered into, and all final judgments, fees and costs awarded in connection with such action.

(b) Calix’s indemnification obligations are subject to Customer (i) notifying Calix promptly in writing of such action and setting forth reasonable details as to how the Calix Products potentially directly infringe, (ii) giving Calix exclusive control and authority over the defense or settlement of such action, and (iii) providing all reasonable assistance to Calix (at the Calix’s expense). For purposes of this Agreement, Product Documentation is limited to Calix product manuals and documentation that Calix publishes to its product documents library as an official Product reference document for Customer use.

12. Limitation of Liability for Products. In no event shall either party be liable for any lost revenue, lost profits, indirect, special, incidental, consequential, or punitive damages, however caused and under any theory of liability, whether in contract, tort (including negligence and strict liability) or otherwise, arising out of these Terms and Conditions for Products. Calix’s total cumulative liability in connection with any Products purchased by Customer, in contract, tort, strict liability or otherwise, shall in no event exceed the payments for purchases of Products (exclusive of any service, subscription or license fees) received by Calix from Customer in the 12 months immediately preceding the date the cause of action arose. The above limitations shall apply even if a party has been advised of the possibility of such damages, and regardless of any failure of essential purpose of any limited remedy. This Limitation of Liability for Products is intended to serve as a separate limitation of liability applicable only to liability associated with Products purchased hereunder, and not applicable to any license, subscriptions or services which are subject to the Limitation of Liability set forth in the Agreement.

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