

Calyx Point of Sale LICENSE AGREEMENT

READ THIS LICENSE AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE DEPLOYING Calyx Point of Sale (“Calyx POS”). Calyx POS IS INTENDED FOR USE BY CUSTOMERS OF CALYX, AND ANY DIVISION OR SUBSIDIARY OF CALYX. THIS AGREEMENT, BETWEEN CALYX TECHNOLOGY, INC., DBA CALYX SOFTWARE (“CALYX”) AND USER, STATES THE TERMS OF USE AND CONTAINS BINDING OBLIGATIONS AND RESTRICTIONS ON USER’S USE OF Calyx POS, DISCLAIMERS, LIMITATIONS ON CALYX’S LIABILITY, INDEMNIFICATION OBLIGATIONS AND OTHER IMPORTANT TERMS.

CALYX LICENSES THE SOFTWARE TO USER ONLY UPON THE CONDITION THAT USER ACCEPTS ALL OF THE TERMS CONTAINED IN THIS AGREEMENT. THE AGREEMENT IS EFFECITVE BETWEEN USER AND CALYX AS OF THE DATE OF ACCEPTANCE. BY CLICKING THE “I ACCEPT” BUTTON USER AGREES AND UNDERSTANDS THIS AGREEMENT AND ACCEPTS ITS TERMS. USE OF Calyx POS BINDS USER AND THE BUSINESS ENTITY YOU REPRESENT TO ALL LICENSE AND FINANCIAL REQUIREMENTS STATED IN THE TERMS OF THIS AGREEMENT.”

DEFINITIONS

Calyx Point of Sale (“Calyx POS”) is a consumer-facing web portal, designed to streamline mortgage origination by collecting data from borrowers in a comprehensive and user-friendly manner, which may include use of third-party services, and deliver such data to other loan origination products.

“**USER**” is the individual that agrees to this AGREEMENT, deploys Calyx POS for use by consumer, and who may receive mortgage application data from Calyx POS to the mortgage system USER utilizes for completing mortgage loans.

“**Submitted Application**” is the data transmitted after the consumer(s) enter consumer data into Calyx POS and choose to submit this data to the USER from Calyx POS.

TERMS AND CONDITIONS

1. **USE OF Calyx POS.**
 - 1.1 **License.** Subject to the terms and conditions of this AGREEMENT, during the term of this AGREEMENT, CALYX grants USER a non-exclusive, non-transferable license to use Calyx POS.
 - 1.2 **Responsibility for Calyx POS Use.** CALYX will provide USER with a login and password for the purpose of accessing and updating USER’s Calyx POS. USER shall be responsible for all use of Calyx POS under USER’s login and password. USER is solely responsible for maintaining the confidentiality of its login and password. CALYX shall have no liability for any loss, claim, damage, or other liability that may arise from an unauthorized use of USER’s login and password.
 - 1.3 **CALYX Right to Change.** CALYX reserves the right to change Calyx POS, or any of its features or design elements at any time without prior notice.
 - 1.4 **CALYX Right to Discontinue** Calyx POS. CALYX reserves the right to discontinue Calyx POS with reasonable notice, not less than 120 days.
2. **LICENSE RESTRICTIONS.** CALYX reserves all rights in the use of Calyx POS not expressly granted to the USER in this AGREEMENT. USER may not: (a) copy, modify, translate, adapt, or prepare derivative works of Calyx POS; or (b) transfer, sublicense, lease, lend, rent, or otherwise distribute Calyx POS to any third party. USER may not disassemble, decompile, or otherwise reverse engineer Calyx POS, in whole or in part, or otherwise attempt to derive source code or other trade secrets from CALYX, or permit or authorize a third party to do so, except to the extent such activities are expressly permitted by law notwithstanding this prohibition.
3. **OWNERSHIP.** CALYX owns and retains all rights, title, and interest in and to Calyx POS (including, but not limited to, all proprietary design elements, technology, services, and software relating to or used in connection with Calyx POS), and any modifications thereto, including all worldwide patent

rights, copyrights, trade names, trademarks, service marks, inventions, trade secrets, know-how, and any other intellectual property rights therein. USER may not delete or in any manner alter the copyright, trademark, and other proprietary rights notices or markings appearing on or within Calyx POS as delivered to USER. The intellectual property rights in Calyx POS shall at all times remain the exclusive property of CALYX.

4. **SUBMITTED APPLICATION FEE.** USER shall pay CALYX a fee per Submitted Application received from Calyx POS. All Submitted Applications received by USER during preceding month shall be billed to the USER by Calyx, in the month following their receipt.

5. **PAYMENTS AND FEES.**

- 5.1 **Method of Payment.** USER authorizes CALYX to charge the Submitted Application fee on a recurring monthly basis to USER's credit card.

- 5.2 **CALYX Right to Change Fees.** CALYX reserves the right to change the Submitted Application fee, or any other fees that may be charged in connection with Calyx POS. CALYX will make reasonable efforts to announce any pricing changes via e-mail addresses provided to CALYX by USER.

- 5.3 **Nonpayment by USER.** CALYX reserves the right to suspend access to Calyx POS or terminate Calyx POS if USER's account becomes thirty (30) days past due for reasons, including, but not limited to, declined credit card charge, or lapsed credit card expiration date. Refer to Section 6.4 below for CALYX's reactivation policy.

- 5.4 **Payment Obligations.** USER shall remain obligated to pay for all Submitted Applications through the date of suspension or termination. Suspension or termination of Calyx POS shall not relieve USER of the obligation to pay any fees due and outstanding. No fees will be refunded in the event USER's Calyx POS is suspended or terminated.

6. **TERM AND TERMINATION.**

- 6.1 **Term.** This AGREEMENT is effective upon USER's completion of domain name/Calyx POS account set up and shall remain in full force until either party provides written notice to the other of its intent to terminate this agreement.

- 6.2 **Termination for Breach.** If USER breaches any of the terms or conditions set forth in this AGREEMENT, CALYX reserves the right to terminate this AGREEMENT.

- 6.3 **Termination for Nonpayment.** CALYX reserves the right to terminate this AGREEMENT if USER's account becomes thirty (30) days past due for reasons, including, but not limited to, declined credit card charge, or lapsed credit card expiration date.

- 6.4 **Reactivation of Calyx POS.** Upon the payment of applicable fees, CALYX may permit a USER to reactivate Calyx POS.

7. **AVAILABILITY OF Calyx POS.** Calyx POS is accessible twenty-four (24) hours a day, seven (7) days a week, except for scheduled maintenance, required repairs, and except for any loss or interruption of service due to causes beyond the control of CALYX and not reasonably foreseeable, including, but not limited to, interruption or failure of telecommunication or digital transmission links, Internet slow-downs or failures, and unforeseen hardware or communications problems.

8. **REPRESENTATIONS AND WARRANTIES OF USER.** USER represents and warrants to CALYX that the statements contained in this Section 8 are correct and complete as of the date of this AGREEMENT and will be correct and complete through the term of this AGREEMENT. USER represents and warrants that: (1) this AGREEMENT constitutes USER's legal, valid and binding obligation, enforceable against USER in accordance with its terms; (2) USER has the power and authority to enter into this AGREEMENT and perform the obligations hereunder and that the person executing or accepting this AGREEMENT (electronically or otherwise) on behalf of USER is empowered to do so; (3) neither the execution or acceptance of this AGREEMENT nor the performance by USER of its obligations hereunder conflicts with or violates any other AGREEMENT to which USER is currently a party, or any provision of law, rule or regulation to which USER is subject.

9. **Calyx POS IMPLEMENTATION.** Calyx will assist USER in deployment of Calyx POS; however, USER will be solely responsible for the implementation and maintenance of Calyx POS. USER is solely responsible for providing its customers with any required disclosures, explanation of its services or products, and handling its own customers' inquiries or complaints arising from Calyx POS or its services or products.

10. **USER'S Calyx POS SECURITY.** USER is solely responsible for ensuring that USER's information within Calyx POS is in compliance with all local, state, federal or international laws, including, but not limited to, all privacy laws, and federal or state mortgage compliance laws when utilizing Calyx POS. CALYX shall not be held liable for any claims relating to USER's failure to comply with any such laws. USER shall maintain the security of all credit card information or payment information received through Calyx POS. CALYX will have no liability for any disclosure, unauthorized receipt, or use of any information relating to a customer credit card received or transmitted through Calyx POS.
11. **Calyx POS CONTENT/PROHIBITED ACTIVITIES.**
 - 11.1 **USER Responsibility.** USER agrees and acknowledges that USER is solely responsible for its actions, its use of Calyx POS, and USER's Calyx POS, including, but not limited to, any Content (as defined below) including information the USER transmits while using Calyx POS.
 - 11.2 **Content Restrictions.** USER is solely and fully responsible for the content, information, data, materials, products and services appearing within Calyx POS and for all other content, information, data, text, software, music, sound, photographs, graphics, video, messages, goods, products, services, and other material whether publicly posted or privately transmitted using Calyx POS ("Content"). CALYX does not review USER's information or content. However, CALYX has the right, but not the duty, in its sole discretion, and without prior notice, to refuse or remove any Content that CALYX finds objectionable or unacceptable for any reason, and may suspend access to or terminate Calyx POS for any violation of the terms or conditions of this AGREEMENT, or if USER's Content or domain name results in, or is the subject of, legal or threatened legal action (regardless of whether or not such legal action or threatened legal action are eventually determined to be with or without merit). CALYX shall also have the right in its sole discretion to suspend or terminate Calyx POS at such time as CALYX receives what reasonably appears to be an authentic notification from a court or tribunal of competent jurisdiction.
 - 11.3 **Specific Content Restrictions and Prohibited Activities.** USER understands and agrees that the activities contained in this Section 11.3 are prohibited under the terms of this AGREEMENT. USER understands that the following is a nonexclusive list of the activities prohibited under the terms of this AGREEMENT:
 - 11.3.1 Uploading, posting or transmitting of any content on or through Calyx POS that is unlawful, harmful, threatening, abusive, harassing, defamatory, indecent, profane, hateful; racially, ethnically or otherwise objectionable; or violates privacy, publicity or other personal rights of others.
 - 11.3.2 Uploading, posting or transmitting of any Content that violates, infringes or misappropriates the intellectual property rights of others, including patents, trademarks, service marks, trade secrets, copyrights or other proprietary rights of any party;
 - 11.3.3 Uploading, posting or transmitting of any content that USER does not have a right to upload, post, or transmit under any law or under contractual, fiduciary or personal relationships, including, but not limited to, certain confidential or proprietary information;
 - 11.3.4 Using Calyx POS to create, upload, post or transmit any viruses, worms, or Trojan horses; or for flooding, mail bombing, or denial of service attacks; or transmitting any other malicious computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; and
 - 11.3.5 Engaging in activities that disrupt the use of or interfere with the ability of others to effectively use Calyx POS.
 - 11.4 **Bulk/Unsolicited E-mails.** CALYX prohibits the use of Calyx POS in any manner associated with the sending, transmission, distribution, or delivery or acceptance of any unsolicited bulk and/or unsolicited e-mails ("Spam"). USER may not use Calyx POS to send Spam, nor may USER use Calyx POS to deliver Spam or cause Spam to be delivered to Calyx POS. This prohibition extends to the sending of Spam from another service that in any way implicates the use of Calyx POS. USER may not engage in the forgery of any headers or other manipulation of identifiers in order to disguise the origin of any message sent in connection with Calyx POS.
12. **DOMAIN NAME.** USER can choose a domain name provided by CALYX, register a domain name with Register.com via CALYX, or register a domain name through a third-party service. If USER

chooses a domain name with CALYX, USER understands that the domain name is licensed to CALYX and remains the property of CALYX. When USER's Calyx POS is terminated, so too will any use of such domain name through CALYX. USER acknowledges and agrees that CALYX may, upon termination of this AGREEMENT, elect, at its sole discretion, to disable and/or delete the domain name, sell the domain name, or otherwise make such domain name available to third parties. CALYX reserves the right to freeze any domain name as necessary to comply with any legal requirements or to avoid any liability.

13. **UNAUTHORIZED SERVER ACCESS.** USER agrees it will not attempt to compromise the security of Calyx POS servers by any means, including, but not limited to, attempting to gain unauthorized access to restricted information on CALYX servers, or attempting to disable, cripple, or modify Calyx POS servers. USER agrees that it will not attack or attempt to gain unauthorized access to the data, computers, accounts, systems or networks of others, or attempt to penetrate security measures of CALYX or other entities' systems ("hacking") or engage in any activity that might be used as a precursor to an attempted system penetration.
14. **USER COMMUNICATION.**
 - 14.1 USER understands and agrees that Calyx POS may include certain communications from CALYX, such as administrative messages, renewal and billing notices, Service announcements, and notifications of operational updates, bug-fixes, or other changes that may affect or change Calyx POS's features offered by CALYX, and that CALYX reserves the right to send such communications via e-mail. Please note that USER cannot opt out of such e-mails because these e-mails provide information critical for the operation of USER's Website.
 - 14.2 USER HEREBY GRANTS CALYX EXPRESS WRITTEN PERMISSION TO E-MAIL SOLICITATIONS OR ADVERTISEMENTS, THUS SATISFYING ANY EXPRESS WRITTEN PERMISSION REQUIREMENT.
15. **CONFIDENTIALITY.** USER agrees that Calyx POS contains proprietary information, including, but not limited to, trade secrets, know-how, design elements, technology, services, software, and confidential information that is the exclusive property of CALYX. During the period this AGREEMENT is in effect and at all times after its termination, unless USER has obtained written consent from CALYX, USER and its employees and agents (a) may not use this information, except as necessary for the performance of this AGREEMENT, and (b) must maintain the confidentiality of this information and not sell, license, publish, display, distribute, disclose, or otherwise make this information available to any third party.
16. **DISCLAIMER OF WARRANTIES.** USER UNDERSTANDS THAT THE INTERNET AND OTHER VARIOUS NETWORKING COMMUNICATION MEDIUMS ARE NOT SECURE, UNLESS EXPLICITLY SPECIFIED AS SUCH, AND MAY BE SUBJECT TO INTERCEPTION, UNAUTHORIZED INTRUSION, OR LOSS. CALYX MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED OR STATUTORY, CONCERNING THE DATA OR INFORMATION AVAILABLE THROUGH Calyx POS OR THE INTERNET, OR THE DISCLOSURE OF DATA OR INFORMATION DUE TO ERRORS IN TRANSMISSION, OR UNAUTHORIZED OR NEGLIGENT ACTS OF THIRD PARTIES. CALYX PROVIDES NO WARRANTY THAT Calyx POS WILL ALWAYS BE AVAILABLE, UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, THAT ANY INFORMATION, SOFTWARE OR OTHER MATERIAL ACCESSIBLE ON Calyx POS IS FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS, THAT Calyx POS WILL MEET USER'S REQUIREMENTS. CALYX DISCLAIMS ANY LIABILITY FOR ANY DATA OR INFORMATION THAT WILL BE TRANSFERRED EITHER TO OR FROM USER OR USER'S CUSTOMERS VIA Calyx POS. Calyx POS IS PROVIDED ON AN "AS IS" BASIS, AND CALYX DISCLAIMS ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS, IMPLIED, ORAL, OR WRITTEN), RELATING TO Calyx POS OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF QUALITY, PERFORMANCE, COMPATIBILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. THE TERMS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON.
17. **LIMITATION OF LIABILITY.** IN NO EVENT WILL CALYX OR ITS EMPLOYEES, AGENTS, SUCCESSORS, ASSIGNS, ATTORNEYS OR AFFILIATES, BE LIABLE TO USER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES

(INCLUDING DAMAGES FOR LOSS OF USE, DATA, BUSINESS, OR PROFITS) OR FOR THE COST OF PROCURING SUBSTITUTE PRODUCTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF Calyx POS, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT CALYX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. CALYX SHALL HAVE NO LIABILITY OF ANY KIND OR NATURE TO USER ARISING OUT OF OR RELATED TO USER'S USE OF OR INABILITY TO USE USER'S Calyx POS, INCLUDING, BUT NOT LIMITED TO THE SUSPENSION OR TERMINATION OF Calyx POS. CALYX SHALL HAVE NO LIABILITY OF ANY KIND OR NATURE TO USER ARISING OUT OF ILLEGAL CONDUCT OF THIRD PARTIES, ABUSE BY HACKERS, OR SECURITY BREACHES IN CALYX'S OR USER'S SYSTEMS. THE FOREGOING LIMITATIONS WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. USER AGREES THAT CALYX'S TOTAL LIABILITY TO USER FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY WILL BE LIMITED TO AND WILL NOT EXCEED THE AMOUNT PAID TO CALYX BY USER FOR Calyx POS. THE TERMS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON.

18. **INDEMNIFICATION.**

18.1. USER shall defend, indemnify, save and hold harmless CALYX from and against any and all damages, liabilities, losses, judgments, or settlements, including reasonable attorneys' fees, arising or resulting from any claims, demands, actions and other proceedings by any third party arising out of or relating to: (1) Calyx POS; (2) USER's violation of any local, state, federal or international laws, or breach of this AGREEMENT; (3) any act or omission by USER, agents or employees, or any services performed or agreed to be performed by USER, its agents or employees to any third party; (4) this AGREEMENT; (5) USER's collection, distribution, dissemination, sharing, use, or sale of information about its customers or consumers to any third-party without their permission (except as permitted by applicable law). This indemnification and hold harmless provision extends to all issues associated with USER's account, including but not limited to, domain name selection and USER's Calyx POS content.

18.2. CALYX agrees to defend, indemnify and hold USER harmless against all costs, expenses, and losses (including reasonable attorney fees and costs) incurred through claims of third parties against USER alleging that the intellectual property of CALYX infringes on the claimant's intellectual property, infringement of any copyright, trademark, service mark, trade secrets, right of privacy, or publicity, or any other third- party right.
The terms of this section shall survive the termination of this AGREEMENT for whatever reason.

19. **NONTRANSFERABLE.** Calyx POS, and this AGREEMENT provided by CALYX pursuant to this AGREEMENT, may not be transferred, assigned or distributed, in whole or in part, without the prior written consent of CALYX, which consent shall not be unreasonably withheld. Subject to the foregoing, this AGREEMENT shall be binding on and enforceable by the parties and their respective successors and permitted assigns.

20. **GOVERNING LAW.** This AGREEMENT will be governed by and construed in accordance with the laws of the State of California, without regard to or application of conflicts of law rules or principles.

21. **ATTORNEYS' FEES/VENUE.** In the event of any litigation of any controversy or dispute arising out of or in connection with this AGREEMENT, its interpretation, its performance, or the like, or arising out of or in connection with Calyx POS, the prevailing party will be entitled to reasonable attorneys' fees and expenses, court costs, and reasonable costs for expert and other witnesses attributable to the prosecution or defense of that controversy or dispute. The appropriate venue for any such legal action shall be exclusively the state and federal courts located in California.

22. **NOTICES.** All notices or approvals required or permitted under this AGREEMENT will be in writing and delivered by confirmed facsimile transmission, by overnight delivery service, or by certified mail, and in each instance will be deemed to have been made five (5) days after the date sent. Notices to USER will be sent to the address on file with CALYX. Notices to CALYX shall be sent to CALYX's headquarters listed on its website.

23. **NONEXCLUSIVE REMEDY.** Except as expressly set forth in this AGREEMENT, the exercise by either party of any of its remedies under this AGREEMENT will be without prejudice to its other remedies under this AGREEMENT or otherwise.
24. **WAIVER.** The failure by either party to enforce any provision of this AGREEMENT will not constitute a waiver of future enforcement of that or any other provision. Any waiver, modification, or amendment of any provision of this AGREEMENT will be effective only if in writing and signed by authorized representatives of both parties.
25. **SEVERABILITY.** If any provision of this AGREEMENT is held to be unenforceable or invalid, that provision will be enforced to the maximum extent possible and the other provisions will remain in full force and effect.
26. **ENTIRE AGREEMENT.** This AGREEMENT is the complete and exclusive understanding and AGREEMENT between the parties regarding its subject matter, and supersedes all proposals, understandings, or communications between the parties, oral or written, regarding its subject matter.
27. **HEADINGS:** The section headings contained in this AGREEMENT are inserted for convenience only and shall not affect in any way the meaning or interpretation of this AGREEMENT.

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