



TELAVA SERVICES

Telava™ Customer Premise Equipment Purchase Agreement

THIS CUSTOMER PREMISE EQUIPMENT PURCHASE AGREEMENT (this “CPE Purchase Agreement”) is entered into by and between Telava and its affiliates, (“Telava”), and Customer.

1. TERM. Telava hereby sells to the Customer, and the Customer hereby purchases from Telava, certain customer premise equipment (hereinafter referred to as the “Customer Premise Equipment” or “CPE”) more specifically described on Customer Sales Order Agreement (“SOA”) attached hereto and made a part hereof.

2. PURCHASE PRICE. The Customer will pay the full purchase price of as provided on the SOA by check delivered to Telava or credit card to Telava’s account at the time the SOA is signed.

3. DELIVERY; INSPECTION; RETURN. Telava shall arrange for shipment of the CPE to Customer at Customer’s address specified on the signature page hereof, or to such other address as may be agreed upon by both parties. All costs of shipment shall be paid by Customer. Customer shall inspect the CPE upon delivery to Customer. If the Customer does not report any visible defects to the CPE to Telava within 10 days from the date of delivery of the CPE, the Customer’s right to any remedy pursuant to this CPE Purchase Agreement or pursuant to any applicable law for such visible defects shall have been waived. No CPE may be returned by Customer for any reason without the prior approval of Telava. All returned equipment may incur a 25% restocking fee of the purchase price. All returns shall be in original packaging or equivalent. Customer shall be responsible for all costs related to shipping to Telava any CPE that is being returned.

Any CPE returned to Telava without prior authorization for its return or proper packaging may be refused. In order to obtain an appropriate refund, upon termination of SOA or return of equipment, Customer must immediately obtain a return material authorization (RMA) number from Telava, return to Telava any CPE provided, undamaged and in good working condition, in its original packaging and with its original content or otherwise will be immediately responsible for paying to Telava for any missing parts. Customers are not to be allowed to send missing parts to Telava after initial product RMA is received.

4. WARRANTY. TELAVA MAKES NO REPRESENTATIONS OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE CUSTOMER PREMISE EQUIPMENT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. TELAVA SHALL HAVE NO LIABILITY FOR STRICT LIABILITY, PRODUCTS LIABILITY OR NEGLIGENCE, WHETHER ACTIVE OR PASSIVE.

4(a). MANUFACTURER’S WARRANTY. Customer acknowledges that any manufacturer’s or supplier’s warranties with respect to the CPE are passed on to Customer by Telava, to the extent assignable.

4(b). LIMITATION OF REMEDIES. Customer’s exclusive remedy for any defective CPE for which Telava is responsible is limited to the repair or replacement of the defective CPE, if Customer notifies Telava within 10 days of receipt of the CPE. If Telava does not repair or replace a defective CPE for which Telava is responsible, Telava will refund the Purchase Price of the defective CPE. Telava is not responsible for damage to the CPE incurred in shipping or due to misuse or neglect of the CPE.

4(c). LIMITATION OF LIABILITY. Even if Telava cannot or does not repair or replace any defective CPE for which Telava is responsible and Customer’s exclusive remedy fails of its essential purpose, Telava’s entire liability shall in no event exceed the purchase price for the defective CPE. Telava shall have no liability for general, consequential, incidental or special damages arising from a defect in any CPE. This warranty shall not cover damage to the CPE caused by unauthorized maintenance or by use of the CPE for a purpose or in a manner contrary to the terms of this CPE Purchase Agreement.

5. TAXES. The Customer shall comply with all laws and regulations relating to, and shall promptly pay when due, all license fees, registration fees, assessments, charges, and taxes, municipal, state, and federal (excluding, however, any taxes payable in respect to Telava’s income), which may now or hereafter be imposed upon the ownership, possession, operation, control, use, maintenance, or delivery of the CPE, and shall indemnify and hold Telava harmless against actual or asserted violations, and pay all costs and expenses of every character in connection therewith or arising therefrom.

6. TITLE. Title to the CPE shall vest with the Customer after delivery of the CPE has been accepted pursuant to Section 3. Telava will cooperate with the Customer, and take whatever action may reasonably be necessary, to vest full title to the CPE with the Customer.

7. INDEMNITY. The liability of Telava shall be limited to the applicable state or federal requirements for insuring the safety and efficacy of the CPE. The Customer shall indemnify and hold harmless Telava against any other loss whatsoever which may be occasioned by the installation, operation, or use of the CPE. Such indemnification shall include the cost of any defense which Telava may be put to by virtue of such claim. Telava shall have the right to select counsel and the Customer shall pay the reasonable fees of such counsel.

8. PARTIAL INVALIDITY; SEVERABILITY. If any provision of this CPE Purchase Agreement is in conflict with any statute or rule of law of any state or district in which it may be sought to be enforced, then such provision shall be deemed null and void to the extent that it may conflict therewith, but without invalidating the remaining provisions hereof.

9. ENTIRE AGREEMENT. This CPE Purchase Agreement contains the entire agreement between the parties. There are no other understandings or agreements between them.

10. HEADINGS. Headings in this CPE Purchase Agreement are for convenience only and shall not be used to interpret or construe its provisions.

11. COUNTERPARTS. This CPE Purchase Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

12. BINDING EFFECT. This CPE Purchase Agreement shall be binding upon Telava and Customer and their respective legal representatives, successors, and assigns.

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