


CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: October 31, 2016

RE: Approval of Agreement with EiQNetworks
for Security Monitoring and Installation Services
Contract No. 001243

Board approval is requested to enter into a Security Monitoring and Installation Agreement with EiQNetworks in the total amount of \$455,358.00 for a three year period, the first year will be \$124,426.06. EiQNetworks will capture system logs and report on PCI compliance requirements for CFX IT and ITS networks. This service falls under Section XV – Exemptions from competitive procurement processes in CFX’s Procurement Procedures Manual.

This service is a recommendation of Protiviti based on their audit of CFX ITS systems. The audit specifically calls for CFX to implement technical controls to log information security incidents and events generated by computer and network systems that make up the ITS network.

The installation part of this project is funded in the Five-Year Work Plan and the monitoring/maintenance services will be budgeted in future OM&A budgets.

Reviewed by:



Mahmood Haq, CISSP
Information Security Manager

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EIQ NETWORKS, INC.
SOCVUE MASTER SUBSCRIPTION AGREEMENT

This SOCVue Master Subscription Agreement (the "Agreement") is entered into this ___ day of _____, 2016 (the "Effective Date") by and between EIQ Networks, Inc. ("EIQ") and Central Florida Expressway Authority ("Licensee").

EIQ has developed and owns or has the right to license the EIQ services (the "Managed Services") on a cloud basis or pursuant to a software as a service methodology or co-managed or managed methodology. The Managed Services are copyrighted, patented or protected by trade secret law and their use is licensed (not sold) to Licensee.

This Agreement represents the entire agreement with respect to the Managed Services between EIQ and Licensee.

TERMS AND CONDITIONS

1. DEFINITIONS. As used in this Agreement:

1.1. Affiliates means any entity that directly or indirectly controls, is controlled by, or under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity.

1.2. Authorized Use means use of the Managed Services in the manner specified in the Documentation.

1.3. Content means information obtained by EIQ from EIQ content licensors or publicly available sources and provided to Licensee pursuant to an Order Form, as more fully described in the Documentation.

1.4. Documentation means any specification and use documentation made available by EIQ to its licensees generally with regard to the Managed Services.

1.5. Evaluation Managed Services means Managed Services licensed to Licensee by EIQ and delivered solely for evaluation by Licensee under this Agreement. Special terms applicable to Evaluation Managed Services are set forth in this Agreement.

1.6. Licensee Data means electronic data and information submitted by Licensee to EIQ or collected and processed by or for Licensee using the Managed Services.

1.7. Managed Node means any EIQ-supported device, application, server workstation, IP Address or networked device from which EIQ collects and/or receives any form of data.

1.8. Managed Services means the products and services that are provided to Licensee by EIQ pursuant to a "cloud" based model or at Licensee's facility, as elected by Licensee, under a free evaluation or an Order Form. The Managed Services may include one or more of the following: consultation by EIQ technical staff; security monitoring and incident notification as a service ("SMaaS"); security process guidance; management and configuration of EIQ and/or Third Party Software or technology, Log Management as a service ("LMaaS"), SIEM as a service, and/or any new service that maybe introduced or offered by EIQ in the future as described in the Documentation and/or on the then-current EIQ website.

1.9. Order Form means a purchase order or other ordering document received by EIQ from Licensee or an authorized EIQ Reseller on behalf of Licensee specifying the type of Managed Services to be provided hereunder that is entered into between Licensee and EIQ, including any addenda and supplements thereto.

1.10. Resellers mean entities that are authorized by EIQ to resell EIQ Managed Services.

1.11. Third Party Software means computer software owned by third parties, licensed to EIQ, and redistributed by EIQ to its customers as part of the Managed Services.

1.12. User means an end user who is authorized by Licensee to use a Managed Service and to whom Licensee (or EIQ at Licensee's request) has supplied a User identification and password. Users may include, for example, Licensee's employees, consultants, contractors and agents and third parties with which Licensee transacts business, who are bound by the terms of this Agreement.

2. EVALUATION OF MANAGED SERVICES. EIQ may agree to allow Licensee to evaluate the Managed Services with respect to a limited number of nodes or IP addresses for a no charge evaluation of the Managed Services for a designated evaluation period. Upon the expiration of such designated evaluation period, the Evaluation Managed Services license shall automatically terminate. EIQ shall have no obligation or responsibility to store or preserve any Licensee data upon the expiration of such designated evaluation period. Title to the Evaluation Managed Services shall at all times remain with EIQ.

Licensee shall be responsible for the proper use and deployment of the Evaluation Managed Services; use the Evaluation Managed Services solely for the limited purpose of evaluating the Managed Services; and, take appropriate action, by means of agreement, instruction or otherwise, with respect to its employees or other third parties permitted access to the Evaluation Managed Services in furtherance of its permitted use to ensure that all of its obligations are satisfied.

EIQ DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE EVALUATION MANAGED SERVICES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE.

3. EIQ RESPONSIBILITIES.

3.1. Provision of Managed Services. EIQ will (a) make the Managed Services available to Licensee pursuant to this Agreement and the applicable Order Forms, and (b) use commercially reasonable efforts to provide Managed Services as defined in the Documentation, except for: (i) planned downtime; and (ii) any unavailability caused by circumstances beyond EIQ's reasonable control, including but not limited to, for example, Licensee's network is down, EIQ is not able to remotely connect to Licensee networks, Licensee's nodes or IP addresses under management fail to send data, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving EIQ employees), Internet service provider failure or delay, cloud service provider failure or delay, non-EIQ application, or denial of service attack.

3.2. Protection of Licensee Data. EIQ will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Licensee Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Licensee Data by EIQ personnel except (a) to provide the Managed Services and prevent or address service or technical problems, (b) as compelled by law, or (c) as Licensee expressly permits in writing.

3.3. EIQ Personnel. EIQ will be responsible for the performance of EIQ personnel (including EIQ employees and contractors) and their compliance with EIQ obligations under this Agreement, except as otherwise specified herein.

4. USE OF MANAGED SERVICES.

4.1. Subscriptions and Subscription Term. Unless otherwise provided in the applicable Order Form, (a) Managed Services are purchased as subscriptions for the designated subscription term as set forth in the applicable Order Form, (b) subscription for new or additional Managed Services may be added at any time.

4.2. Usage Limits. Managed Services pursuant to a "cloud" based model or at Licensee's designated facility, as elected by Licensee, are subject to usage limits, including, for example, the quantities specified in Order Forms. Unless otherwise specified, (a) a quantity in an Order Form refers to Managed Nodes and

the Managed Services may not be used to manage more than that number of Managed Nodes, (b) the Order Form shall specify the type of service(s) purchased and the terms for each service offering, and (c) the Order Form shall specify the quantity ordered for each type of Managed Service purchased. If Licensee exceeds a contractual usage limit or exceeds EIQ's then-current usage limits, EIQ will work with Licensee to seek to reduce Licensee's usage so that it conforms to that limit. If, notwithstanding EIQ's best efforts, Licensee is unable or unwilling to abide by a contractual usage limit, Licensee will execute an Order Form for additional quantities of the applicable Managed Services promptly upon EIQ's request, and/or pay any invoice for excess usage in accordance with this Agreement. EIQ may, at its sole option, modify usage limits. For a "cloud" based model, Licensee shall purchase from EIQ a "Cloud Server", conditioned on the number of applicable nodes and EIQ designated "cloud data storage", conditioned upon the applicable file size, in addition to the Managed Services. If the total data storage exceeds the amount purchased, EIQ will invoice the Licensee for the overage and work with the Licensee to help them move to the next tier of storage for an additional fee.

4.3. Licensee Responsibilities. Licensee will (a) be responsible for its' compliance with this Agreement, (b) use commercially reasonable efforts to prevent unauthorized access to or use of Managed Services, and notify EIQ promptly upon discovery of any such unauthorized access or use, (c) use Managed Services only in accordance with the Documentation and applicable laws and government regulations. Licensee shall not disclose any Confidential Information of EIQ to any competitor of EIQ. Licensee will comply with any Licensee responsibilities or assistance obligations with respect to implementing the Managed Services as set forth in the applicable EIQ Documentation. Licensee shall configure the nodes or IP addresses and network in order to send data to EIQ application that resides on Licensee designated location or in the Cloud. Licensee, not more than once per calendar quarter, may download applicable data from the cloud to Licensee's network at EIQ's then-current applicable fee.

4.4. Usage Restrictions. Subject to the terms and conditions of this Agreement, EIQ hereby grants to Licensee a limited, nonexclusive, non-sublicenseable and non-transferable license, on a subscription basis as set forth in the applicable Order Form, under EIQ's intellectual property rights to install, and if applicable evaluate, the Managed Services solely for Authorized Uses.

The Managed Services include proprietary information owned by EIQ or its third party licensors and the Managed Services and the Documentation are provided to Licensee solely under license and not for sale. EIQ and its third party licensors will continue to own their respective interests and intellectual property rights in the Managed Services and will be entitled to terminate this Agreement upon any breach by Licensee of this Agreement.

EIQ reserves the right to make changes to any Managed Services whenever such changes, (a) are required for safety, (b) facilitate performance in accordance with specifications, or (c) represent substitutions and modifications in accordance with applicable Managed Services performance specifications, provided however that such changes shall not impede Licensee's Authorized Use of any Managed Services.

Licensee shall not itself, or through any affiliate, agent, or third party: (a) decompile, disassemble, or otherwise reverse engineer any Managed Services, or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of any Managed Services by any means whatsoever, except to the extent applicable laws specifically prohibit such restrictions, (b) modify, adapt, translate, or create derivative works based upon any Managed Services (c) transfer, lease, loan, sublicense, sell, resell for profit, distribute, or otherwise grant any rights in any Managed Services in any form to any other party, unless as an authorized reseller or Managed Service provider of EIQ pursuant to a written agreement with EIQ, (d) use any Managed Services on a commercial time-sharing, rental, or service bureau basis, or in any manner or for any purpose other than an Authorized Use; or (e) disclose to any third party any underlying ideas or algorithms, performance information, test results or analyses learned by Licensee or created by or for Licensee (including, without limitation, benchmarks) relating to

any Managed Services. Licensee shall only have the rights with respect to the Managed Services expressly set forth in this Agreement; all other rights are expressly reserved to EIQ and its licensors.

Licensee acknowledges that the Managed Services, and all trade secret, copyright, patent, trademark, trade name, and other intellectual and proprietary rights in the Managed Services, are and at all times shall remain the valuable property of EIQ and its licensors, or their respective successors or assigns. Licensee agrees that nothing contained in this Agreement shall be construed as granting or conferring by implication, estoppel, or otherwise, any license or right under any patent, trademark, copyright, or other proprietary right, whether now existing or hereafter obtained, and no such license or other right shall arise from this Agreement or from any acts or omissions in connection with the execution of this Agreement or the performance of the obligations of the parties.

Licensee agrees (a) not to alter, remove, or conceal any copyright, trademark, trade name, or other proprietary marking that may appear on or in the Managed Services, and (b) that Licensee is responsible for itself obtaining any additional software, hardware, or technologies not provided by EIQ under this Agreement and required to access the Managed Services, including but not limited to communications devices and Internet access services.

Licensee consents to the operation of the Managed Services' communications features.

Licensee agrees to promptly notify EIQ of any violation of any of the terms of this Agreement by Licensee or others of which it becomes aware.

4.5. Removal of Content and Non-EIQ Applications. If EIQ is required by a licensor to remove Content, or receive information that Content provided to Licensee may violate applicable law or third-party rights, EIQ may so notify Licensee and in such event Licensee will promptly remove such Content from Licensee's systems. If EIQ receives information that a non-EIQ application hosted on a Managed Service by Licensee may violate applicable law or third-party rights, EIQ may so notify Licensee and in such event Licensee will promptly disable such non-EIQ application or modify the non-EIQ application to resolve the potential violation. If Licensee does not take required action in accordance with the above, EIQ may disable the applicable Content, Managed Service and/or non-EIQ application until the potential violation is resolved.

5. PROPRIETARY RIGHTS AND LICENSES.

5.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, EIQ and EIQ's licensors reserve all of EIQ's right, title and interest in and to the Managed Services, including all of EIQ's related intellectual property rights. No rights are granted to Licensee hereunder other than as expressly set forth herein.

5.2. License by Licensee to Host Licensee Data and Applications. Licensee grants EIQ and EIQ's Affiliates a worldwide, limited- term license to host, copy, transmit, analyze and display Licensee Data as necessary for EIQ to provide the Managed Services in accordance with this Agreement.

5.3. License by Licensee to Use Feedback. Licensee grants to EIQ and EIQ's Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Managed Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Licensee or Users relating to the operation of the Managed Services.

5.4. Federal Government End Use Provisions. If applicable, EIQ provides the Managed Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Managed Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data - Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with EIQ to

determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

6. ORDERS. Licensee will pay all fees with respect to the Managed Services as defined herein as well as any other items specified in the Order Form. Except as otherwise specified herein or in an Order Form, (a) fees are based on Managed Services purchased and not actual usage, (b) payment obligation are non-cancelable and fees paid are non-refundable, and (c) quantities purchased cannot be decreased during the relevant subscription term. Each Licensee purchase order or alternative document reasonably acceptable to EIQ shall reference this Agreement and specify the items, Managed Services and configurations of Managed Services being ordered, contract length, their prices and payment terms. The purchase and license of the Managed Services and the provision of Managed Services shall be governed by the terms of this Agreement. Any preprinted provisions of Licensee's purchase orders or other terms that conflict with the terms of this Agreement shall not apply and the terms set forth in this Agreement shall control. EIQ reserves the right to change its prices and related terms and conditions at any time without notice, provided that any such changes shall not affect orders already accepted.

7. PAYMENT. All payments with respect to the Managed Services as defined herein as well as any other items shall be in U.S. Dollars to EIQ net thirty (30) days from the date of the EIQ invoice. Amounts not paid within such thirty (30) day period shall bear interest at the rate of one and one-half percent (1.5%) per month or at the highest lawful rate, whichever is less, from the date such amount is due. Licensee will reimburse EIQ for all costs and expenses incurred, including but not limited to attorneys' fees, in collecting any overdue amounts. Payment terms may be revised by EIQ at any time with prior written notice upon any adverse change in Licensee's payment history or financial status. EIQ shall have the right to cancel any Order Form placed or to refuse or delay delivery or performance or suspend any Managed Services for failure of Licensee to make any payments due EIQ in accordance with the terms of this Agreement. Licensee will pay all sums equal to taxes (including, without limitation, sales, withholding, value-added, and similar taxes) and any duties paid or payable, however designated, levied or based on amounts payable to EIQ under this Agreement, but exclusive of taxes based on EIQ's net income, and will reimburse EIQ for any such sum that EIQ is required to collect or pay with respect to transactions under this Agreement. For any orders issued by Licensee to Reseller, payment terms shall be as agreed between Licensee and Reseller.

8. THIRD PARTY SOFTWARE. EIQ will redistribute certain Third Party Software to Licensee for Licensee's use with the Managed Services. As a condition of its use of the Third Party Software, Licensee agrees to familiarize itself with, and to comply with and be responsible for observing, the conditions and restrictions required of software users by the owners of such Third Party Software as referenced in *THIRDPARTYLICENSEREADME.txt* under the application install path.

9. DISCLAIMER. EIQ DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. EIQ SPECIFICALLY DOES NOT WARRANT THAT: (I) THE MANAGED SERVICES SHALL MEET ALL OF LICENSEE'S REQUIREMENTS OR SHALL OPERATE IN ALL THE COMBINATIONS WHICH MAY BE SELECTED FOR USE BY LICENSEE, (II) THE OPERATION OF THE MANAGED SERVICES SHALL BE ERROR-FREE OR UNINTERRUPTED, (III) ALL ERRORS OR DEFECTS IN THE MANAGED SERVICES SHALL BE CORRECTED, OR (IV) ANY SECURITY MECHANISMS IMPLEMENTED BY THE MANAGED SERVICES WILL NOT HAVE INHERENT LIMITATIONS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THAT THE ABOVE EXCLUSIONS MAY NOT APPLY TO LICENSEE.

THIS WARRANTY GIVES LICENSEE SPECIFIC LEGAL RIGHTS. LICENSEE MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

THE THIRD PARTY SOFTWARE AND ANY EVALUATION MANAGED SERVICES ARE PROVIDED TO LICENSEE "AS IS" WITHOUT WARRANTY OF ANY KIND BY EIQ, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, WHETHER MADE BY EIQ EMPLOYEES, A RESELLER OR OTHERWISE, SHALL BE DEEMED A WARRANTY BY EIQ FOR ANY PURPOSE OR GIVE RISE TO ANY LIABILITY OF EIQ WHATEVER UNLESS CONTAINED IN THIS AGREEMENT.

10. INFRINGEMENT

10.1. Indemnity by EIQ. If a third party acting against Licensee claims, threatens to claim, or obtains a judicial or administrative determination that a Managed Service, as defined herein, infringes its patent, copyright, or trade secret rights, EIQ shall have the option, at its own expense and at its sole option, to (a) defend Licensee at EIQ's expense and pay all damages awarded by a court of competent jurisdiction, (b) obtain for Licensee the right to continue using the infringing item, (c) replace the infringing item or modify it so that it shall become non-infringing with no substantial degradation, or (d) remove the infringing portion of the Managed Service and refund the proportional fee that Licensee paid for such portion, pro rata, or on a five-year straight-line depreciation basis, as applicable, provided that Licensee shall promptly notify EIQ in writing of the claim, and allow EIQ to control, and cooperate with EIQ in, the defense and any related settlement negotiations. In no event shall EIQ's liability under this Section exceed the amount paid by Licensee to EIQ for any allegedly infringing Managed Services.

10.2. Exception. Notwithstanding the provisions of Section 10.1 above, EIQ shall have no obligation to Licensee for any claim arising from the license or use of any Managed Service (a) that has been modified by a party other than EIQ, (b) used to practice any process, or used in combination with other Managed Services not provided by EIQ where such infringement would not have occurred but for such use in combination with such other Managed Services, (c) from failure of Licensee to use updated Managed Services provided by EIQ for avoiding such infringement, (d) that is part of any Evaluation Managed Services, or (e) that is Third Party Software. EIQ shall not be bound by any settlement of any charge of infringement made without the prior written consent of EIQ.

10.3. Indemnification by Licensee. Subject to the limitations of Florida Statute 768.28, Licensee shall indemnify and hold EIQ harmless from any loss, cost, or expense in connection with any claim, suit, or proceeding brought against EIQ or Licensee insofar as it is based on a claim that the use of any Managed Service infringed because of the way it was modified or altered by parties other than by EIQ, or because it was used in a manner for which it was not designed.

10.4. Limitation. THIS SECTION STATES THE ENTIRE LIABILITY OF EIQ AND ITS LICENSORS TO LICENSEE AND ANY AND ALL THIRD PARTIES, WHETHER FOR DAMAGES OR OTHERWISE, FOR INFRINGEMENT OF ANY COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHT WITH RESPECT TO ANY MANAGED SERVICES FURNISHED BY EIQ UNDER THIS AGREEMENT.

11. LIMITATION OF LIABILITY

11.1. Limitation. IT IS EXPRESSLY AGREED THAT EACH PARTY'S MAXIMUM LIABILITY FOR DAMAGES TO THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF LEGAL ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, SHALL IN NO EVENT EXCEED THE ACTUAL PAYMENTS RECEIVED BY EIQ OR THE RESELLER FOR THE MANAGED SERVICES THAT CAUSED SUCH DAMAGE OR THAT ARE DIRECTLY RELATED TO THE CAUSE OF ACTION, EXCEPT THAT NO SUCH LIMITATION ON DAMAGES SHALL APPLY TO LOSSES DUE TO EITHER PARTY'S BREACH OF EACH PARTY'S CONFIDENTIALITY OBLIGATIONS, OR LICENSEE'S VIOLATION OF EIQ'S INTELLECTUAL PROPERTY RIGHTS, OR LICENSEE'S BREACH ANY OF THE LICENSES OR LICENSE RESTRICTIONS SET FORTH IN THIS AGREEMENT.

11.2. No Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE, OR LOSS OF DATA, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS, OR, IF REASONABLY FORESEEABLE, INCURRED BY THE OTHER PARTY OR CLAIMED AGAINST THE OTHER PARTY BY ANY OTHER PARTY, EXCEPT THAT NO SUCH LIMITATIONS ON CONSEQUENTIAL DAMAGES SHALL APPLY IN THE EVENT OF VIOLATION BY LICENSEE OF EIQ'S INTELLECTUAL PROPERTY RIGHTS, OR BREACH BY EITHER PARTY OF ITS CONFIDENTIALITY OBLIGATIONS OR BREACH BY LICENSEE OF ANY OF THE LICENSES OR LICENSE RESTRICTIONS CONTAINED IN THIS AGREEMENT. NEITHER PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM THE NEGLIGENCE OF A PARTY OR THAT OF ITS EMPLOYEES OR AGENTS OR IN RELATION TO ANY OTHER LIABILITY THAT MAY NOT BY APPLICABLE LAW BE EXCLUDED OR LIMITED IS EXCLUDED OR LIMITED, AND NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS AN ATTEMPT TO EXCLUDE OR LIMIT SUCH LIABILITY.

12. TERM; TERMINATION

12.1. Term. This Agreement shall be effective from the effective date set forth in the Order Form and shall continue in full force and effect for the subscription term set forth in the Order Form or until terminated as set forth elsewhere in this Agreement. Upon the expiration of the subscription term, such subscription term shall automatically renew for a subscription term equal to thirty-six (36) months at the then-current fees unless one party provides the other party with written notice of non-renewal not less than ninety (90) days prior to the expiration of the then-current term.

12.2. General. Upon any material breach or default of this Agreement by either party, the other party shall have the right to terminate this Agreement and any licenses granted under it effective on thirty (30) days' prior written notice and a failure to cure such breach. This Agreement may also be terminated upon (a) bankruptcy, insolvency, or placing of the assets or the business of the other party in the hands of a receiver or trustee, (b) filing of a petition for bankruptcy or reorganization by or against the other party, (c) dissolution or liquidation of the other party, or (d) failure of Licensee to pay any sum when due under or in connection with this Agreement.

12.3. Licensee's Data Portability and Deletion. Upon request by Licensee made within ninety (90) days prior to the effective date of termination or expiration of this Agreement, EIQ will make Licensee's Data available for Licensee to export or download as provided in the Documentation for up to thirty (30) days after termination at EIQ's then current fees. After that thirty (30) day period, EIQ will have no obligation to maintain or provide Licensee's Data, and will thereafter delete or destroy all copies of Licensee's Data in EIQ's system or otherwise in EIQ's possession or control as provided in the Documentation, unless legally prohibited.

12.4. Consequences. In the event of termination of this Agreement for any reason, Licensee shall promptly discontinue all use of the Managed Services and Documentation and delete/uninstall all EIQ Software.

12.5. Survival. Any expiration or termination of this Agreement shall not modify any right or obligation of a party hereto, which arose prior to such expiration or termination. Sections of this Agreement, which by their nature shall continue in full force and effect, including but not limited to Section 5 (Proprietary Rights and Licenses); Section 7 (Payment); Section 9 (Disclaimer); Section 10 (Infringement); Section 11 (Limitation of Liability); and Section 13 (General) shall survive any expiration or termination of this Agreement.

13. GENERAL

13.1. Notices. All notices required or permitted under this Agreement will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile; (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a commercial overnight carrier specifying next day delivery, with written

verification of receipt, or (e) by electronic mail to the address of the party specified on the Order Form or such other address as either party may specify in writing. All communications will be sent to the principal office of each party or to such other address as may be designated by a party by giving written notice to the other party pursuant to this Section. If the communication is from Licensee to EIQ, it shall be addressed to "Attn: President." If the communication is from EIQ to Licensee, it shall be addressed to the Chief Executive Officer of Licensee.

13.2. Assignment. Licensee may not assign, delegate or otherwise transfer this Agreement or any of its licenses, rights or duties under this Agreement, whether by operation of law or otherwise, without the prior written consent of EIQ which shall not be unreasonably withheld or delayed. Any attempt to transfer or assign this Agreement without such written consent will be null and void. EIQ may assign monies due or becoming due to a bank or other financial institution or this Agreement without Licensee's consent to any Affiliate or to a person or entity into which it has merged or which has otherwise succeeded to all or substantially all of its business and assets to which this Agreement pertains, by merger, reorganization or otherwise, and which has assumed in writing or by operation of law its obligations under this Agreement. Subject to the previous sentence, the rights and liabilities of the parties hereto will bind and inure to the benefit of their respective successors, executors, and administrators, as the case may be.

13.3. Waiver. The failure of either party to enforce in any one or more instances any of the terms and conditions of this Agreement shall not be construed as a waiver of future performance of any such term or condition. Waiver of any term or condition shall only be deemed to have been made if expressed in writing by the party granting such waiver.

13.4. Severability. If any provision of this Agreement shall be held by a court of law of competent jurisdiction to be illegal, invalid, or unenforceable, that provision shall be reformed, construed, and enforced to the maximum extent permissible and the remaining provisions shall remain in full force and effect.

13.5. Governing Law and Jurisdiction. This Agreement shall be governed by and construed under the laws of the State of Florida without regard to conflict of laws provisions. The federal and state courts sitting in Orlando, Florida shall have exclusive jurisdiction and venue to adjudicate any dispute arising out of this Agreement. Each party hereto expressly consents to the personal jurisdiction of the courts of Florida and service of process being effected upon it by registered mail sent to the respective addresses referred to above. The United Nations Convention on Contracts for the International Sale of Goods does not apply.

13.6. Entire Agreement. This Agreement and any Exhibits, constitute the entire understanding between the parties, and supersede all prior discussions, representations, understandings or agreements (including any pre-existing nondisclosure agreement, except as to its surviving terms), whether oral or in writing, between the parties with respect to the subject matter of this Agreement. In the event of any conflict between the terms of this Agreement and terms other than quantity, price, and the like set forth in an accepted purchase order or Order Form, the terms of this Agreement shall prevail. Any modification or amendment to this Agreement must be in writing and signed by authorized representatives of both parties. Except as otherwise provided in this Agreement, any item or service furnished by EIQ in furtherance of this Agreement, although not specifically identified in it or in a purchase order referencing this Agreement, shall nevertheless be covered by this Agreement unless specifically covered by some other written agreement executed by Licensee and an authorized representative of EIQ. The headings and captions used in this Agreement are for convenience only, and shall not affect the interpretation of the provisions of this Agreement.

13.7. Export Control. Licensee agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the United States Department of Commerce. Licensee agrees to indemnify EIQ, to the fullest extent permitted by law, from

and against any fines or penalties that may arise as a result of Licensee's breach of this provision. This export control clause shall survive termination of this Agreement.

13.8. Use of Licensee Name. EIQ may use Licensee's name or logo without Licensee's prior written consent: (i) in any EIQ customer lists; (ii) on EIQ's web site; and (iii) in other EIQ promotional materials.

13.9. Independent Contractors. The relationship of EIQ and Licensee established by this Agreement is that of independent contractors, and nothing contained in the Agreement will be construed to constitute the parties as partners, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking. For a period of two (2) years following the completion of any Managed Services performed for Licensee under this Agreement, Licensee shall not directly or indirectly employ, solicit for employment or contract with any EIQ personnel performing such Managed Services for Licensee under this Agreement.

13.10. Confidential Information. Each party acknowledges that by reason of its relationship to the other party under the provisions of this Agreement it may have access to certain information and material concerning the other party's business, plans, customers, technology, and Managed Services that are confidential and of substantial value to the disclosing party ("Confidential Information"), which value would be impaired if such Confidential Information were disclosed to third parties. Each party agrees to maintain all Confidential Information received from the other, both orally and in writing, in confidence and agrees not to disclose or otherwise make available such Information to any third party without the prior written consent of the disclosing party. Each party further agrees to use the Confidential Information only for the purpose of performing this Agreement. No information shall be deemed confidential unless so marked if given in writing or, if given orally, identified as confidential orally prior to disclosure, except that Licensee agrees that any information in whatever form relating to (a) the Documentation and the underlying ideas, algorithms, techniques, knowhow, design, functionality, operational methods or coding of the Managed Services, including but not limited to any complete or partial source or object code versions, and (b) performance information, test results, algorithms, techniques, Managed Services roadmap and knowhow or analyses created by or for Licensee (including, without limitation, benchmarks) relating to the Managed Services, shall be deemed Confidential Information of EIQ regardless of the presence or absence of any confidential markings or identification. Licensee agrees not to disclose any Confidential Information to any competitor of EIQ.

13.10.1. The parties' obligations of non-disclosure under this Agreement shall not apply to information that: (a) is or becomes a matter of public knowledge through no fault of or action by the receiving party, (b) was rightfully in the receiving party's possession prior to disclosure by the disclosing party, (c) subsequent to disclosure, is rightfully obtained by the receiving party from a third party who is lawfully in possession of such Information without restriction, or (e) except as otherwise provided above, is independently developed by the receiving party without resort to Confidential Information.

13.10.2. Whenever requested by a disclosing party, a receiving party shall immediately return to the disclosing party all manifestations of the Confidential Information or, at the disclosing party's option, shall destroy all such Confidential Information as the disclosing party may designate. Recipient's obligation of confidentiality shall survive this Agreement for a period of three (3) years from the date of its termination, and thereafter shall terminate and be of no further force or effect.

13.10.3. Each party acknowledges that any breach of any of its obligations with respect to the other party's Confidential Information hereunder may cause or threaten irreparable harm to such party. Accordingly, each party agrees that in such event each party shall be entitled to seek equitable relief to protect its interests, including but not limited to temporary restraining orders, preliminary and permanent injunctive relief, as well as money damages.

13.11. Professional Services. From time to time, Licensee may retain EIQ for the purpose of performing certain implementation, training, technical, consulting and/or other professional services (the "Professional Services") to Licensee. In the event that Licensee prepays for such Professional Services,

EIQ must perform such Professional Services within six (6) calendar months of the date of such prepayment or such prepayment shall be null and void and no credits shall be issued by EIQ with respect to such prepayment.

EIQ NETWORKS, INC.:

LICENSEE: CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address: 60 State Street, Suite 620

Address: _____

Boston, MA 02109

Below is a summary of specific Security Monitoring requirements identified by EIQ and Central Florida Expressway and how these requirements are being met.

SOCVue Security Monitoring Requirements

- *Dedicated Service Delivery Manager and 24x7 support from the EIQ SOC team*
- *Initial architecture design, implementation and ongoing support and maintenance for SecureVue off premise server, applications and data collection infrastructure including agents*
- *EIQ will provide on-site professional services support for implementation and data migration at the request of Central Florida Expressway Authority at reasonable rates*
- *Data migration assistance from existing on premise SecureVue infrastructure to SecureVue off premise infrastructure for up to 24 TB of log data*
- *Maintain up to 1 year of log data in the SecureVue off premise infrastructure to enable near real time access for forensic analysis and audits*
- *Assist in the development and execution of a data archiving plan for data older than 1 year (additional costs for data transfer and storage may apply)*
- *Enable co-managed access to SecureVue off premise technology*
- *Real time visibility into Security Monitoring activity via the EIQ SOCVue portal*
- *Implement data access controls to segregate the IT and ITS Groups while allowing full access to select management team members*
- *24x7x365 security information events monitoring*
- *Security incident notification integrated with existing help desk and remediation guidance*
- *Proactive security controls assessment*
- *Compliance controls assessment and reporting*
- *Daily and monthly security reports*
- *Security advisory consultations*

Below is a summary of specific Vulnerability Management requirements identified by EiQ and Central Florida Expressway and how these requirements are being met:

Vulnerability Management

- *Dedicated Service Delivery Manager and 24x7 support from the EiQ SOC team*
- *Initial architecture design, implementation and ongoing support and maintenance for the Qualys off premise platform and scanning infrastructure*
- *Integration assistance with Privileged Account Management*
- *Maintain up to 1 year of vulnerability data in the SecureVue off premise infrastructure to enable near real time access for forensic analysis and audits*
- *Implement data access controls to segregate the IT and ITS Groups while allowing full access to select management team members*
- *Regular scanning of IT systems for vulnerabilities in order to reduce security risk*
- *Prioritization of vulnerabilities based on the Authority's business and security needs*
- *Easy to read executive reports supported by summary data for stakeholders*
- *Targeted scans for new or modified systems upon request*
- *Correlation of vulnerability results with active attacks and results from security information events monitoring*
- *Regular consultations on vulnerability trends, risk profile and meeting compliance requirements*
- *Monthly review with EiQ Security Analyst covering risk assessment and vulnerability trends*

Below is a summary of specific activities agreed to by EIQ Networks and Central Florida Expressway to enhance the partnership.

CFX / EIQ Partnership Program

- *EIQ will include CFX in EIQ's Customer Advocacy Program*
- *EIQ will include CFX in all beta programs*
- *EIQ will provide quarterly executive briefing to CFX leadership on the information security threat landscape*
- *EIQ will work with CFX to do at least one (1) whitepaper on the CFX environment and how EIQ solutions helps CFX with PCI compliance and other information security best practices*
- *EIQ will partner with CFX to showcase our approach with EIQ at one (1) national tradeshow*

