All references to Extreme Networks in these Terms and Conditions should be read as “Contractor (immixTechnology, Inc.), acting by and through its supplier, Extreme Networks.”

**TERMS AND CONDITIONS FOR EXTREME NETWORKS PRODUCTS AND SERVICES**

1. **DEFINITIONS.** “Affiliates” means any person, partnership, corporation, limited liability company, or other form of enterprise that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the party specified. “Server Application” shall refer to the License Key for software installed on one or more of Your servers. “Client Application” shall refer to the application to access the Server Application. “Licensed Materials” shall collectively refer to the licensed software (including the Server Application and Client Application), Firmware, media embodying the software, and the documentation. “Concurrent User” shall refer to any of Your individual employees who You provide access to the Server Application at any one time. “Firmware” refers to any software program or code imbedded in chips or other media. “Licensed Software” refers to the Software and Firmware collectively.

2. **RESERVED.**

3. **GRANT OF SOFTWARE LICENSE.** Extreme will grant You a non-transferable, non-exclusive license to use the machine-readable form of the Licensed Software and the accompanying documentation if You agree to the terms and conditions of this Agreement. You may install and use the Licensed Software as permitted by the license type purchased as described below in License Types. **YOU MAY NOT USE, COPY, OR MODIFY THE LICENSED MATERIALS, IN WHOLE OR IN PART, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT.**

4. **LICENSE TYPES.**
   • Single User, Single Computer. Under the terms of the Single User, Single Computer license, the license granted to You by Extreme when You install the License Key authorizes You to use the Licensed Software on any one, single computer only, or any replacement for that computer, for internal use only. A separate license, under a separate Software License Agreement, is required for any other computer on which You or another individual or employee intend to use the Licensed Software. A separate license under a separate Software License Agreement is also required if You wish to use a Client license (as described below).
   • Client. Under the terms of the Client license, the license granted to You by Extreme will authorize You to install the License Key for the Licensed Software on your server and allow the specific number of Concurrent Users shown on the relevant invoice issued to You for each Concurrent User that You order from Extreme or Your dealer, if any, to access the Server Application. A separate license is required for each additional Concurrent User.

5. **INSPECTION/ACCEPTANCE.**

The Contractor (immixTechnology, Inc.) can only, and shall only tender for acceptance those items that substantially conform to the software manufacturer’s (“Extreme NetworksCLIENT”) published specifications. Therefore, items delivered shall be considered accepted upon delivery. The Government reserves the right to inspect or test any
supplies or services that have been delivered. The Government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. If repair/replacement or re-performance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

(1) Within the warranty period; and
(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

6. **RESTRICTION AGAINST COPYING OR MODIFYING LICENSED MATERIALS.** Except as expressly permitted in this Agreement, You may not copy or otherwise reproduce the Licensed Materials. In no event does the limited copying or reproduction permitted under this Agreement include the right to decompile, disassemble, electronically transfer, or reverse engineer the Licensed Software, or to translate the Licensed Software into another computer language. The media embodying the Licensed Software may be copied by You, in whole or in part, into printed or machine readable form, in sufficient numbers only for backup or archival purposes, or to replace a worn or defective copy. However, You agree not to have more than two (2) copies of the Licensed Software in whole or in part, including the original media, in your possession for said purposes without Extreme’ prior written consent, and in no event shall You operate more copies of the Licensed Software than the specific licenses granted to You. You may not copy or reproduce the documentation. You agree to maintain appropriate records of the location of the original media and all copies of the Licensed Software, in whole or in part, made by You. You may modify the machine-readable form of the Licensed Software for (1) your own internal use or (2) to merge the Licensed Software into other program material to form a modular work for your own use, provided that such work remains modular, but on termination of this Agreement, You are required to completely remove the Licensed Software from any such modular work. Any portion of the Licensed Software included in any such modular work shall be used only on a single computer for internal purposes and shall remain subject to all the terms and conditions of this Agreement. You agree to include any copyright or other proprietary notice set forth on the label of the media embodying the Licensed Software on any copy of the Licensed Software in any form, in whole or in part, or on any modification of the Licensed Software or any such modular work containing the Licensed Software or any part thereof.

7. **TITLE AND PROPRIETARY RIGHTS**

(a) The Licensed Materials are copyrighted works and are the sole and exclusive property of Extreme, any company or a division thereof which Extreme controls or is controlled by, or which may result from the merger or consolidation with Extreme (its “Affiliates”), and/or their suppliers. This Agreement conveys a limited right to operate the Licensed Materials and shall not be construed to convey title to the Licensed Materials to You. There are no implied rights. You shall not sell, lease, transfer, sublicense, dispose of, or otherwise make available the Licensed Materials or any portion thereof, to any other party.

8. **PROTECTION AND SECURITY.** You agree not to deliver or otherwise make available the Licensed Materials or any part thereof, including without limitation the object or source code (if provided) of the Licensed Software, to any party other than Extreme or its employees, except for purposes specifically related to your use of the Licensed Software on a single computer as expressly provided in this Agreement, without the prior written
consent of Extreme. You agree to use your best efforts and take all reasonable steps to safeguard the Licensed Materials to ensure that no unauthorized personnel shall have access thereto and that no unauthorized copy, publication, disclosure, or distribution, in whole or in part, in any form shall be made, and You agree to notify Extreme of any unauthorized use thereof. You acknowledge that the Licensed Materials contain valuable confidential information and trade secrets, and that unauthorized use, copying and/or disclosure thereof are harmful to Extreme or its Affiliates and/or its/their software suppliers.

9. MAINTENANCE AND UPDATES. Updates and certain maintenance and support services, if any, shall be provided to You pursuant to the terms of an Extreme Service and Maintenance Agreement (Exhibit A). Except as specifically set forth in such agreement, Extreme shall not be under any obligation to provide Software Updates, modifications, or enhancements, or Software maintenance and support services to You.

10. RESERVED.

11. EXPORT REQUIREMENTS. You are advised that the Software is of United States origin and subject to United States Export Administration Regulations; diversion contrary to United States law and regulation is prohibited. You agree not to directly or indirectly export, import or transmit the Software to any country, end user or for any Use that is prohibited by applicable United States regulation or statute (including but not limited to those countries embargoed from time to time by the United States government); or contrary to the laws or regulations of any other governmental entity that has jurisdiction over such export, import, transmission or Use.

12. UNITED STATES GOVERNMENT RESTRICTED RIGHTS. The Licensed Materials (i) were developed solely at private expense; (ii) contain “restricted computer software” submitted with restricted rights in accordance with section 52.227-19 (a) through (d) of the Commercial Computer Software-Restricted Rights Clause and its successors, and (iii) in all respects is proprietary data belonging to Extreme and/or its suppliers. For Department of Defense units, the Licensed Materials are considered commercial computer software in accordance with DFARS section 227.7202-3 and its successors, and use, duplication, or disclosure by the U.S. Government is subject to restrictions set forth herein.

13. LIMITED WARRANTY AND LIMITATION OF LIABILITY. The only warranty Extreme makes to You in connection with this license of the Licensed Materials is that if the media on which the Licensed Software is recorded is defective, it will be replaced without charge, if Extreme in good faith determines that the media and proof of payment of the license fee are returned to Extreme or the dealer from whom it was obtained within ninety (90) days of the date of payment of the license fee.

NEITHER EXTREME NOR ITS AFFILIATES MAKE ANY OTHER WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED MATERIALS, WHICH ARE LICENSED “AS IS”. THE LIMITED WARRANTY AND REMEDY PROVIDED ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXPRESSLY DISCLAIMED, AND STATEMENTS OR REPRESENTATIONS MADE BY ANY OTHER PERSON OR FIRM ARE VOID. ONLY TO THE EXTENT SUCH EXCLUSION OF ANY IMPLIED WARRANTY IS NOT PERMITTED BY LAW, THE DURATION OF
SUCH IMPLIED WARRANTY IS LIMITED TO THE DURATION OF THE LIMITED WARRANTY SET FORTH ABOVE. YOU ASSUME ALL RISK AS TO THE QUALITY, FUNCTION AND PERFORMANCE OF THE LICENSED MATERIALS. IN NO EVENT WILL EXTREME OR ANY OTHER PARTY WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE LICENSED MATERIALS BE LIABLE FOR SPECIAL, DIRECT, INDIRECT, RELIANCE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF DATA OR PROFITS OR FOR INABILITY TO USE THE LICENSED MATERIALS, TO ANY PARTY EVEN IF EXTREME OR SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL EXTREME OR SUCH OTHER PARTY’S LIABILITY FOR ANY DAMAGES OR LOSS TO YOU OR ANY OTHER PARTY EXCEED THE LICENSE FEE YOU PAID FOR THE LICENSED MATERIALS.

Some states do not allow limitations on how long an implied warranty lasts and some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation and exclusion may not apply to You. This limited warranty gives You specific legal rights, and You may also have other rights which vary from state to state.

14. RESERVED.

15. RESERVED.

16. RESERVED.

EXHIBIT A

ExtremeWorks Support Program

Extreme Networks, Inc. ("Extreme") agrees to provide the ExtremeWorks Support Program and related Support Plans to you pursuant to the following terms and conditions

1. Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

1.1 "Authorized Users" means those individuals authorized by the Company to use the Services on behalf of the Company.

1.2 "Authorized Resellers" means those companies (a) authorized by Extreme to resell, promote or deliver the ExtremeWorks Support Program to the marketplace, and (b) through which Company has purchased the ExtremeWorks Support Program.

1.3 "Defect" means a failure of any Product to operate in accordance with Extreme's technical specifications as set forth in the End User Documentation.
1.4 “End User” means a purchaser of the Services who acquires such Services for ordinary business usage and not for purposes of further distribution or resale.

1.5 “End User Documentation” means Product documentation, Product specifications and other related materials.

1.6 “Intellectual Property Rights” means any and all current and future (i) rights associated with works of authorship; including but not limited to copyrights, moral rights, and mask-work rights; (ii) patent rights, rights of priority, and design rights; (iii) trade secret rights, (iv) trademark rights (including service mark rights) and trade dress rights; (v) all other intellectual and industrial property rights of every kind and nature which may exist anywhere in the world, whether registered or unregistered; and (vi) any and all applications and registrations, renewals, extensions, provisionals, continuations, continuations-in-part, divisions, reissues or reexaminations of any of the foregoing.

1.7 Reserved.

1.8 “Products” mean Extreme commercial networking products as identified in the Price List, including (i) hardware products with embedded Software, (ii) Software Products in object code form, (iii) End User Documentation, and (iv) other materials related to the foregoing, if any, supplied to you in a commercial package.

1.9 “Releases” mean Updates and Upgrades, collectively. No Alpha or Beta or non-production versions shall be considered Releases.

1.10 “Services” mean the services provided by Extreme under the ExtremeWorks Support Program, Premier Services Program (PSP) Foundation Services or any other end user services provided by Extreme under this Agreement in accordance with the applicable program guide.

1.11 “Software” or “Software Products” mean Extreme software products in object code form which are either sold separately or embedded into Extreme hardware products. 1.12 “Trademarks” mean “Extreme Networks” and the applicable Product trademarks as listed in Extreme’s usage guidelines, subject to revision from time to time in Extreme’s sole discretion.

1.13 “Update” means a new version of a Software Product that includes defect corrections, bug fixes and/or minor enhancements that operate within the framework of the specifications for the current Upgrade of the Software Product, but does not include substantive features or functions not performed by the prior Release of the Software Product.

1.14 “Upgrade” means a new version of a Software Product that includes substantive features or functions not performed by the prior Release of the Software Product.
2. Services. The scope of the Services provided to Company hereunder is based on the support plan purchased by Company for each unit of the Product purchased. Certain on-site Services may not be available in some geographic regions or may require a “phase-in” period before they can be made available to Company. Extreme shall have the right to use subcontractors to perform all or part of the Service(s), as it deems appropriate. To be eligible for the PSP Foundation Service, Company must have Extreme equipment with current maintenance support entitlements. Future Services are deemed added to this Agreement at such time as they are added to the Price List, unless otherwise specified by Extreme in writing. Extreme has the right to discontinue the distribution or availability of any Service at any time upon sixty (60) days’ prior notice to Company by email, notification on Extreme’s website, or any other method permitted under this Agreement. In accordance with the Support Plan purchased for the applicable Product, the Services may include the following:

2.1 Releases. Extreme or its authorized representatives will make available to Company all Releases made generally available by Extreme only for Products for which Company has an active contract for Services. The content of all Releases shall be decided upon by Extreme in its sole discretion. Updates for Products for which Company has an active contract for Services shall be provided to Company at no additional charge during the term of this Agreement. Extreme shall impose additional charges for Upgrades. Company shall install only one (1) copy of a Release for each Product under an active contract for Services, and Company is prohibited from installing Releases on any Product which is not covered under an active contract for Services.

2.2 Corrections. Extreme shall use commercially reasonable efforts to provide a correction or workaround for any reported and reproducible Defect in any Product for which Services have been purchased with a level of effort commensurate with the severity level; provided that Extreme shall have no obligation to correct all Defects in the Products. Company shall notify Extreme TAC of the nature and severity of such Defect and the specific serial number of the applicable Product, and provide Extreme with enough information to locate and reproduce the Defect. Extreme shall not be responsible for correcting any Defect not attributable to Products or any Defect listed under Section 3 (“Exclusions”).

3. Exclusions. The Services provided by Extreme hereunder will not include support and maintenance of any third party software or hardware not provided by Extreme. Extreme is not required to provide any services for problems arising out of: (i) Company’s failure to implement all Updates issued under the Services; (ii) alterations of or additions to the Products performed by parties other than Extreme; (iii) accident, natural disasters, terrorism, negligence, or misuse of the Products (such as, without limitation, operation outside of environmental specifications or in a manner for which the Products were not designed); (iv) interconnection of the Products with other products not supplied by Extreme, or (v) certain components, including but not limited to the following: spare fan trays, blank panels, cables, cable kits, rack mount kits, brackets, antennas, GBICs and miniGBICs. Extreme shall only be obligated to support the then-current revision of the Products and the immediately prior revision.

4.1 Company Assistance. Company agrees to provide Extreme with reasonable access to the Products for which problems are reported and all back-ups and Company information services, technical personnel, facilities, and premises as required in connection with the performance of the Services. To efficiently resolve problems and perform local hardware diagnostics, Company shall provide modem level access for all Company sites. Company may provide passwords and/or activate the modem when needed. Company shall be responsible for any and all cables, hardware or software not provided by Extreme. Company’s failure to provide such access or information may delay the Services and/or result in Extreme’s inability to perform the Services; in such cases, Extreme shall not be liable for any consequences relating to or resulting from such delay or failure to perform.

4.2 Contact People. Company shall appoint at least two (2) individuals who have been trained and are knowledgeable on Extreme products within Company’s organization to serve as the primary contacts between Company and Extreme and to receive support as provided herein. Company shall provide and shall update as appropriate contact information for the primary contacts, including address, phone number and email address. All of Company’s support inquiries shall be initiated through these primary contacts.

4.3 Restrictions on Copying and Reverse Engineering. As a material consideration for this Agreement, Company expressly agrees not to translate, disassemble, reverse compile or reverse engineer the Products, including the Software Products, in whole or in part, except to the extent such prohibition is restricted by applicable law. Company will not copy, modify, create derivative works, rent, lease, loan or use for timesharing or service bureau purposes any Products, including Software Products, in whole or in part without the prior written approval of Extreme, which approval may be withheld in Extreme’s sole discretion.

4.4 No Removal of Markings. Company agrees to comply with all legends that appear on or in the Products and not to remove or destroy any patent, copyright, logo, trademark, trade name, proprietary marking, or confidentiality legend placed upon or contained within Products, containers or End User Documentation supplied by Extreme.

5. Reserved.


6.1 Product End of Life. In the event Extreme discontinues or otherwise ceases to make available to its customers a particular Product model number, Extreme will continue to offer Services for such Product in accordance with its then-current End of Life Policy available at www.extremenetworks.com/libraries/services/EndofLifePolicy.pdf. The Services shall remain in effect with respect to other Products, if any, then covered.

6.2 Support Plan End Of Life. Extreme reserves the right to discontinue any Support Plan in its sole discretion upon sixty (60) days’ notice, by email, notification on Extreme’s website, or any other method permitted under this Agreement, to Company; however, Extreme will continue to provide services under such discontinued
Support Plan through the end of any prepaid support period so long as you and/or the Company is not in breach of any of its obligations under this Agreement.

7. Reserved.

8. Return Process. If Company is returning a Product to Extreme, Company must first obtain a Return Material Authorization (“RMA”) number from Extreme. Company must return the entire contents of the defective Product and dated End User proof of purchase for the defective Product, if requested by Extreme, marked with the RMA number, to a receiving point designated by Extreme. Shipping cartons that are not marked with RMA numbers will be rejected by Extreme and returned to Company via collect freight. Extreme will pay the transportation charges (excluding taxes, duties and customs) in accordance with the Support Plan purchased for such Product. Notwithstanding the foregoing, Company retains sole responsibility for risk of loss or damage to Products during shipment to and from Extreme. Products returned to Extreme may be repaired or replaced by Extreme at Extreme’s sole discretion. Replacement Products may be new or refurbished Products.


9.1 Intellectual Property Rights. You and Company acknowledge that the Products are proprietary to Extreme and its suppliers, and that Extreme and its suppliers retain exclusive ownership of all Intellectual Property Rights in and to the Products, including in and to any Software Products and Trademarks. You and Company will take all reasonable measures to protect Extreme’s Intellectual Property Rights in any Product. Except as expressly provided herein, Company is not granted any right to any Intellectual Property Rights with respect to any Product.

9.2 License. All Releases provided under the Services are licensed subject to the terms and conditions of the then-current Software license agreement for such Software Product in effect at the time the Release is provided.

10. Warranty. All Updates provided hereunder are warranted for the remaining warranty period of the original Software Product, if any, as specified in the warranty card which shipped with the original Software Product. All Upgrades are warranted as set forth in the warranty card for such Upgrade. Replacement Products provided under the Services are warranted for the remaining warranty period of the original Product, if any, as specified in the warranty card which shipped with the original Product. Nothing in the Services shall be construed as expanding or adding to the warranty set forth on the warranty card. Extreme will use all reasonable commercial efforts to provide the support requested by you and/or Company under this Agreement in a professional and workmanlike manner. In the event that Extreme fails to meet this warranty, Extreme may reperform the Services, but Extreme cannot guarantee that every question or problem raised by you or the Company will be resolved. EXTREME WARRANTS THE SERVICES ONLY TO YOU AND/OR COMPANY AS THE END USER PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. EXCEPT AS SET FORTH ABOVE, EXTREME MAKES, AND YOU AND/OR COMPANY RECEIVE, NO OTHER WARRANTIES OF ANY KIND. EXTREME EXPRESSLY DISCLAIMS ALL WARRANTIES, TERMS AND CONDITIONS, WHETHER EXPRESS, IMPLIED (in fact or by operation of law), STATUTORY OR OTHERWISE,
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11. Reserved.

12. Reserved.

13. Reserved.

14. Reserved.