

EVALUATION LICENSE AGREEMENT

THIS EVALUATION LICENSE AGREEMENT (“**Agreement**”) is made and entered into as of the date last signed below by and between **The Trustees of Columbia University in the City of New York** (“**Columbia**”) and _____ (“**Licensee**”).

RECITALS

A. Columbia owns proprietary computer software identified on Exhibit A hereto (the “**Software**”) which performs services related to network surveillance and other network security operations.

B. Columbia wishes to grant to Licensee a no charge license to use the Software at Licensee supplied locations solely for purposes of evaluation of the commercial potential of the Software as described in Exhibit B hereto (the “**Evaluation**”).

C. Licensee desires to utilize the Software in accordance with the terms and conditions in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and of other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. LICENSE.

(a) Grant of License. Subject to the terms and conditions of this Agreement, Columbia hereby grants to Licensee a royalty-free, nonexclusive, nontransferable license to use and operate the Software solely for the purpose of the Evaluation. Title to the Software, and all rights with respect to the Software not specifically granted under this Agreement, including without limitation all rights of reproduction, modification, distribution, display, disassembly and decompilation and all copyright, patent, trademark, trade secret and other proprietary rights and interests are reserved to Columbia.

(b) Restrictions on Disclosure and Use. Licensee shall be permitted to use and operate the Software only for purposes of the Evaluation. Licensee agrees that it shall not disclose the Software to, or use the Software or permit the Software to be used in any manner, whether directly or indirectly, that would permit the disclosure of the Software to, or the use of the Software by, anyone other than Licensee. All

rights not expressly granted in this Agreement are reserved by Columbia.

(c) Termination. At any time during the term of this Agreement, either party shall have the right to terminate this Agreement immediately upon written notice for a material breach of this Agreement by the other party if such breach has not been cured within 10 days after written notice of the breach has been given.

(d) Rights and Obligations after Expiration or Termination. Upon expiration or termination of this Agreement, all rights granted hereunder to Licensee shall cease and Licensee shall immediately (i) return the Software to Columbia; (ii) purge all copies of the Software or any portion thereof from the location and all machines and/or other computer storage devices or media on which Licensee has placed the Software; and (iii) give written certification to Columbia that Licensee has complied with all of its obligations under this Section. Licensee’s obligations under this Section 1(d) shall survive any termination or expiration of this Agreement.

(e) TERM. The term of this Agreement shall commence on the date hereof and terminate one hundred and eighty (180) days later, but may be extended by mutual written agreement of the parties.

2. DISCLAIMER OF WARRANTIES. Licensee acknowledges and agrees that the Software has been provided hereunder solely for purposes of evaluation. ACCORDINGLY, THE SOFTWARE IS PROVIDED “AS IS.” COLUMBIA MAKES NO REPRESENTATIONS AND NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND, AND HEREBY EXPRESSLY DISCLAIMS ANY WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS, ADEQUACY OR SUITABILITY OF THE SOFTWARE FOR ANY PARTICULAR PURPOSE, LEVEL OF SECURITY, ACCURACY, AND NONINFRINGEMENT.

3. LICENSEE OBLIGATIONS. Licensee agrees to provide Columbia any error reports or other comments Licensee may have relating to the Software. Licensee also acknowledges and agrees that any such error reports or comments shall be considered confidential and that ownership of such

comments, ideas and error reports shall belong to Columbia.

4. EXCLUSION OF LIABILITY; INDEMNITY. NEITHER COLUMBIA, NOR ANY EMPLOYEE OR AGENT OF COLUMBIA, SHALL HAVE ANY LIABILITY TO LICENSEE OR TO ANY OTHER PERSON ARISING OUT OF THE USE OF THE SOFTWARE. IN NO EVENT WILL COLUMBIA, ITS EMPLOYEES OR AGENTS BE LIABLE TO LICENSEE OR ANY OTHER PERSON FOR ANY LOSS OF PROFITS OR OTHER DAMAGES OF ANY TYPE, DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. Licensee will indemnify and hold Columbia harmless against any and all actions, suits, claims, demands, prosecutions, liabilities, costs, and expenses (including reasonable attorneys' fees) based on or arising out of the use of the Software. Licensee will reimburse Columbia for the reasonable out-of-pocket third party cost of enforcing this provision.

5. PROPRIETARY RIGHTS.

(a) Proprietary Rights. Licensee acknowledges that the components of the Software are subject to patents, copyrights and other proprietary rights of Columbia and are protected by Columbia as trade secrets and as copyrighted or patented works.

6. GENERAL.

(a) Entire Agreement. This Agreement constitutes the entire agreement between the parties and their respective representatives in connection with the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions between the parties and/or their representatives, whether oral or written, concerning such subject matter..

(b) Governing Law; Severability. The validity, construction and performance of this Agreement shall be governed by and construed in accordance with the substantive laws of the State of New York without regard to conflicts of law provisions. If any provision of this Agreement or the application of any such provision shall be held by a tribunal of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect to the maximum extent permissible.

(c) Successors and Assigns. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns and legal representatives, except that Licensee shall not be permitted to assign this Agreement nor any right granted hereunder, nor delegate the performance of any obligation hereunder, in whole or in part, without the prior written consent of Columbia. Any purported assignment of grant of rights or delegation of obligations by Licensee without such consent shall be void and of no force or effect.

(d) Waiver, Amendment or Modification. The waiver, amendment or modification of any provision of this Agreement or any right, power or remedy hereunder shall not be effective unless made in writing and signed by the party against whom enforcement of such waiver, amendment or modification is sought. No failure or delay by either party in exercising any right, power or remedy with respect to any of its rights hereunder shall operate as waiver thereof.

(e) Notice. Any notice or other communication required or permitted hereunder shall be given in writing to the party to receive such notice at the address set forth on the signature page below or at such other address as shall have been given by the receiving party to the other parties in writing. Such notice shall be deemed to have been given or made when placed properly addressed, postage prepaid and return-receipt requested, in the United States mail, or on the date of actual delivery when delivered by hand or overnight delivery, with receipt acknowledged.
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Columbia and Licensee have executed this Evaluation License Agreement as of the date first written above.

**THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF
NEW YORK**

By: _____

Name: _____

Title: _____

Date: _____

Address: Executive Director
Science and Technology Ventures
Columbia Innovation Enterprise
Columbia University
Engineering Terrace - Suite 363
Mail Code 2206
500 West 120th Street
New York, New York 10027

copy to: General Counsel
Columbia University
412 Low Memorial Library
Mail Code 4308
535 West 116th Street
New York, New York 10027

By: _____

Name: _____

Title: _____

Date: _____

Address: **[Need to fill in]**

EXHIBIT A
Software & Location

Software:

- Email Mining Toolkit EMT Version 3.6

Licensee location:

EXHIBIT B

The Evaluation (fill in below)

What is the purpose of your evaluation?