

## OPERATIONAL EVALUATION AGREEMENT

SafeView, Inc. ("Safe View") and the US Army intend to conduct operational evaluation testing of SafeView's Holographic Security Scanner (the "Scout") at Customer's facilities located at US Army checkpoints in Iraq. The purpose of the evaluation testing is to gain knowledge about system performance and potential for continued or expanded deployment. The Customer and SafeView agree to work together to perform mutually agreed upon testing and evaluation activities subject to the terms and conditions of this Agreement.

**1. Duration of Evaluation and Testing:** The Scout system(s) will be placed at the sites chosen by the Army for testing and evaluation for a 60 day period ("Evaluation Period") beginning on the date of delivery. The period may be extended for an additional 30 days upon the mutual agreement of the parties. The evaluation period may not be extended beyond 90 days. At the end of the evaluation period the Scout System(s) must be returned to SafeView unless it is purchased by Customer.

**2. SafeView Obligations:** SafeView will provide (a) the Scout System(s), along with installation support and set-up at the sites; (b) a limited number of training sessions at the sites for Customer's operators during the first week of the Beta Period; (c) such maintenance and repair services as may be required during the test period; (d) on-site support at the checkpoint for the first week of the evaluation period, and additional periodic visits as the parties may mutually agree is necessary; and (e) reasonable support by telephone during the period (f) its own travel expenses up to the point of arriving in theater aboard whatever transportation the government requires.

**3. License.** Subject to the terms and conditions of this Agreement, SafeView grants Customer a non-exclusive, non-transferable, revocable license, during the test period, (a) to use the Scout System (s) for evaluation purposes described in the Agreement only, (b) to internally execute the software on the Scout System(s) (the "Software") for evaluation purposes; and (c) to internally reproduce and use the documentation materials accompanying the Scout System and the Software ("Documentation") in support of Customer's evaluation of the Software and the Scout System; provided, however, that any third party software or documentation provided by SafeView hereunder will be subject to those applicable terms provided with such third party software or documentation in addition to the terms in the body of this Agreement. A software license is attached to this agreement at Exhibit A.

**4. Limitations.** Customer will not, and will not permit others to: (a) reproduce the Software or the Documentation; (b) use the Scout System, Software, or Documentation for any purpose or in any manner other than as expressly provided in this Agreement; (c) modify, translate, or create derivative works of, or decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code form or structure of, the Scout System, Software, or Documentation (except applicable law prohibits such restriction); (d) assign, share, timeshare, sell, rent, lease, sublicense, distribute, grant a security interest in, or otherwise transfer the Scout System, Software, or Documentation, or Customer's limited right to use same; or (e) remove, alter, or obscure any proprietary notices or labels on the Scout System, Software, or Documentation.

**5. Customer Obligations:** Customer will provide (a) **Site:** a clean and environmentally acceptable site at the checkpoint(s), including such necessary space and appropriate utilities (including electrical) to allow proper operation of the Scout System as the parties mutually agree; (b) **Operators:** the number of operators necessary to conduct reasonable testing of the Scout System in the intended environment; and (c) **SafeView Access:** continued access to the checkpoint and Scout System(s) sufficient for SafeView to help conduct the testing and evaluation, access to the Scout System(s) and

data as needed by SafeView (d) **On site support:** The Customer has expressed interest in continuous on site first echelon maintenance support. SafeView is planning to contract with a third party to provide such support which the Army will re-imburse SafeView. Estimated cost is about \$10,000 per month. (e) **Transportation:** The Army will provide transportation of systems into the theater from either Boise, Idaho in the US or potentially one system in Amman, Jordan, at Government expense. (f) **Local Accommodations, Transportation, and Security Support:** the Army will allow SafeView and contracted support personnel to stay at appropriate Army sites for accommodations, meals, and provide necessary transportation and security as necessary to complete all installation, training, and support activities.

**6. Evaluation Data:** Any evaluation data and the collection process will be developed jointly by SafeView and Customer. The system software of the Scout System will provide the capability to record key evaluation data. All data generated from the testing and evaluation processes will be provided to SafeView for evaluation. Subject to any confidentiality restrictions, SafeView will provide to Customer certain test data collected from testing and evaluation in other environments that SafeView feels is appropriate and relevant to the Customer's requirements. All right, title, and interest in and to any data generated by or relating to the testing process, and all i

**7. No Warranty:** THE SCOUT SYSTEM (S) ARE INTENDED FOR TESTING AND EVALUATION ONLY, AND AS SUCH ARE PROVIDED "AS IS," WITH ALL FAULTS, AND WITH THE ENTIRE RISK OF SATISFACTORY PERFORMANCE WITH CUSTOMER. WITHOUT LIMITING THE FOREGOING, SAFEVIEW DISCLAIMS (FOR ITSELF AND ON BEHALF OF ITS SUPPLIERS AND LICENSORS) ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, SYSTEM INTEGRATION AND DATA ACCURACY. SAFEVIEW DOES NOT WARRANT THAT THE OPERATION OF THE BETA SYSTEM WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE.

**8. Privacy:** Customer is responsible for determining the degree of privacy required and is solely responsible for the protection of such data, and will indemnify and defend SafeView from any liabilities arising out of or relating to any alleged privacy violations.

**9. Limitation of Liability:** IN NO EVENT WILL SAFEVIEW BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INDIRECT DAMAGES OF ANY KIND (INCLUDING DAMAGES FOR INTERRUPTION OF BUSINESS, LOST DATA, LOST PROFITS, OR THE LIKE) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), EVEN IF SAFEVIEW HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SAFEVIEW WILL HAVE NO LIABILITY FOR ANY PERSONAL INJURY ASSOCIATED WITH THE TESTING PROCESSES. SAFEVIEW'S AGGREGATE CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED ONE THOUSAND U.S. DOLLARS (U.S. \$1,000.00). THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT.

**10. Government Purchasers:** The Beta System is a "commercial item" as defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Consistent with 48 C.F.R. § 12.212 and 48 C.F.R. §§ 227.7202-1 – 227.7202-4, SafeView provides the Scout System only pursuant to the terms and conditions herein. If Customer is using the Scout System on behalf of a government other than the U.S. Government, to the extent applicable law contains provisions similar to C.F.R. § 12.212 and 48 C.F.R. §§ 227.7202-1 – 227.7202-4, the Scout System is licensed only pursuant to terms equivalent in effect to those terms in the preceding two sentences.

**11. General:** This Agreement will be governed in all respects by the laws of the State of California, excluding any conflicts of law principles that would provide for the application of the law of another jurisdiction. This Agreement may not be assigned without SafeView's prior consent; any such assignment shall be null and void. As used in this Agreement, "including" and its forms means "including without limitation." This Agreement is the parties' entire agreement relating to its subject matter. It supersedes all prior or contemporaneous oral or written communications, proposals, conditions, representations and warranties and prevails over any conflicting or additional terms of any quote, order, acknowledgment, or other communication between the parties relating to its subject matter during the term of this Agreement.

SAFEVIEW, INC.

[ \_\_\_\_\_ ]

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: Richard L. Rowe \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: President and CEO \_\_\_\_\_

Title: \_\_\_\_\_

Address for Notice:

469 El Camino Real, Suite 110  
Santa Clara, CA 95050  
U.S.A.

Address for Notice:

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\_\_\_\_\_

Attn: Richard L. Rowe \_\_\_\_\_

Attn: \_\_\_\_\_

Fax:  \_\_\_\_\_

Fax: \_\_\_\_\_

Email:  \_\_\_\_\_

Email: \_\_\_\_\_

Telephone:  \_\_\_\_\_

Telephone: \_\_\_\_\_