

Attention: _____ Call Reference Number (optional): _____

Please complete and fax to 1.510.864.5340 (US) or +44 (0) 845 345 0117 (Europe)

PERFORCE Evaluation Agreement

Notice to customer: This is a legally binding Evaluation Agreement (“**Agreement**”) between Perforce Software, Inc., a California corporation (“**Perforce**”) and _____ (“**Customer**”). It permits Customer to use the Perforce software and associated documentation (“**Software**”) for a limited time, and under specific terms and conditions. Carefully read all terms and conditions of this agreement.

1. Grant of License

- A. Perforce grants to Customer a license (“**License**”) to use the Software **for the sole purpose of internal testing and evaluation of the Software**. Use of the software for any other purpose, including without restriction production data processing applications, constitutes a material breach of this Agreement and grounds for its immediate termination by Perforce.
- B. The Software may be used by no more than the number of users specified on the attached “Customer Information” page.
- C. The License is granted only for so long as this Agreement is in effect.
- D. Customer may not disclose the results of performance/benchmark tests run on the Software without the prior written consent of Perforce.
- E. Customer may not rent or lease the Software.

2. Term and Termination

- A. This Agreement is effective from the date on which it is entered into by both parties, and shall remain in force for a period not to exceed forty-five (45) days.
- B. Customer may terminate this Agreement at any time by destroying the Software.
- C. Perforce may terminate this Agreement, and the License granted hereby, if Customer fails to comply with any of the terms or conditions set forth herein. Customer agrees, upon being notified in writing of such termination, to destroy the Software.

3. Intellectual Property

- A. Perforce retains all right, title, and interest in the Software. Customer acknowledges and agrees that it obtains no ownership rights in the Software under the terms of this Agreement.
- B. Customer agrees not to remove any copyright or other proprietary or product identification notices from the Software.
- C. Customer may not cause or permit the reverse engineering or reverse compilation of the Software, or any other attempt to derive source code from the Software.

4. Disclaimer of warranty and limitation of liability

- A. Perforce represents that Perforce has the legal right to grant Customer the License as set out in this Agreement, and that the Software does not infringe any third party intellectual property or other rights.
- B. **PERFORCE DISCLAIMS ANY AND ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

- C. IN NO EVENT WILL PERFORCE BE LIABLE FOR ANY DAMAGES, INCLUDING WITHOUT RESTRICTION ANY LOST PROFITS, LOST SAVINGS OR OTHER INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE EVEN IF PERFORCE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. PERFORCE'S LIABILITY FOR DAMAGES HEREUNDER SHALL IN NO EVENT EXCEED THE AMOUNT PAID FOR THE SOFTWARE UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT.
- D. Some states or jurisdictions do not allow disclaimer or limitation on duration of implied warranties or the exclusion or limitation of liability for consequential or incidental damages. You may have other legal rights.
- E. Notwithstanding any other provision of this Agreement, Perforce shall defend, indemnify and hold harmless Customer and its officers, directors, shareholders, employees, accountants, attorneys, agents, affiliates, subsidiaries, successors and assigns against any claim or threat of claim that the Software infringes any intellectual property right of any third party. Perforce shall pay the court costs, legal fees and litigation expenses as they are incurred, and any damages finally awarded or settlement agreed upon, resulting from any such claim or threat of claim, provided that Customer (i) promptly gives Perforce written notice of any such claim, (ii) gives Perforce full authority to defend any such claim, and (iii) provides Perforce with all information and assistance Perforce requests in connection with such defense. Perforce shall bear any reasonable and customary costs associated with the provision of such information and assistance.
- F. If a temporary or permanent injunction is obtained against the use of any part of the Software for the reason that it infringes any third party's intellectual property rights, the License shall be revoked, this Agreement shall terminate, and Customer shall immediately cease and desist from any and all use of the Software whatsoever, whether or not required to do so by the court order. Revocation of the License and termination of the Agreement under the circumstances described in this paragraph shall not be considered breach of this Agreement by Perforce.
- G. **EXCLUSIVE REMEDY.** THE PROVISIONS OF THIS SECTION 4 STATE THE EXCLUSIVE LIABILITY OF PERFORCE, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY CLAIM OF PATENT, COPYRIGHT, OR TRADE SECRET INFRINGEMENT BY THE SOFTWARE.

5. Other provisions

- A. Customer may not sell, transfer, assign, delegate, or subcontract the License, or any other rights or obligations under this Agreement.
- B. If the Software is for use outside the United States, Customer agrees to comply fully with all relevant regulations of the United States Department of Commerce and with the United States Export Administration Act to insure that the Software is not exported in violation of United States law.
- C. If any of the provisions, or portions thereof, of this Agreement are invalid under any applicable statute or rule of law, they are to that extent to be deemed omitted.
- D. This Agreement shall be governed by the laws of the State of California. The courts of the State of California, County of Alameda shall have exclusive jurisdiction over any dispute which arises under this Agreement.

- E. This Agreement is the complete and exclusive statement of the agreement between Customer and Perforce; it supersedes all proposals, oral or written, and all other communications between Customer and Perforce relating to the subject matter of this Agreement.
- F. No modification to this Agreement or any of its terms may be made except by express written agreement with Perforce.
- G. The waiver by either party of a breach of any term of this Agreement shall not constitute a waiver of any subsequent breach of this Agreement.

6. Signatures

We have read this Agreement and understand and agree to be bound by its terms.

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Customer (Print or Type)	Perforce Software, Inc.
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Name (Print or Type)	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Name (Print or Type)
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Title	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Title
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date

Customer Information

Company Name: _____

Industry: _____

Company Address: _____

City: _____ State: _____

Country: _____ Postal Code: _____

Telephone: _____ Fax: _____

Technical Contact Name: _____

Technical Contact Email address: _____

Operating System: _____

Server IP & Port number: _____

(Required -- license cannot be issued without this information)

Number of Users: _____

Current SCM: _____

How did you hear about Perforce? _____
