

## **SoftQuest**

### Software Evaluation Agreement

#### INSTRUCTIONS

1. Print this form.
2. Type your name and company name.
3. Sign it
4. Return all pages to SoftQuest: scan & attach to Email or Fax to +01 203.866.2127. If you have any questions regarding this agreement, please contact your SoftQuest Account Manager at (203) 866-2126
6. Upon receipt of signed agreement, we will email you your temporary license key information within 24 hours.

# SOFTWARE EVALUATION AGREEMENT



**The following is a legally binding agreement between you (hereinafter "Licensee") and SoftQuest Corporation with its principal offices located at One Selleck Street, Norwalk, CT 06855 USA (hereinafter "Licensor").**

#### **1. Definitions:**

- a) The term "Evaluation Software" shall mean a version of the software that is intended to be used for demonstration or evaluation purposes only and which may contain coded instructions that inactivate or erase the program within a specified time period.
- b) The term "Documentation" shall mean the material that Licensor must give to Licensee to explain how the Evaluation Software runs.
- c) The Software is defined as the software programs and their associated documentation. The Software: InstallPump &/or RemoteAgent.

#### **2. Grant of License**

- a) Licensor hereby grants to Licensee a non-exclusive and non-transferable right and license to use the Evaluation Software and all related documentation identified in clause 1.c above on a maximum of ten (10) CPUs.  
Licensee must provide Licensor with an electronic text file containing the machine names and domain of the CPUs to be covered by this Agreement. A machine name is the COMPUTER NAME as specified in NETWORK PROPERTIES-NETWORK ID. All machine names must be within the same network domain.
- b) Licensee may use the Evaluation Software for a period of fourteen (14) days at no charge, commencing upon delivery of the license key (hereinafter "Evaluation Period"). This period may be extended upon request by the Licensee and at the discretion of the Licensor.
- c) Licensor shall provide Evaluation Software at no charge to Licensee.
- d) Licensee is permitted to make only such copies of the Evaluation Software as are necessary for security purposes.
- e) Licensee agrees not to use the Evaluation Software in production before a Full License Agreement has been executed.

#### **3. Risk of Loss**

- a) Licensor or its distributors shall not be liable for any loss or damage relating to the use of the Evaluation Software.

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### **4. Expiration of the Evaluation Period**

Upon expiration of the Evaluation Period, the Licensee may:

- a) License the Software, provided a Full Software License Agreement has been negotiated, accepted and signed by officers of both parties. Invoicing and payment for the software shall be in accordance with the terms and conditions of such Software License Agreement.
- b) Retain the Evaluation Software and amend the Evaluation Period, if requested by Licensee and agreed to by Licensor, for a period of time agreed to by the parties.
- c) Immediately cease using the Evaluation Software.

### **5. Proprietary Rights**

- a) No title to or ownership of the Evaluation Software or any of its parts, or related Documentation, is transferable to Licensee during the Evaluation Period.
- b) Licensee agrees that it will not remove, alter or modify any proprietary marking including any trademark or copyright notices on or in the Evaluation Software or on any Documentation.
- c) Licensee acknowledges that the Software is a proprietary product, and agrees not to disclose, transfer or otherwise make available the Software to any person other than Licensee's own employees, agents and contractors who are involved in the evaluation of the Software.

### **6. Confidentiality**

- a) Licensor understands and agrees that, in the performance of this Agreement, Licensor may have access to private or confidential information that may be owned or controlled by Licensee and that such information may include proprietary details and trade secrets. Licensor hereby acknowledges and agrees that the private or confidential information contains or will contain valuable trade secrets and confidential information, proprietary to Licensee relating to Licensee's business, and critical to its competitive position in the market place. Licensor agrees that all such information so accessed by it shall remain the exclusive property of Licensee and:
  - (i) It shall hold the private or confidential information in strict confidence using at least the same degree of care to avoid disclosure as Licensor employs with its own confidential information;
  - (ii) It shall maintain, and shall use reasonable and prudent efforts to cause its employees and agents to maintain, all such information as confidential;
  - (iii) It shall not, and shall use reasonable and prudent efforts to ensure that its employees and agents do not, copy, publish, disclose to others, or preempt and use for any purposes (other than for purposes of fulfilling its obligations pursuant to this Agreement) any such information;
  - (iv) It shall return such information to Licensee upon request; and
  - (v) It shall use such information only for purposes of fulfilling its obligations pursuant to this Agreement.

### **7. Support Services**

- a) During the Evaluation Period, Licensor will provide all maintenance and support (hereinafter "Maintenance") necessary for the Evaluation Software to ensure that the Evaluation Software will perform in accordance with the Software's published operating specifications. Licensor will provide telephone consultation at a minimum during regular business hours (Monday to Friday, except holidays, from 9:00 AM to 5:00 PM U.S. Eastern Time).

### **8. Warranty**

- a) Licensor represents and warrants that:
  - (i) It has title to, ownership of, and the right to provide the Evaluation Software offered hereunder;
  - (ii) The Evaluation Software will perform in accordance with the Software's published operating specifications without specification non-conformities for the Evaluation Period;
  - (iii) The Evaluation Software and Maintenance provided hereunder will not infringe upon any patent, copyright, trademark, trade secret, or other proprietary right of any third party.

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**9. Termination**

- a) Either party may terminate this Agreement with immediate effect by providing written notice to the other party in the event of the other party's breach of this Agreement.
- b) Licensee may, at any time for convenience, terminate this Agreement with immediate effect, by providing written notice to Licensor.

**10. Article Headings**

- a) Article headings used herein are for convenience only and shall not be deemed a part of this Agreement or be used to construe any of the provisions hereof.

**11. Non-Waiver**

- a) No term or provision of this Agreement shall be deemed waived and no breach or default shall be deemed excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to, or waiver of, a breach or default by the other, whether express or implied, shall constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.

**12. Severability**

- a) If any term or provision of this Agreement shall be found to be illegal or unenforceable, then, notwithstanding such illegality or unenforceability, this Agreement shall remain in full force and effect and such term or provision shall be deemed deleted. The parties agree to replace such invalid or unenforceable provision with a new provision that states the intent of the invalid or unenforceable provision.

**Products to be tested:**

InstallPump: \_\_\_\_\_

RemoteAgent: \_\_\_\_\_

**Network Domain & Machine Names:**

Network Domain Name: \_\_\_\_\_

Network Machine Names:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Licensee (print) \_\_\_\_\_

Company \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Signature \_\_\_\_\_

City, State Zip \_\_\_\_\_

E-mail address \_\_\_\_\_

Telephone \_\_\_\_\_

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One Selleck Street, Suite 510, Norwalk CT 06855 USA Phone: (203) 866-2126 Fax: (203) 866-2127 installpump.com