

## Evaluation Application

### Company Information

Company Name		Today's Date	
Billing Address		City	
State		Zip	
Telephone		Fax	
Annual Revenue		D&B Number	

### Evaluation Units

Unit Name		Quantity	
Unit Name		Quantity	

### Customer Authorization

I authorize to release of the above mentioned units to the above named company for testing and evaluation purposes. I further agree to the terms below concerning the proper handling of the units during the 30-day evaluation period.

Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_  
 (Must be a person who is authorized to sign for the company)

### IMPORTANT EVALUATION INFORMATION

The evaluation program is an extension of our existing sales agreement. All evaluations are given 30-days so that the customer has sufficient time to test and evaluate the product within their own unique environment.

At the end of the evaluation period, the customer may choose to keep or return the unit(s). The following terms apply to returns:

- 1) THE UNIT(S) MUST BE RECEIVED BY XROADS NETWORKS WITHIN 7-DAYS AFTER THE EVALUATION PERIOD ENDS OR THE EVALUATION BECOMES A REALIZED SALE.
- 2) THE CUSTOMER MUST OBTAIN AN RMA NUMBER AND IT MUST BE WRITTEN IN BLACK MARKER ON THE OUTSIDE OF THE PACKAGING.
- 3) THE EDGE UNIT MUST BE RETURNED IN SAME CONDITION IN WHICH IT WAS RECEIVED OR THERE MAY BE RESTOCKING FEES WHICH COULD APPLY TO MAKE THE UNIT WHOLE FOR FUTURE EVALUATIONS.

## 1. Grant of License

- A. XRoads Networks grants to Customer a license ("License") to use the Evaluation Unit for the sole purpose of internal testing and evaluation of the Evaluation Unit. Use of the Evaluation Unit for any other purpose constitutes a material breach of this Agreement and grounds for its immediate termination by XRoads Networks.
- B. This License is granted only for so long as this Agreement is in effect.
- C. Customer may not disclose the results of performance/benchmark tests run on the Evaluation Unit without the prior written consent of XRoads Networks.
- D. Customer may not rent or lease the Evaluation Unit.

## 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 thirty (30) days ("Evaluation Period").
- B. Customer may terminate this Agreement at any time by immediately returning the Evaluation Unit and all accompanying documentation to XRoads Networks.
- C. XRoads Networks 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 immediately return the Evaluation Unit and all documentation.
- D. At the end of the Evaluation Period, Customer may (i) purchase the Evaluation Unit by executing a purchase order for the Evaluation Unit (based on list pricing or the pricing provided by an authorized reseller), or (ii) promptly return the Evaluation Unit (including all accompanying material) to XRoads Networks. If Customer fails to return the Evaluation Unit within one (1) week of the end of the applicable Evaluation Period or termination, XRoads Networks will charge Customer ten percent (10%) of the current list price of the Evaluation Unit ("Late Fees") for every month that the Evaluation Unit is not returned to XRoads Networks. If the Evaluation Unit is not returned to XRoads Networks within three (3) months after the end of the Evaluation Period, XRoads Networks will charge Customer the current list price of the Evaluation Unit in addition to the Late Fees and Customer agrees to pay all such charges and Late Fees incurred.

## 3. Intellectual Property

- A. XRoads Networks retains all right, title, and interest in the Evaluation Unit. Customer acknowledges and agrees that it obtains no ownership rights in the Evaluation Unit under the terms of this Agreement.
- B. Customer agrees not to remove any copyright or other proprietary or product identification notices from the Evaluation Unit. Customer agrees not to modify or tamper with the hardware or software.
- C. Customer may not cause or permit the reverse engineering of the Evaluation Unit, or any other attempt to derive source code from software running in the Evaluation Unit.

## 4. Confidentiality

Customer agrees to treat the Evaluation Unit and accompanying material as Confidential Information. Customer will protect the Confidential Information from unauthorized use, dissemination or publication. Customer will protect the Confidential Information by using the same degree of care as used to protect Customer's own confidential information of a like nature, but no less than a reasonable degree of care. Confidential Information does not include information, technical data or know-how which: (i) is in the possession of the Customer at the time of disclosure as shown by the Customer's files and records immediately prior to the Evaluation Period; (ii) prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the Customer; (iii) is rightfully received from a third party without a duty of confidentiality; or (iv) the law requires or XRoads Networks gives written permission to be disclosed. Customer may use the Confidential Information only for the purposes of evaluating and reviewing the Evaluation Unit.

5. Disclaimer of warranty and limitation of liability
  - A. XROADS NETWORKS 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.
  - B. IN NO EVENT WILL XROADS NETWORKS 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 SUCH EVALUATION UNIT EVEN IF XROADS NETWORKS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. XROADS NETWORKS'S LIABILITY FOR DAMAGES HEREUNDER SHALL IN NO EVENT EXCEED THE AMOUNT PAID FOR THE EVALUATION UNIT UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT.
  - C. 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.
  
6. 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 Evaluation Unit 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 Evaluation Unit and Hardware is not exported in violation of United States law.
  - C. XRoads Networks will pay to ship the Evaluation Unit to Customer. Customer will pay to return the Evaluation Unit to XRoads Networks, if necessary.
  - D. 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.
  - E. This Agreement shall be governed by the laws of the State of California. The courts of the State of California, County of Orange shall have exclusive jurisdiction over any dispute, which arises under this Agreement.
  - F. This Agreement is the complete and exclusive statement of the agreement between Customer and XRoads Networks; it supersedes all proposals, oral or written, and all other communications between Customer and XRoads Networks relating to the subject matter of this Agreement.
  - G. No modification to this Agreement or any of its terms may be made except by express written agreement with XRoads Networks.
  - H. 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.