

## SPECIFICATION EVALUATION AGREEMENT

PLEASE READ THIS SPECIFICATION EVALUATION LICENSE AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE DOWNLOADING THE CORAL CONSORTIUM SPECIFICATIONS (AS DEFINED BELOW). BY CLICKING ON THE ACCEPT BUTTON BELOW, YOU ARE ACCEPTING AND AGREEING THAT THIS AGREEMENT GOVERNS THE RELATIONSHIP BETWEEN CORAL CONSORTIUM, A CALIFORNIA MUTUAL BENEFIT NON PROFIT CORPORATION WITH OFFICES AT 48377 FREMONT BLVD., SUITE 117, FREMONT, CALIFORNIA 94538 (“CORAL CONSORTIUM”) AND YOU, INCLUDING YOUR EMPLOYER AND ANY SUBSIDIARIES AND ITS OR THEIR EMPLOYEES, CONTRACTORS AND AGENTS (“EVALUATOR” OR “YOU”) WITH RESPECT TO THE USE OF THE CORAL CONSORTIUM SPECIFICATIONS.

IF YOU DO NOT UNDERSTAND OR DO NOT AGREE TO ANY OF THE LICENSE PROVISIONS IN THIS AGREEMENT, PLEASE CLICK ON THE REJECT BUTTON AND EXIT NOW.

IF YOU ARE AGREEING TO THIS LICENSE AGREEMENT ON BEHALF OF A COMPANY, YOU HEREBY REPRESENT THAT YOU ARE AUTHORIZED TO BIND THAT COMPANY TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

1.1 Specification Availability. Coral Consortium makes the Coral Consortium Specifications available to Evaluator under this Agreement.

### **Coral Consortium Specifications:**

2008-03-25 Coral\_Core\_Architecture\_4.1

2007-10-23 Coral\_Domain\_Architecture\_4.0

1.2 Evaluation License. Subject to Evaluator’s compliance with the terms and conditions of this Agreement, Coral Consortium grants to Evaluator during the Term (as defined in Section 4.1) a limited, nonexclusive, nontransferable, worldwide, nonsublicenseable, royalty-free license solely to download, reproduce, and use the Coral Consortium Specifications, in each case, solely for the limited purpose of internal evaluation by Evaluator.

1.3 Evaluator Acknowledgment. Evaluator acknowledges (a) the validity of the copyrights owned by Coral Consortium and (b) the right, title and interest of Coral Consortium in and to the Coral Specifications.

1.4 No Additional Licenses. Evaluator understands and acknowledges that (i) the evaluation license expressly granted in Section 1.2 of this Agreement is the only license granted to Evaluator under this Agreement, (ii) no right is granted to Evaluator hereunder that would allow Evaluator to implement any portion of the Coral Consortium Specifications for any commercial purpose whatsoever, and (iii) no other licenses, including any patent, trademark, or trade secret licenses, or any other copyright license, of Coral Consortium or its members have been, or shall be construed to have been, granted, expressly, by implication, or by estoppel, by any other provision of this Agreement.

1.5 General Restrictions. Evaluator shall not transfer, rent, lease, sell, disclose, distribute, or loan the Coral Consortium Specifications or any part thereof. Evaluator shall not (i) change or remove any label, copyright notice or other marking embodied in the Coral Consortium Specifications, (ii) alter or modify the Coral Consortium Specifications or create any derivative work based on the Coral Consortium Specifications. Without limiting the foregoing, Evaluator agrees that it shall not claim that its products or services are compliant with the Coral Consortium Specifications or any portion thereof without the express prior written consent of Coral Consortium. Any use by Evaluator of any portion of the Coral Consortium Specifications, except as explicitly provided under this Agreement, shall constitute a material breach hereof.

1.6 No Updates or Support. Coral Consortium has no obligation to provide any updates or revisions of the Coral Consortium Specifications nor shall it have any obligation to provide any technical or other support to Evaluator in connection with this Agreement or Evaluator’s use of the Coral Consortium Specifications.

## **2. DISCLAIMER OF WARRANTY AND LIMITATION LIABILITY**

2.1 Disclaimer of Warranty. THE CORAL CONSORTIUM SPECIFICATIONS AND ANY INFORMATION PROVIDED UNDER THIS AGREEMENT ARE PROVIDED TO EVALUATOR ON AN “AS IS” BASIS. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, CORAL CONSORTIUM, ON BEHALF OF ITSELF AND ITS MEMBERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. WITHOUT LIMITING THE

FORGOING, CORAL CONSORTIUM, ON BEHALF OF ITSELF AND ITS MEMEBERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, (A) CONCERNING THE COMPLETENESS, CORRECTNESS, SECURITY, PERFORMANCE, ACCURACY, OR APPLICABILITY OF ANY INFORMATION CONTAINED IN THE CORAL CONSORTIUM SPECIFICATIONS OR ANY WARRANTY OF NONINFRINGEMENT, AND (B) ARISING OR RESULTING FROM THE RELIANCE ON OR USE (OR INABILITY TO USE) BY ANY PERSON OR ENTITY OF THE CORAL CONSORTIUM SPECIFICATIONS OR ANY INFORMATION CONTAINED THEREIN. THE CORAL CONSORTIUM ON BEHALF OF ITSELF AND ITS MEMBERS MAKES NO REPRESENTATIONS OR WARRANTIES CONCERNING THE APPLICABILITY OF ANY PATENT, COPYRIGHT OR OTHER PROPRIETARY RIGHT OF A THIRD PARTY TO THIS SPECIFICIATION OR ITS USE, AND THE RECEIPT OR ANY USE OF CORAL CONSORTIUM SPECIFICATIONS OR ITS CONTENTS DOES NOT IN ANY WAY CREATE, BY IMPLICATION, ESTOPPEL OR OTHERWISE, ANY LICENSE OR RIGHT OR UNDER ANY CORAL CONSORTIUM MEMBER'S PATENT, COPYRIGHT TRADEMARK OR TRADE SECRET RIGHTS WHICH ARE OR MAY BE ASSOCIATED WITH THE IDEAS, TECHNIQUES, CONCEPTS OR EXPRESSIONS CONTAINED THEREIN. FURTHERMORE, THE CORAL CONSORTIUM MAKES NO REPRESENTATION OR WARRANTY THAT THE FUNCTIONS CONTAINED IN THE CORAL CONSORTIUM SPECIFICATIONS WILL MEET EVALUATOR'S REQUIREMENTS, OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE. CORAL CONSORTIUM ON BEHALF OF ITSELF AND ITS MEMBERS DOES NOT WARRANT, GUARANTEE OR MAKE ANY REPRESENTATIONS REGARDING THE RESULTS OF THE USE OF THE CORAL CONSORTIUM SPECIFICATIONS WITH RESPECT TO ITS PERFORMANCE, ACCURACY, RELIABILITY, SECURITY, CAPABILITY OR CURRENTNESS OF THE CORAL CONSORTIUM SPECIFICATIONS.

2.2 Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL CORAL CONSORTIUM OR ITS MEMBERS, INCLUDING, WITHOUT LIMITATION, THEIR RESPECTIVE EMPLOYEES, DIRECTORS, OFFICERS, SHAREHOLDERS OR AGENTS, BE LIABLE TO EVALUATOR AND ITS EMPLOYEES, DIRECTORS, OFFICERS, SHAREHOLDERS OR AGENTS OR ANY THIRD PARTY FOR ANY DIRECT, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL OR OTHER DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR IN CONNECTION WITH CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, OR FOR ANY OTHER MONETARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE CORAL CONSORTIUM SPECIFICATIONS OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN THE EVENT THAT ANY COURT OF COMPETENT JURISDICTION RENDERS JUDGEMENT AGAINST CORAL CONSORTIUM AND/OR ITS MEMBERS NOTWITHSTANDING THE ABOVE LIMITATION, THE AGGREGATE LIABILITY TO EVALUATOR IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED THE AMOUNT OF ONE HUNDRED U.S. DOLLARS (US\$ 100.00).

### 3. INDEMNIFICATION

Evaluator agrees to indemnify, hold harmless and, at Coral Consortium's sole option, defend Coral Consortium, and its members, affiliates and agents and their respective officers, employees and representatives, from and against any losses, claims, damages, liabilities, and expenses paid to a third party (including attorney's fees and expenses), caused by any breach by Evaluator of any material obligation under this Agreement. Coral Consortium will promptly notify Evaluator in writing of any such claim, allow Evaluator to have sole control over the defense of the claim, and provide reasonable cooperation in the defense of the same; provided, however, that failure by Coral Consortium to provide the foregoing shall not excuse Evaluator from its indemnification obligations.

### 4. TERM AND TERMINATION

4.1 Term of Agreement. This Agreement shall commence immediately upon your assent to this Agreement and continue for the shorter of (i) a period of two (2) years and (ii) upon earlier termination pursuant to Section 4.2 (the "Term").

4.2 Termination. Coral Consortium may terminate this Agreement for any uncured breach of this Agreement upon fifteen (15) days prior written notice to Evaluator. Evaluator acknowledges and agrees that its breach of the obligations contained in Section 1 will result in irreparable harm to Coral Consortium, that actual damages are impossible to calculate and that Coral Consortium is therefore entitled to injunctive relief hereunder. Evaluator may terminate this Agreement for any

reason upon sixty (60) days prior written notice to Coral Consortium. Expiration or termination shall not affect either party's accrued rights or obligations prior to termination and shall not affect Coral Consortium's ability to pursue any other rights it may have at law or in equity, including monetary damages and injunctive relief, if applicable, and those rights Coral Consortium would be entitled to absent this Agreement. Upon expiration or termination hereof (i) any and all licenses granted hereunder shall automatically terminate; provided that the provisions of Sections 1.4, 1.5, 1.6, 2, 3, 5 and this Section 4 shall survive such expiration or termination and (ii) Evaluator shall destroy of all copies of the Coral Consortium Specifications (and any portions thereof).

## 5. GENERAL PROVISIONS

5.1 Dispute Resolution. This Agreement and any actions between the parties involving the Coral Consortium Specifications ("Party Dispute") shall be governed solely by, and construed solely in accordance with, the laws of the State of California, excluding conflict of laws principles. To the extent permitted by law, the provisions of this Agreement shall supersede any provisions of the Uniform Commercial Code as adopted or made applicable to the Coral Consortium Specifications in any competent jurisdiction. In connection with any litigation between the parties involving a party Dispute, each party hereby unconditionally and irrevocably consents to: (i) the exclusive jurisdiction of and venue in the U.S. District Court for the Northern District of California (San Jose Division) or if jurisdiction and venue is not appropriate, the state courts there located; and (ii) the service of process of said courts in any matter relating to this Agreement by personal delivery or by mailing of process by certified mail, postage prepaid, at the addresses specified in this Agreement.

5.2 Miscellaneous. If any provision or portion of this Agreement is held to be unenforceable, such provision or portion shall be enforced to the maximum extent permissible consistent with the terms hereof, and the remainder of this Agreement shall continue in full force and effect. This Agreement does not oblige Coral Consortium nor create any rights for Evaluator, express or implied to enter into any subsequent agreement concerning a license pertaining to the Coral Consortium Specification. Evaluator acknowledges that the Coral Consortium Specifications may be subject to United States export controls imposed under the Export Administration Regulations of the U.S. Department of Commerce and other relevant regulations. This Agreement may not be amended or modified, and no provision may be waived, without a writing signed by the parties. This Agreement may not be assigned by a party (whether expressly or by operation of law) without the prior written consent of the other party. Nothing contained herein shall be construed to constitute the parties as partners, joint venturers, or agents of the other. Any notice to be provided pursuant to this Agreement shall be given in writing and shall be deemed properly given (i) seven (7) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, (ii) two (2) business days after deposit with a internationally recognized private industry express courier (e.g., Federal Express or DHL), with written confirmation of receipt, or (iii) upon transmission when delivered by fax machine, with fax confirmation page. All notices shall be sent to the address set forth in this Agreement (if to Coral Consortium) or to the address given by the Evaluator in the registration page. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior and/or contemporaneous agreements and understandings between the parties with respect to the subject matter hereof.