

SPECIFICATION EVALUATION AGREEMENT

THIS EVALUATION AGREEMENT (this "Agreement") is made and entered into as of \_\_\_\_\_, 2006 (the "Effective Date") by and between: the Coral Consortium Corporation, a California mutual benefit non profit corporation ("Coral Consortium"), with offices at 39355 California Street, Suite 307, Fremont, CA 94538 and \_\_\_\_\_ ("Company"), with offices at \_\_\_\_\_; (each, a "Party" and collectively the "Parties"), with reference to the following:

RECITALS

- A. Wherein, Coral Consortium has developed and is further developing certain specifications and draft specifications; and
- B. Wherein, Company desires to evaluate certain specifications according to the terms hereof;
- C. Now therefore, in consideration of the mutual covenants contained herein, the Parties, intending to be legally bound, agree to the following terms and conditions.

AGREEMENT

1. LIMITED EVALUATION LICENSE

1.1 Specification Availability. Coral Consortium will make available to Company the specification(s) and/or draft specification(s) and supporting materials as more specifically set forth in Exhibit A ("Coral Consortium Specifications").

1.2 Evaluation License. Subject to Company's compliance with the terms and conditions of this Agreement, Coral Consortium grants to Company during the Term (as defined in Section 5.1) a limited, nonexclusive, nontransferable, nonsublicenseable license to evaluate the Coral Consortium Specifications solely for the purpose of internal evaluation by Company. Company may only use the Coral Consortium Specifications for internal technical discussions, for internal evaluation and providing Feedback (as defined in Section 1.7 of this Agreement). Company may NOT (and agrees that it shall not) under this license distribute the Coral Consortium Specifications or any part thereof in any form outside of the Company except as specifically set forth in Section 2.

1.3 No Additional Licenses. Company understands and acknowledges that: (i) the evaluation license expressly granted under this Agreement is the only license granted to Company under this Agreement; (ii) no other licenses including any license under any patent, trademark, copyright or trade secret of the Coral Consortium have been, or shall be construed to have been, granted, expressly, by implication, estoppel or by any other provision of this Agreement.

1.4 General Restrictions. Company may NOT (and agrees that it shall not) under this license rent, lease, sell, or loan the Coral Consortium Specifications or any part thereof in any form, including using the Coral Consortium Specifications for the purpose of implementing or incorporating the Coral Consortium Specifications for any purpose whatsoever, including the manufacture, sale or distribution of products or components based on the Coral Consortium Specifications. Company shall not change or remove any label, (copyright) notice or other marking embodied in the Coral Consortium Specifications. Without limiting the foregoing, Company agrees that it shall not claim that its products or services are compliant with any Coral Consortium Specifications without the express written consent of Coral Consortium. Any use by Company of any portion of the Coral Consortium Specifications, except as provided under Section 1.2, and 2 of this Agreement, shall constitute a material breach of this Agreement entitling Coral Consortium to terminate the Agreement immediately upon written notice to Company and to any other rights it may have at law or in equity, including monetary

damages and injunctive relief, if applicable.

1.5 No Updates or Support. Coral Consortium has no obligation to provide any updates or new revisions, of the Coral Consortium Specifications.

1.6 No Fees. No license fees are due.

1.7 Feedback. Company may voluntarily provide suggestions, criticisms, comments, defects, bugs, errors, failure(s) in the Coral Consortium Specifications, or other feedback to Coral Consortium based on the Coral Consortium Specifications (“Feedback”). Any Feedback concerning the Coral Consortium Specifications shall be treated by Company as Confidential Information and shall only be made to Coral Consortium and/or Coral members. For the avoidance of doubt, any Feedback, even if designated as confidential by Company, shall not create any confidentiality obligation for the Coral Consortium. All Company Feedback is provided without warranty of any kind, except that Company shall not provide to Coral Consortium any Feedback (which shall include any changes, modifications, reconfigurations, alterations, improvements, translations, transformations, derivative works, and/or enhancements thereof) that is subject to any obligation, encumbrance or restriction of any kind, including Company’s or any third parties’ intellectual property rights or other rights. Company grants Coral Consortium a worldwide, non-exclusive, license to use, disclose, reproduce, modify, create derivative works, license, sublicense and grant the right to further sublicenses, distribute, exploit or otherwise dispose of any Feedback provided by Company to Coral Consortium in connection with the Coral Consortium Specification. Except as expressly licensed, Company retains all right, title and interest to the Feedback and no other rights are granted. For the avoidance of doubt, Company shall have no obligation whatsoever to provide Feedback. Coral Consortium shall have no obligation whatsoever to include Feedback in the Specification. Company may send any Feedback to <archchair@coral-interop.org>.

## 2. CONFIDENTIALITY

Company may receive from Coral Consortium information (in connection with this Agreement) that is proprietary, and is marked as confidential or with a similar notice (if disclosed in writing or tangible form), identified as confidential (if disclosed verbally), or should reasonably be treated as confidential under the context in which disclosure was made (“Confidential Information”). For sake of clarification, Company will treat the Coral Consortium Specifications as Confidential Information. For a period of three (3) years from the date of disclosure, Company will: (i) safeguard Confidential Information with the same degree of care as it exercises with its own confidential information, but no less than reasonable care; (ii) not disclose any Confidential Information to third parties other than agents, contractors, consultants, and employees who have a need to know and who are bound by a confidentiality agreement having similar provisions to those herein and Company agrees to be responsible in the event of an unlawful disclosure by such agents, contractors, consultants, and employees; and (iii) will use the Confidential Information solely in the exercise of the rights and obligations under this Agreement and for no other purpose. Confidential Information does not include information that Company can demonstrate: (i) is or has become public knowledge through no fault of Company; (ii) is rightfully obtained by Company from a third party without breach of any confidentiality obligation; or (iii) is independently developed by employees of Company without use of or reference to such information. Company may disclose Confidential Information if required by a regulation, law or court order, but only to the extent required to comply with such regulation, law or order, and only after providing reasonable advance notice to the Coral Consortium to allow such Party to contest such disclosure.

## 3. NO WARRANTY AND LIMITATION LIABILITY

3.1 No Warranty. THE CORAL CONSORTIUM SPECIFICATIONS AND ANY INFORMATION IS PROVIDED “AS IS”. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, CORAL CONSORTIUM ON BEHALF OF ITSELF AND ITS MEMBERS EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, (A) CONCERNING THE COMPLETENESS, ACCURACY, OR APPLICABILITY OF ANY INFORMATION CONTAINED IN THE CORAL CONSORTIUM SPECIFICATIONS, INCLUDING, BUT NOT LIMITED TO, FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTY OF NONINFRINGEMENT AND (B) ARISING OR RESULTING FROM THE RELIANCE ON OR USE (OR INABILITY TO USE) BY ANY PARTY OF CORAL CONSORTIUM SPECIFICATIONS OR ANY INFORMATION CONTAINED HEREIN. 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 SPECIFICATION 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 TO 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 HEREIN. FURTHERMORE, THE CORAL CONSORTIUM MAKES NO REPRESENTATION OR WARRANTY THAT THE FUNCTIONS CONTAINED IN THE CORAL CONSORTIUM SPECIFICATIONS WILL MEET COMPANY'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 AND/OR CONFIDENTIAL INFORMATION WITH RESPECT TO ITS PERFORMANCE, ACCURACY, RELIABILITY, SECURITY, CAPABILITY OR CURRENTNESS OF THE CORAL CONSORTIUM SPECIFICATIONS. THIS IS AN EVALUATION LICENSE ONLY AND NOT A LICENSE TO IMPLEMENT, MAKE, MANUFACTURE OR DISTRIBUTE PRODUCTS OR COMPONENTS BASED ON CORAL CONSORTIUM SPECIFICATIONS.

3.2 Further Limitation of Liability. Coral Consortium and its members shall not be liable to Company including any of its agents, affiliates, customers, or any other persons, for any lost profits, or any incidental, indirect, or consequential damages, for the breach of any terms or conditions of this Agreement. In no event will Coral Consortium or its members be liable in the aggregate to Company or any third party in connection with this Agreement for more than the total amount paid by Company to Coral Consortium under this Agreement or ten (10) US dollars, whichever is greater. Except for a breach of Section 2 Confidentiality, Company shall not be liable to Coral Consortium and its members for any lost profits, or any incidental, indirect, or consequential damages, for the breach of any terms or conditions of this Agreement.

#### 4. INDEMNIFICATION

Except as expressly provided to the contrary in this Agreement, Company agrees to indemnify, hold harmless and, defend, Coral Consortium, and its members, affiliates and agents from and against any losses, claims, damages, liabilities and/or reasonable expenses paid to a third party (including reasonable attorney's fees) caused by any breach by Company of any material obligation under this Agreement, provided: (i) Coral Consortium promptly notifies Company in writing of any such claim, (ii) Company has sole control over the defense of the claim, and (iii) Coral Consortium provides reasonable cooperation in the defense of the same.

#### 5. TERM AND TERMINATION

5.1 Term of Agreement. This Agreement shall commence on the Effective Date and continue for a period of ninety (90) days unless and until terminated earlier pursuant to Section 5.2 (the "Term").

5.2 Termination. This Agreement and the licenses granted hereunder shall be subject to termination upon the occurrence of any of the following events or such other provisions hereof expressly so stating: (a) if a Party defaults on any of its material obligations under this Agreement, the non-defaulting Party may immediately terminate this Agreement by written notice describing with reasonable specificity the nature of the default; or (b) upon fifteen (15) days prior written notice by a Party to the other Party. Upon expiration or termination hereof, any and all licenses granted hereunder shall automatically terminate; provided that the provisions of Sections 1.3, 1.4, 1.5, 1.7, 2, 3, 4, 6 and this Section 5 shall survive such expiration or termination.

#### 6. GENERAL PROVISIONS

6.1 Dispute Resolution. This Agreement and any actions between the Parties involving the Coral Consortium Specifications and/or any Confidential Information ("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 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.

6.2 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 obligate Coral Consortium nor create any rights for Company, express or implied to enter into any subsequent agreement concerning a license pertaining to the Coral Consortium Specification. Company 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.

Company acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information and that the Coral Consortium shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

6.3 Entire Agreement. 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.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed as of the date first written above by the undersigned duly authorized officers.

**CORAL CONSORTIUM  
CORPORATION**

**COMPANY**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

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

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

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

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

**Exhibit A**  
**TO THE SPECIFICATION EVALUATION LICENSE AGREEMENT**

**I. List of Coral Consortium Specifications**

1. **Architecture\_Overview\_2.5**
2. **Architecture\_Specification\_2.5**
3. **NEMO\_Architecture\_2.0**
4. **NEMO\_Message\_Bindings\_2.0**
5. **NEMO\_Policy\_Bindings\_2.0**
6. **NEMO\_Profiles\_2.0**
7. **NEMO\_Secure\_Messaging\_2.0**
8. **NEMO\_Security\_Bindings\_2.0**
9. **NEMO\_Trust\_Management\_Bindings\_2.0**