

# EXHIBIT 6

**CALDERA INTERNATIONAL, INC.  
REFERENCE SOFTWARE AGREEMENT**

This Agreement is between Caldera International, Inc. for itself or its Subsidiaries (collectively referred to herein as ("Caldera"), a corporation of the State of Delaware, with its place of business at 355 South 520 West, Suite 100, Lindon, Utah 84042 USA, and Cisco Systems ("Licensee"), with its place of business at 6450 Wedgwood Road, Maple Grove, Minnesota 55311.

WHEREAS, Caldera is a licensor, manufacturer and distributor of Caldera, third party Open Source software and related products, materials and services, and

Subject to the terms and conditions of this Agreement, Caldera will provide Licensee the right to acquire certain Reference Software Products. Each such Reference Software Product that is identified in an Exhibit to this Agreement is made part hereof.

In consideration of the mutual covenants contained in this Agreement, Caldera and Distributor agree as follows:

**1. DEFINITIONS**

- 1.1 Computer Program means any instruction or instructions, in source-code or object-code format, for controlling the operation of a computer system.
- 1.2 Caldera Software Product means a Software Product made commercially available for license in source code form by Caldera through a Caldera Software Agreement.
- 1.3 Reference Software Product means a Caldera Software Product or a Software Derivative of such Caldera Software Product.
- 1.4 Software Derivative means a third-party furnished derivative work of a Caldera Software Product, or portion thereof.
- 1.5 Software Product means materials such as Computer Programs, information used or interpreted by Computer Programs and documentation relating to the use of Computer Programs. Certain Software Products identified in an Order hereto may contain materials prepared by other developers.
- 1.6 Source Code Exchange means the distribution of a Software Derivative from a third-party licensee of Caldera to Licensee upon verification by Caldera, at the request of such third party licensee, of the equivalent Caldera Software Product rights-to-use identified in an Order hereto. Such verification will be requested by such third-party licensee.
- 1.7 Subsidiary of a company means a corporation or other legal entity (i) the majority of whose shares or other securities entitled to vote for election of directors (or other managing authority) is now or hereafter controlled by such company either directly or indirectly; or (ii) the majority of the equity interest in which is now or hereafter owned and controlled by such company either directly or indirectly; but any such corporation or other legal entity shall be deemed to be a Subsidiary of such company only so long as such control (or such ownership and control, as the case may be).

**2. TERM AND TERMINATION**

- 2.1 The term of this Agreement will commence on the date it is executed by an authorized Caldera signatory and, shall remain in effect for twelve (12) months of initial execution (the "Initial Term"). Thereafter, this Agreement shall automatically renew for subsequent one (1) year periods (the "Renewal Period") and upon payment of the annual fees specified in the Exhibit A to this Agreement unless (i) this Agreement is terminated by either party pursuant to Section 2.2 of this Agreement, or (ii) either party terminates for convenience by sending the other at least thirty (30) calendar days written notice thereof.

- 2.2 If Licensee fails to fulfill one or more of Licensee's obligations under this Agreement, Caldera may, upon its election and in addition to any other remedies that it may have, at any time terminate all the rights granted by it hereunder by not less than two (2) months' written notice to Licensee specifying any such breach, unless within the period of notice all breaches specified therein shall have been remedied; upon such termination, Licensee shall immediately discontinue use of and return or destroy, at Caldera's option, all copies of Reference Software Products covered hereunder.
- 2.3 Upon thirty (30) days written notice to Caldera and subject to payment of the appropriate fees, Licensee may elect to terminate Licensee's rights hereunder and to acquire more extensive rights under a separate Caldera Software Agreement covering the applicable Caldera Software Products.
- 2.4 The termination of this Agreement or Licensee's rights hereunder shall not relieve Licensee of Licensee's obligations to pay any fee hereunder. In the event of termination all fees that Licensee have become obligated to pay shall become immediately due and payable.

### 3. GRANT OF RIGHTS

- 3.1 Subject to the provisions and during the term of this Agreement, Caldera grants to Licensee a personal, nontransferable, nonassignable and nonexclusive limited right to use the Reference Software Products that are identified in one or more Exhibits hereto, solely for Licensee's own internal business purposes. **Such right to use does not include any right to:**
  - (a) modify such Reference Software Products or prepare derivative works based on such Reference Software Products; or
  - (b) to distribute, to any other party, Reference Software Products; or
  - (c) in the case of object code portions, if any, of Reference Software Products, to reverse engineer, reverse compile, disassemble or otherwise attempt to derive the source code of such portions.
- 3.2 No right is granted by this Agreement for the use of Reference Software Products directly for others, or for any use of Reference Software Products by others unless such uses are permitted for the associated Caldera Software Products in the applicable Exhibits for such Caldera Software Products.
- 3.3 No right is granted to Licensee to allow anyone other than Licensee's employees to use Reference Software Products unless such uses are permitted by a specific provision in the Exhibits for the associated Caldera Software Products. The term "employees" as used in this Agreement means both direct and contract employees.

### 4. CONFIDENTIALITY

- 4.1 Licensee agree to hold all parts of Reference Software Products subject to this Agreement in confidence for Caldera.
- 4.2 Licensee further agree that Licensee shall not make any disclosure of any or all of such Reference Software Products (including methods and concepts utilized therein) to anyone, except to Licensee's employees to whom such disclosure is necessary to the use for which rights are granted hereunder and who are under a binding obligation to keep such disclosure in confidence.
- 4.3 Licensee shall appropriately notify each employee to whom any such disclosure is made that such disclosure is made in confidence and shall be kept in confidence by such employee.
- 4.4 If information relating to a Reference Software Product subject to this Agreement at any time becomes available without restriction to the general public by acts or omissions not attributable to Licensee or Licensee's employees, Licensee's obligations under this Section shall not apply to such information after such time.
- 4.5 Licensee's obligations of confidentiality shall survive termination of this Agreement.

## **5. SOURCE CODE ACQUISITION**

Upon payment of the applicable fees set forth in the Exhibit A for a particular Reference Software Product, Licensee may obtain a copy of such Reference Software Product for limited use hereunder in one of the following ways:

- (a) in the case of a Caldera Software Product, directly from Caldera; or
- (b) in the case of a Software Derivative, from another licensee of Caldera for the associated Caldera Software Product who has previously acquired the right, via a Caldera Software Agreement, to provide such Software Derivative to certain Caldera licensees via Source Code Exchange.

## **6. COPIES OF REFERENCE SOFTWARE PRODUCTS**

Licensee may make copies of Reference Software Products solely for the uses granted hereunder. Each copy shall contain any copyright notices, proprietary notices or notice giving credit to another developer, which appear on or in the Reference Software Product being copied. All Licensee's obligations hereunder with respect to such Reference Software Product shall apply to each copy.

## **7. EXPORT**

Licensee will not, without the prior written consent of the Reference Software Product provider, export, either directly or indirectly, Reference Software Products covered by this Agreement to any country outside of the United States. Licensee will obtain any and all necessary governmental export licenses for export or for any disclosure of a Reference Software Product to a foreign national.

## **8. TRADEMARKS**

No right is granted herein to use any trademarks, trade devices, service marks or symbols, or other trade indicia, and abbreviations, contractions or simulations thereof (collectively "trademarks") owned by, or used to identify any product or service of, Caldera (or a corporate affiliate thereof) or any third party including any third party who has contributed to any portion of a Reference Software Product. Licensee agree that you will not, without the prior written permission of Caldera:

- (a) use any such trademark in advertising, publicity, packaging, labeling or in any other manner to identify any of Licensee's products or services or
- (b) represent, directly or indirectly, that any of Licensee's products or services is a product or service of Caldera or such an affiliate or is made in accordance with or utilizes any information or documentation of Caldera or such an affiliate.

## **9. FEES AND TAXES**

- 9.1 The applicable fees are specified in an Exhibit made part hereof.
- 9.2 Licensee shall pay all taxes, including sales and use taxes (and any related interest or penalty), however designated, imposed as a result of this Agreement, except any income tax imposed upon Caldera by any governmental entity within the United States (the fifty (50) states and the District of Columbia). Fees specified here do not include taxes. If Caldera is required to collect a tax to be paid by Licensee, Licensee shall pay the amount of such tax to Caldera on demand.
- 9.3 Fees provided for in Exhibits hereto are subject to change upon ninety (90) days written notice.

## 10. PAYMENTS

- 10.1 Licensee shall make payments to Caldera in United States dollars. Licensee will pay all amounts due under this Agreement to Caldera at the address specified on the invoice, or such other place Caldera may designate. Caldera may charge Licensee interest at the rate of two percent (2%) per month, or such maximum rate permitted by law, whichever shall be less, with respect to any sum which is not paid in accordance with this Agreement.
- 10.2 Payments provided for in this Agreement shall, when overdue, be subject to a late payment charge calculated at an annual rate of three percent (3%) over the posted prime rate or successive posted prime rates in effect in New York City during delinquency. In no event shall such late payment charge exceed the maximum permitted by law for such charge.

## 11. NOTICES

- 11.1 Notices and other correspondence with Caldera relating to this Agreement shall be sent to:  
Caldera International, Inc.  
355 South 520 West  
Suite 100  
Lindon, Utah 84042  
Attention: Legal and Corporate Affairs
- 11.2 Any statement, notice, request or other communication shall be deemed received when personally delivered, sent by facsimile, or three days after being sent via first-class mail postage pre-paid to either party at the addresses specified in this Agreement.

## 12. RECORD KEEPING

Licensee agree to keep records of each copy of Reference Software Products. Such records shall list the location of computer systems such Reference Software Product is installed on. Licensee agree to furnish reports detailing the procedures used to keep such records to Caldera upon request.

## 13. WARRANTY

- 13.1 Caldera warrants that it is empowered to grant the rights granted herein.
- 13.2 **Except as set forth in Section 13.01, Caldera (and other developers) make no representations or warranties with regard to Reference Software Products, expressly or impliedly. By way of example but not of limitation, Caldera and other developers make no representations or warranties of merchantability or fitness for any particular purpose, or that the use of any Reference Software Product will not infringe any patent, copyright or trademark. Caldera and other developers shall not be held to any claim by Licensee or a third party on account of, or arising from, the use of any Reference Software Product.**

## 14. MISCELLANEOUS PROVISIONS

- 14.1 Neither this Agreement nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable by Licensee and any purported assignment or transfer shall be null and void.
- 14.2 This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Utah and the United States of America, specifically excluding the United Nations Convention on Contracts for the International Sale of Goods, and without giving effect to conflict of laws. Any litigation or arbitration between the Parties shall be conducted exclusively in the State of Utah.
- 14.3 **APART FROM DAMAGE TO CALDERA CAUSED BY A BREACH OF THE CONFIDENTIALITY PROVISIONS OR BY AN INFRINGEMENT BY LICENSEE OF CALDERA'S INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL EITHER**

PARTY'S LIABILITY TO THE OTHER UNDER OR ARISING OUT OF THIS AGREEMENT EXCEED FIFTEEN THOUSAND DOLLARS (\$15,000).

14.4 NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, BREACH OR REPUDIATION OF CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE, EVEN IF THE PARTY AGAINST WHOM DAMAGES ARE CLAIMED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. IN NO EVENT SHALL A PARTY BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS OR GOODWILL, OR FOR LOSS OF DATA OR USE OF DATA.

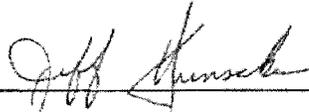
**15. ENTIRE AGREEMENT**

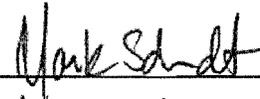
This Agreement and its applicable Exhibits set forth the entire agreement and understanding between the parties as to the subject matter hereof and merges all prior discussions, communications, agreements or understandings between them with respect to such subject matter. This Agreement shall not be modified except by a writing signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective upon the date of last execution.

CALDERA INTERNATIONAL, INC.

CISCO SYSTEMS

By:   
Name: JEFF HUNSAKER  
Title: GM & VP AMERICAS  
Date: 11/18/02

By:   
Name: Mark Schrandt  
Title: Director, Engineering  
Date: Oct. 2, 2002