



Notice!

Before Novell will grant certification under any Novell certification program, you must agree - and *communicate to Novell* that you agree - to the terms and conditions of the following Novell Training Services Certification Agreement ("Agreement"). You may communicate your agreement either electronically in the manner described below or by mailing to Novell a signed, printed copy of the Agreement's Signature Form. In either case, *please read the Agreement carefully when you take your first test.*

ELECTRONIC AGREEMENT. You may agree to the Agreement electronically at your testing center. As part of the test taking process, a screen will appear asking you if you have read and agree to the terms and conditions of the Certification Agreement. Answering affirmatively to the questions on the screen will confirm your agreement.

SIGNATURE FORM. Alternatively, if you sign the printed Signature Form to show your acceptance of the Agreement, return it to the applicable Novell address listed on the form.

Minors please note: If you are a minor under the laws of the state or country in which you reside, you must sign the Signature Form instead of agreeing electronically. The Signature Form needs to be countersigned by your parent or legal guardian. The Agreement will automatically terminate when you reach the age of majority *unless* you complete and sign the Certification Agreement being used generally by Novell at that time and return it to Novell. Copies of the Agreement are available from your testing center and are available at the Novell Training Services home page: <http://www.novell.com/training/>.



Novell Training Services Certification Agreement

1 PURPOSE.

1.1 NOVELL manufactures, distributes, licenses, and promotes network computing software products. Many of NOVELL's products are technically complex and require competent pre- and post-sales support. In order to provide appropriate support for its products, NOVELL has created various programs under which individuals may become certified to competently provide such support.

1.2 Through education, training, and/or testing, participants in these Programs may become authorized to provide corresponding services and to use the NOVELL Marks pertaining to the certification Program(s) that the participant has completed. Successful completion of one Program does not entitle a participant to use the Marks or provide the services pertaining to any other Program.

2 DEFINITIONS.

2.1 LICENSED SERVICES means the administration, or pre- and post-sales service and support of NOVELL's network computing products that correspond with a Program successfully completed by YOU. LICENSED SERVICES does not mean services relating to non-NOVELL products, LICENSED SERVICES may be more fully described in the applicable Program.

2.1.1 CNI. If You have successfully completed the CNI Program requirements, LICENSED SERVICES means teaching specific NOVELL authorized courses under the auspices of a Novell Authorized Training Center. CNI Licensed Services does not mean teaching a course not authorized by NOVELL or a course for which you have not completed all Program requirements.

2.2 MARKS means, as applicable to a Program, the Certified Novell Administrator and CNA marks and logos, the Certified Novell Engineer, CNE, and Master CNE marks and logos, Certified Novell Instructor and CNI marks and logos, the Novell Certified Linux Engineer and CLE marks and logos, and any other marks Novell Training subsequently identifies as part of a Program.

2.3 NOVELL means Novell, Inc If You do not provide LICENSED SERVICES in Europe, the Middle East, or Africa (EMEA). Novell means Novell Ireland Software Ltd. if You provide LICENSED SERVICES in EMEA.

2.4 Novell Authorized Training Center means any organization that has been approved by NOVELL as an authorized training facility and includes any Novell Authorized Internal Training Organization, Novell Training Services Partner, Novell Academic Training Partner, or Novell Technical Institute (NTI).

2.5 Program means one of the certification programs

offered by Novell under this Novell Training Services Certification Agreement ("Agreement"). Each Program includes a formally documented process whereby individuals may demonstrate competence relating to networking technology and one or more Novell products. The Programs include the Certified Novell Administrator ("CNA"), Certified Novell Engineer ("CNE"), Master CNE, Certified Novell Instructor ("CNI"), and any other Programs Novell subsequently makes available through this Agreement. Any modification made by Novell to a Program shall become effective upon publication of the revised Program.

3 **CERTIFICATION.** Your Program certification is based on Your successful completion of the required testing and Your compliance with the requirements described in the corresponding Program. You acknowledge that NOVELL has the right to change at any time the requirements for obtaining or maintaining any Program certification. Once certification is granted, You may maintain Your certification by completing, within the time frame specified by NOVELL, all continuing certification requirements, if any, that correspond with Your particular Program certification. You are solely responsible for keeping yourself informed of NOVELL's continuing certification requirements and for maintaining Your certification. If You do not complete the continuing certification requirements within the time frame specified by NOVELL, Your certification for that particular Program will be revoked without further notice, and all rights pertaining to that certification (including the right to use the applicable Marks) will terminate. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NOVELL HAS THE RIGHT NOT TO GRANT OR RENEW Your CERTIFICATION IF NOVELL IN GOOD FAITH DETERMINES THAT Your CERTIFICATION OR USE OF THE CORRESPONDING MARKS WILL ADVERSELY AFFECT NOVELL.

4 **TRANSFER OF CERTIFICATION.** You retain Your certification status if You leave Your current employment and/or begin working with a new organization. However, You may not transfer Your Program certification to another person.

5 **GRANT AND CONSIDERATION.** Subject to the terms and conditions of this Agreement, NOVELL grants to You a non-exclusive and non-transferable license to use the MARKS solely in connection with providing the LICENSED SERVICES that correspond to the Program certification You have earned. You or Your agents may use the MARKS on such promotional display and advertising materials as may, in Your judgment, promote the LICENSED SERVICES corresponding to Your Program certification. You may not use the MARKS for any purposes that are not directly related to the provision of such LICENSED SERVICES. You may not use the MARKS of any Program unless You have completed the Program certification requirements, have been notified by NOVELL in writing that You have achieved certification status for that particular Program, and have completed any subsequent Program requirements to



maintain your certification status.

5.1 Affiliation with Novell Authorized Training Partner. If You achieve the status of CNI, You are authorized to teach authorized Novell courses only at an Novell Authorized Training Partner by which you are or with which you are working as an independent contractor on a case-by-case basis. It is Your responsibility to notify NOVELL of any address or authorized partner change.

5.2 Notice of Certification Status. Novell may, but has no obligation, to make Your name, contact info, current certification status, and course authorizations available to Novell Authorized Training Partners and other persons who request it, unless You notify NOVELL in writing requesting that such information not be disclosed. It is Your responsibility to ensure that such information about You is current and accurate.

6 TERM AND TERMINATION.

6.1 Term. This Agreement will commence on the date You receive written notice from NOVELL that You have met all the requirements necessary to receive Your particular Program certification and will terminate as provided in this Agreement. THIS AGREEMENT WILL NOT TAKE EFFECT UNTIL NOVELL HAS NOTIFIED You IN WRITING THAT ALL PROGRAM REQUIREMENTS HAVE BEEN MET, INCLUDING Your ACCEPTANCE OF THE TERMS OF THIS AGREEMENT. You must communicate Your acceptance either submitting an electronic form prior to Your completion of the Program requirements or, when authorized by NOVELL, submitting to Novell a signed Signature Form to this Agreement. If You later upgrade Your status to include any other Program certifications, this Agreement will remain in effect and govern Your right to use any new certification MARKS.

6.2 Termination by Either Party. Either party may terminate this Agreement without cause by giving 30 days or more prior written notice to the other party.

6.3 Default. Without prejudice to any rights it may have under this Agreement or in law, equity, or otherwise, NOVELL may terminate this Agreement upon the occurrence of any one or more of the following events (called "Default"):

6.3.1 If You fail to perform any of Your obligations under this Agreement;

6.3.2 If You render the LICENSED SERVICES without complying with the testing required under this Agreement, or if You discontinue offering the LICENSED SERVICES;

6.3.3 If any government agency or court finds that LICENSED SERVICES as provided by You are defective or improper in any manner or form; or

6.3.4 If any actual or potential adverse publicity or other information about You, Your provision of the LICENSED SERVICES, or Your use of the MARKS causes NOVELL, in its sole judgment, to believe that NOVELL's reputation will be adversely affected.

6.3.5 In the event of a Default under Section

6.3.1 or 6.3.2, or at NOVELL's option under Section 6.3.3 or 6.3.4, You will be given 30 days from receipt of notice in which to correct any Default. If You fail to correct the Default within the notice period, this Agreement will automatically terminate at the end of the notice period without further notice.

6.4 Effect of Termination. Upon termination of this Agreement for any reason, You must immediately cease all display, advertising, and other use of the MARKS and You must return all badges or other trademark collateral to NOVELL. Upon termination, all rights granted under this Agreement will immediately and automatically revert to NOVELL.

7 **CONDUCT OF BUSINESS.** You agree to (i) conduct business in a manner which reflects favorably at all times on the products, goodwill and reputation of NOVELL; (ii) avoid deceptive, misleading or unethical practices which are or might be detrimental to NOVELL or its products; and (iii) refrain from making any representations, warranties, or guarantees to customers that are inconsistent with the policies established by NOVELL. Without limiting the above, You agree to not misrepresent Your certification status or Your level of skill and knowledge related thereto.

8 **QUALITY OF LICENSED SERVICES.** You agree that it is of fundamental importance to NOVELL that the LICENSED SERVICES be of the highest quality and integrity. Accordingly, You agree that NOVELL will have the right to determine in its absolute discretion whether the LICENSED SERVICES meet NOVELL's high standards of merchantability. In the event that NOVELL determines that You are no longer meeting accepted levels of quality and/or integrity, NOVELL agrees to so advise You and to provide You with a commercially reasonable time of no less than one month to meet the above-referenced standards of quality and integrity.

9 **OWNERSHIP.** No title to or ownership of the MARKS or of any software or proprietary technology or intellectual property is transferred to You. NOVELL, or its licensors, owns and retains all title and ownership of all intellectual property rights in the products, including all software, firmware, software master diskettes, copies of software, documentation, related materials, and all modifications to and derivative works from software acquired as a Program certification holder which are made by You, NOVELL or any third party. NOVELL does not transfer any portion of such title and ownership, or any of the associated goodwill to You, and this Agreement should not be construed to grant You any right or license, whether by implication, estoppel, or otherwise, except as expressly provided. You agree to be bound by and observe the proprietary nature of the products acquired by reason of Your certification under this Agreement.

10 **RESERVATION OF RIGHTS AND GOOD WILL.** NOVELL retains all rights not expressly conveyed to You by this Agreement. You recognize the value of the publicity and goodwill associated with the MARKS and acknowledge that the goodwill will exclusively inure to the benefit of, and belong to, Novell, Inc. You have no rights of any kind whatsoever with respect to the MARKS licensed under this Agreement except to the extent of the license granted in this Agreement.



11 NO REGISTRATION BY YOU. You agree not to file any new trademark, collective mark, service mark, certification mark, and/or trade name application(s), in any class and in any country, for any trademark, collective mark, service mark, certification mark, and/or trade name that, in Novell's opinion, is the same as, similar to, or that contains, in whole or in part, any or all of Novell's trade names, trademarks, collective marks, service marks, and/or certification marks, including, without limitation, the MARKS licensed under this Agreement. You agree not to register or use as Your own any internet domain name which contains Novell's MARKS or other trademarks in whole or in part or any other name which is confusingly similar thereto. This section will survive the expiration or other termination of this Agreement.

12 PROTECTION OF RIGHTS. You agree to assist NOVELL, to the extent reasonably necessary and at NOVELL's expense, to protect or to obtain protection for any of NOVELL's rights to the MARKS. In addition, if NOVELL requests that You discontinue using the MARKS and/or substitute using a new or different mark, You will immediately cease use of the MARKS and cooperate fully with NOVELL to ensure all legal obligations have been met with regards to use of the MARKS.

13 INDEMNIFICATION BY You. You agree to indemnify and hold NOVELL harmless against any loss, liability, damage, cost or expense (including reasonable legal fees) arising out of any claims or suits made against NOVELL (i) by reason of Your performance or non-performance under this Agreement; (ii) arising out of Your use of the MARKS in any manner whatsoever except in the form expressly licensed under this Agreement; and/or (iii) for any personal injury, product liability, or other claim arising from the promotion and/or provision of the LICENSED SERVICES. If NOVELL seeks indemnification under this Section, NOVELL will immediately notify You in writing of any claim or proceeding brought against it for which it seeks indemnification under this Agreement. In no event may You enter into any third party agreements which would in any manner whatsoever affect the rights of, or bind, NOVELL in any manner, without the prior written consent of NOVELL.

14 REVISION OF TERMS. NOVELL reserves the right to revise the Agreement terms from time to time. In the event of a revision, Your signing or otherwise manifesting assent to a new agreement may be a condition of continued certification.

15 GENERAL PROVISIONS.

15.1 Governing Law and Venue. This Agreement will in all respects be governed by the law of the country of NOVELL's residence (and if You do not provide LICENSED SERVICES in Europe, the Middle East, or Africa, by the laws of the State of Utah, excluding its choice of law rules). Venue for any action will be proper either in the courts of the State of Utah of the U.S.A. or in the country of NOVELL's residence, if other than the United States.

15.2 Non-Waiver. No waiver of any right or remedy on one occasion by either party will be deemed a waiver of such right or remedy on any other occasion.

15.3 Assignment. Neither this Agreement nor any of Your rights or obligations arising under this Agreement may be assigned without Novell's prior written consent. This Agreement is freely assignable by Novell, and will be for the benefit of Novell's successors and assigns.

15.4 Independent Contractors. You acknowledge that You and NOVELL are independent contractors and agree that You will not represent yourself as an agent or legal representative of NOVELL.

15.5 Compliance with Laws. You agree to comply at Your own expense with all laws regulations, and orders of any governmental body which are applicable to or result from Your rights and obligations under this Agreement. You agree to cooperate if any governmental body having jurisdiction over You prohibits Your use of the term "engineer" in connection with Your certification under this Agreement. If You are in Canada You agree not to use a Mark to represent yourself as an "engineer" or use the term "engineer" in describing a Program certification. If You are in Canada and are certified to use a Program Mark that contains an "E" in the abbreviated form of the Mark (such as CNE), You may use only the applicable abbreviated Mark and logo; in Canada such a term shall be considered an inventive and symbolic phrase only and not an acronym.

15.6 Modifications. Any modifications to the typewritten face of this Agreement will render it null and void. This Agreement will not be supplemented or modified by any course of dealing or usage of trade. Any modifications to this Agreement must be in writing and signed by both parties.