

This Novell Certified Support Partner Agreement ("Agreement") is made between the Novell entity identified below ("Novell") and the Novell Certified Support Partner identified below ("Partner"):

Novell Entity:	
Novell Address:	
Primary Contact Name:	
Primary Contact Phone:	
Primary Contact E-mail:	
Primary Contact Fax:	

Partner Entity:	
Partner Address:	
Primary Contact Name:	
Primary Contact Phone:	
Primary Contact E-mail:	
Primary Contact Fax:	

1. **Condition Precedent.** The condition precedent to this Agreement is execution by Partner of the Novell PartnerNet Program Agreement ("PartnerNet Agreement"), the terms of which are incorporated by reference.
2. **Purpose.** This Agreement describes the terms and conditions under which Partner is accredited as a Novell Certified Support Partner and provides specialised Level 1 and Level 2 technical services and/or solutions to Novell Customers on Supported Products and purchase Level 3 technical support from Novell. The Novell Certified Support Partner Program ("Program"), including the Program's requirements and benefits, is described in the then-current Novell Certified Support Partner Handbook ("NCSP Handbook") available at http://support.novell.com/additional/ism_program.html, the terms of which are incorporated by reference.
3. **Precedence.** To the extent of any conflict between the terms of the PartnerNet Agreement, this Agreement and the NCSP Handbook, the terms of the PartnerNet Agreement will prevail.
4. **Definitions.** Capitalized terms used in this Agreement are defined as follows, unless the context in which the term is used expressly provides otherwise.
 - 4.1. **Certified Support** means the Level 1 and Level 2 technical support services on Supported Software that Partner is authorised to market as specialised technical services and/or solutions and provide to Novell Customers under this Agreement.
 - 4.2. **Level 1 (Problem Determination)** means technical support designed to provide compatibility information, installation assistance, usage support, on-going maintenance and basic troubleshooting. Level 1 support is not intended to correct product defect errors.
 - 4.3. **Level 2 (Problem Isolation)** means technical support designed to duplicate customer problems, isolate problem area and provide resolution for problems not resolved by Level 1 support.

- 4.4. **Level 3 (Problem Resolution)** means technical support designed to resolve complex problems by advanced problem isolation and/or engaging engineering in resolution of product defects that have been identified by Level 2 support. Level 3 shall be provided by Novell to Partner.
 - 4.5. **Marks** mean Novell's trademarks, service marks, logos, designations and insignias.
 - 4.6. **Novell Customer(s)** means user(s) of Supported Software in the Territory seeking Certified Support on Supported Software.
 - 4.7. **Supported Software** means the Novell software listed in Exhibit 1.
 - 4.8. **Territory** means the area specified in Exhibit 1.
 - 4.9. **Update** means a fix or compilation of fixes (or "patches") released by Novell to correct operational defects (program bugs) in the Supported Software.
 - 4.10. **Upgrade** means any new version of a Supported Software product which bears the same or similar product name, including version changes evidenced by a number immediately to either the left or right of the decimal.
- 5. Non-exclusive appointment as a Novell Certified Support Partner**

Novell appoints Partner as a Novell Certified Support Partner for the Supported Software, under the title specified in Exhibit 1. This appointment is non-exclusive, with Novell reserving the right to appoint other Novell Certified Support Partners (whether for the same Supported Software or not) without restriction as to number and location. Subject to fulfillment of the eligibility criteria set out in the NCSP Handbook and the other terms of this Agreement, Novell grants Partner a non-exclusive, non-transferable right to: (a) market and provide specialist Certified Support for the Supported Software within the Territory; and (b) purchase Level 3 support from Novell for such Supported Software.

6. Novell Certified Support Partner responsibilities

- 6.1. **Eligibility.** Partner agrees that its appointment is subject to fulfilling and complying at all times with the criteria and requirements set out in the then-current NCSP Handbook.
- 6.2. **Provision of technical services.** Partner agrees to provide Certified Support to Novell Customers in Territory, in support of all the Supported Software and all their Upgrades or Updates. Novell will provide solely Level 3 support to Partner and will not be obligated to provide any support directly to Novell Customers or any other third party. When a Novell Customer contacts Partner for Certified Support, Partner's support personnel will first work with the Novell Customer on problem identification and verification of known issues or problems before contacting Novell for Level 3 support services.
- 6.3. **Purchase of Level 3 Support.** To enable Novell to provide and Partner to receive Level 3 support under this Agreement, each time Partner sells Certified Support to a Novell Customer it must purchase the corresponding Level 3 support contract from Novell by submitting a Novell Certified Support Partner Order Form provided by Novell and accompanied by a valid purchase order. A minimum purchase order value per Level 3 Support contract applies, as specified in the NCSP Handbook. Level 3 support shall be purchased at the prices indicated in the then-current Novell Certified Support Partner Order Form. Novell may change its prices at any time. Additionally the Order Form must specify details of the Novell Customer for whom Level 3 support is being purchased.

- 6.4. Warranty.** As a Novell Certified Support Partner, Partner is expected to market and deliver the Certified Support as a high quality, product specific, specialised technical support. Accordingly Partner shall deliver the Certified Support so as to ensure a high quality service to Novell Customers. Partner warrants to Novell that the Certified Support will be provided in a professional manner using all reasonable care and skill by appropriately trained employees of Partner. Partner acknowledges that the quality of Partner's Certified Support meets the quality standards of Novell and Partner's service delivery model is compatible with Novell's.
- 6.5. Reporting.** Partner shall provide a quarterly report to Novell declaring, for each Novell Customer, the actual current number of licenses for which the Certified Support is provided. If that number exceeds the quantity for which Partner purchased Level 3 Support, Partner shall purchase the difference on a pro-rated basis until the end of the relevant Level 3 Support contract term.
- 6.6.** Partner agrees to sell and provide Certified Support only to Novell Customers who are properly licensed by Novell for Supported Software and who are current in their upgrade protection or maintenance under Novell's licensing programs.
- 6.7.** Partner agrees that it shall be solely responsible for supporting any technology that it supplies other than the Supported Software, and that Novell shall provide no support under this Agreement on any such technology.
- 7. Novell's Responsibilities**
- 7.1. Level 3 Support.** Subject to payment by Partner of the applicable fees, Novell will provide Partner with Level 3 technical support on the Supported Software. Such support shall be purchased on per named Novell Customer basis. Novell shall provide the Level 3 support in accordance to the description in Exhibit 2 and as further described in the NCSP Handbook.
- 8. Mutual obligations.**
- Partner and Novell's project managers (to be appointed in due course) shall meet regularly and at a minimum once per quarter to review the performance of the Services any any issues which may need resolution. If either party finds a material deficiency in the other party's performance hereunder, Novell and Partner will make good faith efforts to resolve the issue before the next quarterly business review. If no resolution is achieved within such period, either party may terminate this Agreement upon written notice to the other party as provided for in Section 6.2.1 below.
- 9. Term and Termination.**
- 9.1. Term.** The term of this Agreement will, upon execution by an authorised Novell signatory, commence on the date of acceptance by Novell of Partner's Novell PartnerNet Program Application and payment of the applicable program fee, ("Effective Date") and will terminate in accordance with the terms of the PartnerNet Agreement.
- 9.2. Termination for Cause.** This Agreement may be terminated immediately by Novell in the event that Partner has not performed any material covenant or has otherwise breached any material term of this Agreement. A material breach of a term or covenant may include, but is not limited to the following:
- 9.2.1.** Partner's failure to provide Certified Support to Novell Customers in Territory, in support of all the Supported Software and all their Upgrades or Updates in accordance with this Agreement and the then-current Novell Certified Support Partner Handbook ("NCSP Handbook") available at http://support.novell.com/additional/ism_program.html; and
- 9.2.2.** If Partner becomes insolvent, is unable to pay its debts as they become due, files a voluntary petition to bankruptcy, makes an assignment for the benefit of creditors, or if a petition under bankruptcy.
- 9.3. Termination for Convenience.** Either party may terminate this Agreement at any time upon fourteen (14) calendar days prior written notice to the other. Novell will have the right, in its discretion, to instruct Consultant in writing to discontinue all work in progress from the date of receipt of Novell's termination notice.
- 9.4. Transition Services.** Upon termination or expiry of this Agreement, Partner must work with Novell's staff to ensure an orderly transfer of the services to Novell or to an alternative third party service provider nominated by Novell.
- 9.5.** Upon termination or expiry of this Agreement Partner may continue to purchase standard Novell Technical Support Services from Novell at the then-current list prices and under the terms and conditions then described on Novell's web site (<http://www.novell.com/support>).
- 10. Pricing and payments.**
- Partner shall market and provide the Certified Support under this Agreement and agrees to submit a completed Order Form accompanied with valid purchase order to Novell for corresponding Level 3 support for each Novell Customer purchasing such Certified Support, at the then-current Novell list price.
- 11. Warranty**
- 11.1. Warranty for Level 3 Support and Deliverables.** Novell warrants that the Level 3 support will be provided using reasonable care and skill. This warranty will be effective for a period of 60 days (the "Warranty Period") following the provision of the technical Services to Partner ("the Warranty Period"). Partner must notify Novell in writing during the Warranty Period if it believes that Novell has not met its obligations under the above warranty. In such an event, Novell will work with Partner in good faith to determine the nature of the breach and, if agreed with Partner, the best way to remedy the breach to Partner's reasonable satisfaction. If after a reasonable period of time Novell is unable to remedy any such breach or remedy it to its reasonable satisfaction, Partner's sole and entire remedy is termination of this Agreement in exchange for a refund of the amount paid by Partner to Novell for the portion of the Services which Novell is unable to correct. This warranty specifically excludes non-performance issues caused as a result of a non-Novell hardware or firmware malfunction or defect, software not developed by Novell under this Agreement, or by incorrect data or incorrect procedures used or provided by Partner or a third party, or defects which are outside the reasonable control of Novell. Partner agrees to reimburse Novell for time and materials for any Level 3 support provided by Novell at Partner's request to remedy excluded non-performance problems. This warranty will immediately cease if Partner or any third party modifies any portion of a deliverable and/or modifies Novell Customer's system so that any Novell Software or deliverable from Novell is no longer functional or appropriate.
- 11.2. Third Party Claims.** Novell will not be liable for any claim by Partner based on any Novell Customer claim.
- 12. Non-Solicitation**
- Each party agrees not to directly solicit the services of any employee of the other party who has been assigned to performing technical services under this Agreement, during the term of this Agreement and for six (6) months after the last of the services are provided under the Agreement.

13. General Provisions.

13.1. Force Majeure. If either Party cannot perform any of its respective obligations for reasons beyond its reasonable control, (including but not limited to acts of God, acts of the United States or any pertinent governmental authority, fires, floods, explosions or other catastrophes, epidemics and quarantine restrictions, and freight embargoes) then the non-performing Party will (i) notify the other Party, (ii) take reasonable steps to resume performance as soon as possible, and (iii) not be considered in breach during the period performance is beyond the Party's reasonable control.

13.2. Co-Marketing. The parties may choose to co-operate to identify and implement means and methods to create visibility in the marketplace for this Agreement. This may include lists of referrals for Novell Customers or potential Novell Customers, and other promotional information such as press releases, success stories, brochures, reports, letters, white papers, and electronic media such as e-mail or web sites. Any such co-marketing activities must be mutually approved by both parties prior to release.

13.3. Export Compliance. Any products or technical information provided under this Agreement may be subject to U.S. export controls and the trade laws of other countries. The parties agree to comply with all export control regulations and to obtain any required licenses or classification to export, re export or import deliverables. The parties agree not to export or re export to entities on the current U.S. export exclusion lists or to any embargoed or terrorist countries as specified in the U.S. export laws. The parties will not use deliverables for prohibited nuclear, missile, or chemical biological weaponry end uses. Please consult the Bureau of Industry and Security web page www.bis.doc.gov before exporting Novell products from the U.S. Please refer to www.novell.com/info/exports/ for more information on exporting Novell software. Upon request, Novell will provide you specific information regarding applicable restrictions. However, Novell assumes no responsibility for your failure to obtain any necessary export approvals.

13.4. Survival of Terms. The provisions of this Agreement which by their nature extend beyond the termination of the Agreement will survive termination or expiration of the Agreement.

13.5. Signature. Each of the parties has caused this Agreement to be executed by its duly authorised representative.

NOVELL

PARTNER

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT 1

PARTNER TITLE, SUPPORTED SOFTWARE AND TERRITORY

PARTNER TITLE: "Novell Certified Support Partner – Identity and Security Management"

TERRITORY: []

SUPPORTED SOFTWARE:

Partner shall be authorised to provide Certified Support for the following Novell software products coming under the "Identity and Security Management" group. This list will be updated from time to time as Novell's Identity and Security Management offering evolves. The then-current is published in the NCSP Handbook.

- Novel Identity Manager, including all connectors
- Novell Identity Manager Provisioning Module
- Novell eDirectory
- Novell iManager
- Novell eGuide
- Novell SecureLogin
- Novell Audit (Instrumented System & Logging Server)
- Novell Access Manager

EXHIBIT 2

LEVEL 3 SUPPORT

1. **LEVEL 3 SUPPORT.** Novell will provide to Partner the following Level 3 Support:
 - Unlimited Service Requests on Supported Software. These Service Requests are channelled to the Primary Support Engineer (PSE). The PSE has access to the wider Novell technical support infrastructure. Partner will escalate to Novell only those service requests anticipated to need Level 3 support.
 - 24x7 access for high severity issues
 - Primary Support Engineer for Partner (PSE; typically 1:7 Engineer/Partner ratio)
 - Response time: 1 hour
 - Service Account Manager (SAM) providing a single point of contact to manage the support service and relationship

2. **ADDITIONAL TECHNICAL SUPPORT TERMS:** The following additional terms shall apply to all technical support services delivered by Novell, in addition to the terms of this Agreement and the NCSP Handbook:
 - 2.1 **Assistance.** Partner agrees to cooperate with and assist Novell in the performance of the Technical Services, and to provide the resources necessary to enable Novell to perform its obligations to Partner. This may include the availability of a remote network connection to Partner's IT environment, access to Partner's data, to necessary information and / or the availability of support material.
 - 2.2 **BACKUP.** IT IS IMPORTANT FOR PARTNER TO NOTE THAT ITS FILES MAY BE ALTERED OR DAMAGED IN THE COURSE OF NOVELL PROVIDING TECHNICAL SERVICES TO PARTNER. IT IS PARTNER'S RESPONSIBILITY TO ENSURE THAT PARTNER TAKES ALL APPROPRIATE MEASURES TO ISOLATE AND BACK UP THE SYSTEMS TO PREVENT A LOSS OR CORRUPTION OF DATA OR INFORMATION.
 - 2.3 **Modifications.** Partner must not make, alter, or attempt to make any patches, repairs, or alterations, or perform maintenance or cause repairs to be made, on the Novell Software or deliverables supported under this Agreement, except as may be approved in advance and in writing by Novell. If, in the opinion of Novell, any unauthorised alterations, additions, adjustments to, or repair of the Novell Software or deliverables substantially and adversely affect Novell's ability to render Technical Services, Novell reserves the right to terminate this Agreement immediately upon written notice to Partner in which case no refund will be given.
 - 2.4 **PIN.** Partner's authorised contacts must be limited to those professionals who take solely Level 2 calls within Partner's organisation (e.g., help desk personnel, consultants, system administrators). Partner is responsible for the security of the support incidents and must distribute the PIN only to those authorised to call Novell. PIN means the limited access codes for receiving Technical Services provided to Partner by Novell under these terms. Novell reserves the right to terminate these terms immediately upon written notice to Partner in the event Novell discovers a violation of this provision.
 - 2.5 **Hazardous Environments.** Partner acknowledges that the Level 3 (including any Deliverables provided to Partner as part of the Level 3 services) are not intended for configuring, supporting or otherwise servicing on-line control equipment in hazardous environments requiring fail-safe performance, such as, but not limited to, nuclear facilities, aircraft navigation, aircraft communications systems, air traffic control, direct life support machines or weapons systems, in which failure of the products could lead directly to death, personal injury, or severe physical or environmental damage.
 - 2.6 **Response Time** means the time taken from placing the support request to Novell contacting Partner in reference of that request. This can either be in writing, via email or telephone call. The Response Time is a targeted reaction time and is neither a problem resolution time nor guaranteed by Novell.
 - 2.7 **Software and Deliverables.** Subject to Novell's receipt of the applicable Level 3 Support fees, Novell grants to Partner a non-exclusive, non-transferable, non-assignable, worldwide, perpetual right to use, execute, perform, reproduce, display and distribute copies of any deliverables provided to Partner by Novell as part of the Technical Services or other support materials internally within Partner's organisation. Deliverables are defined as any Software (Patches, Novell Professional Resource Suite etc.) or documentation or hardware which is made available to Partner by Novell under this Agreement.
 - 2.8 **Support Life Cycle.** As described in Novell's then current product end of support life policy ("Support Life Cycle"), Novell will provide Support Service on Novell Products software products listed on the then current Novell Price List. If a Novell Product or version is removed from the Price List, Novell will support such product or version for the time period described in the Support Life Cycle. A modification to the policy will become effective upon publication. The Support Life Cycle may be found at <http://support.novell.com/lifecycle/>.