

EMC Proven Professional Program

Candidate Agreement version 2.0

This is a legal agreement between you and EMC Corporation ("EMC"). You hereby agree that the following terms and conditions shall govern your participation in the EMC Proven Professional Program ("Program").

1. Definitions

- 1.1 "Designation" shall mean any one of the titles established by EMC which you may become qualified to use by successfully passing all required program exams and complying with all other program requirements for the Track associated with that title.
- 1.2 "Logo" ("Logo") shall mean any one of the Program logos established by EMC which you may become qualified to use by successfully passing all required Program tests and complying with all other Program Requirements for the Track associated with the Logo.
- 1.3 "Program" shall mean the EMC Proven Professional Program described herein.
- 1.4 "Program Track" ("Track") shall mean any one of the types of recognition established by EMC under the Program.
- 1.5 "Recognition Requirements" shall mean any one of those sets of requirements established by EMC that an individual must meet initially to achieve recognized status and must continue to meet to maintain designated status for the associated Track.
- 1.6 "EMC Proven Professional Designation" ("Designation") shall mean any one of the titles established by EMC which you may become qualified to use by successfully passing all required program exams and complying with all other program requirements for the Track associated with that title.

2. Recognitions

- 2.1 Becoming EMC Proven Professional Recognized. Each Track has an associated set of Requirements. Current Requirements for the Tracks are available on multiple EMC web-pages, including but not limited to <http://powerlink.emc.com>, EMC's public web site <http://www.emc.com>, <http://www.software.emc.com>, My Sales Web and other EMC internal or external web sites. To achieve EMC Proven recognition for a Track, you must have (a) accepted this Agreement (b) received from the Program Office an acknowledgement that you have successfully passed all required exams and met all other requirements for that Track.
- 2.2 Maintaining your EMC Proven Professional Status. To maintain your achieved status for a Track, you must maintain compliance with your obligations under this Agreement and with the current Program requirements as may be specified or modified by EMC from time to time for that Track. You agree that EMC shall be entitled to require that you pass new, different or revised tests/exams from time to time as a requirement for maintaining your certification.
- 2.3 Term of Recognition. The Term during which you may use the Designation and Logo for a Track shall commence on your receipt of confirmation from the Program Office that you are recognized for that Track and shall terminate upon the occurrence of the earlier of (a) the termination of this Agreement or (b) you fail to meet the requirements established by EMC for maintaining your recognition for that Track.

3. Right to Use Logo and Designation

- 3.1 License. Subject to your compliance with the terms and conditions set forth in this Agreement, upon your successful completion of the Test/Examination Requirements for a Track and for so long as this Agreement remains in force and you remain in compliance with all ongoing Program Requirements for the Track, you shall be granted a non-exclusive, non-transferable, personal right to use the Logo and Designation associated with the Track for which you are certified solely in connection with publicizing that you have met and continue to meet all requirements for maintenance of recognition for that Track.
- 3.2 Limitations on Use. You agree not to use the Designation or Logo in a manner that (a) damages or infringes EMC's rights in the Designation or Logo, (b) reflects negatively on EMC or otherwise injures EMC's reputation, (c) misrepresents your relationship with EMC (d) gives the impression that the Designation or Logo applies to any other individual or organization other than yourself.
- 3.3 Compliance with Guidelines. You agree that you shall use only EMC-supplied Logo artwork and that your reproduction and use of the Designation and Logo shall be in strict compliance with the Usage Guidelines which shall be made available to you upon your award. Upon request, you agree to promptly provide representative examples of your materials using the Designation or Logo.
- 3.4 Reservation of Rights. You acknowledge the value of the goodwill associated with the Designation and Logo and acknowledge that such goodwill exclusively inures to the benefit of and belongs to EMC. EMC retains all rights not expressly conveyed to you by this Agreement, and shall have the right to grant licenses to others to use the Designation and Logo.

- 3.5 Protection of Mark. If necessary to aid EMC in the protection of EMC's rights in or to a Designation or Logo, you agree to provide reasonable cooperation and assistance to EMC.
- 3.6 No Challenge of Rights. You agree not to challenge, interfere with, or bring any kind of action or legal or administrative proceeding in relation to the rights and title of EMC in or to any Designation or Logo.
- 3.7 No Unauthorized Use, Registration. You agree not to use any Designation or Logo except as specifically authorized under this Agreement, not to file any application to register, in any class and in any country, any trademark or service mark for any Designation or Logo or any other mark confusingly similar to any Designation or Logo. You agree to immediately cease all use of all Logos and Designations upon the termination of this Agreement.
- 3.8 Expressing Specialization. You are authorized to participate and achieve more than one designation in different tracks. You agree that you will not misrepresent your designation, level or specialization to any EMC personnel, prospect or customer.

4. Confidentiality

- 4.1 EMC Confidential Information. You understand, acknowledge and agree that the tests and exams and all information provided to you or obtained by you related to the tests and exams, including, but not limited to, the specific questions and the content, structure, and organization of the tests, shall be deemed to be the confidential information of EMC ("Confidential Information"). EMC makes exams available to you solely to test your knowledge of the exam subject matter for which you seek recognition. You are expressly prohibited from disclosing, publishing, reproducing, or transmitting any exam and any related information including, without limitation, questions, answers, worksheets, computations, drawings, diagrams, length or number of exam segments or questions, or any communication, including oral communication regarding or related to the exam, in whole or in part, in any form or by any means, oral or written, electronic or mechanical, for any purpose, without the prior express written permission of EMC.
- 4.2 Your Confidentiality Obligations. You agree that you will, both during and after the term of this Agreement, (a) hold all Confidential Information in confidence and take all reasonable measures to protect the Confidential Information, (b) make no use of the Confidential Information except as expressly allowed under this Agreement, and (c) not disclose, reproduce, disseminate or transmit in any way any portion of the Confidential Information to any third party in any form, including without limitation, written, electronic or verbal.
- 4.3 Intellectual Property Ownership. EMC retains all rights, title and interest in and to all Program and related information, content, data, exams, materials, and all copyrights, patent rights, trademark rights and other proprietary rights therein. All rights not expressly granted by EMC to you are expressly reserved to EMC.

5. Recognition Information

- 5.1 Third Parties. EMC is entitled, but is not obligated, to make information concerning your recognition status available to third parties in writing or electronically. You have the responsibility for ensuring that your information is accurate and that EMC is kept aware of your current relevant information.
- 5.2 Data Protection. EMC uses appropriate and reasonable administrative, technical and physical measures to protect your Personal Data (defined below). You acknowledge and agree that EMC and the Program contractors and testing vendors ("EMC or Other Parties") may (1) collect, access, retain, transfer, disclose, use, or destroy (collectively, "Process") your personally identifiable information, including without limitation your photograph, signature, name, address, telephone number, and e-mail address ("Personal Data"), to provide you the services under this Agreement, and (2) transfer your Personal Data across borders, including, without limitation, from the European Economic Area to the United States and/or between other countries as necessary to provide the services under this Agreement. You represent and warrant that any information that you provide to EMC or Other Parties, including without limitation, Personal Data, will be provided in accordance with all applicable laws and regulations. Notwithstanding anything to the contrary in this Agreement, you acknowledge and agree that: (1) EMC's obligations and your rights under this Agreement shall not apply to any Personal Data or any other information that is required by any applicable law, regulation, government request, or judicial process, to be retained, disposed of, or disclosed; and (2) in no event shall EMC be held liable or responsible for any inaccuracies or omissions contained in any Personal Data or any other information at the time such data is received by or on behalf of EMC.

For inquiries or questions regarding your Personal Data, please contact edservices@emc.com.

6. Business Conduct

You agree that all business you conduct and all services you provide in your capacity as a participant in the Program, or in connection with the promotion or selling of which you use or display a Designation or Logo, shall be performed in a manner that (a) does not reflect negatively on EMC or in any way harm EMC's reputation, (b) avoids unethical, illegal, misleading or deceptive practices, (c) does not make or appear to make any warranties, representations or guarantees on behalf of EMC or related to EMC

products or services, (d) complies with all applicable governmental laws and regulations and (e) protects EMC confidential information and EMC copyrights and other intellectual property rights.

7. Accuracy and Integrity of Examination Process

- 7.1 Result Hold. Following completion of your exam, you may be provided a Preliminary Score Report indicating an exam score which will be reviewed, along with other Information in your exam record, before an official score is issued. You may view your official exam score report at www.personvue.com/authenticate within 72 hours of your exam appointment. EMC and/or the test vendors ("EMC or Other Parties") will review your exam record for scoring accuracy, for evidence of possible misconduct, and for response patterns which may suggest that your scores do not represent a valid measure of your knowledge or competence as sampled by the examination (measurement error). EMC reserves the right to invalidate your exam score and certification result if review of your exam record reveals scoring inaccuracies or response patterns indicative of possible misconduct or measurement error as stipulated in 7.3.
- 7.2 Exam Fraud. Exam fraud includes any action or attempt by an individual or group of individuals to influence the testing process through cheating, collusion, and/or copying exam questions. This may occur prior to taking a test, during a test, or after a test has been taken. You acknowledge and agree that EMC or its designated agents have the right to research exam results by statistical analyses and other methods to monitor for evidence of exam fraud. If such analysis reveals evidence of exam fraud, EMC reserves the right to investigate further and to take appropriate remedial action such as (but not limited to) revoking certification as stipulated in 7.3, requiring candidates to retake an exam under controlled conditions, and/or requiring candidates to provide evidence that they personally took an exam.
- 7.3 Certification Revocation. EMC may at its sole discretion revoke any and all certifications you may have earned, and ban you, permanently or for designated periods, from earning future certifications, under any of the following circumstances:
- If you breach any of the terms and conditions of this Agreement; or
 - If EMC determines, in its sole discretion, that you have undertaken or participated in any action that compromises the integrity and confidentiality of an examination or the Program.
 - If you are determined to have committed exam fraud as defined in 7.2.
- 7.4 Employer Notification. You agree that if EMC revokes your certification pursuant to Section 7.3, EMC shall have the right to notify your employer and respond to any inquiry by your employer about changes in your certification status.

8. Agreement Termination

- 8.1 Termination by Either Party. Either party, with or without cause, may terminate this Agreement upon thirty (30) days written notice of termination to the other party.
- 8.2 Termination by EMC. EMC, in its sole discretion and without prejudice to any rights EMC may have under this Agreement in law, equity or otherwise, may terminate this Agreement at any time upon the occurrence of any one of the following events: (a) you fail to comply with the requirements established by EMC for maintaining your designation for at least one Track, (b) you misrepresent your recognition status, (c) you use a Logo or Designation in a manner that EMC believes could injure EMC's reputation or rights in the Logo or Designation, (d) you misappropriate or disclose without authorization any EMC trade secret or confidential information including, without limitation, any Confidential Information as identified in 4.1 above, (e) you supplied false or misleading information in connection with your applying for Program registration or in connection with maintaining your status, or (f) you fail to comply with any of the material terms of this Agreement.
- 8.3 Effect of Termination. Upon termination of this Agreement, the license and all rights granted hereunder shall terminate completely. You shall immediately discontinue all use of Designations and Logos. Except as specifically provided herein, you shall have no further rights or obligations under this Agreement after its termination.
- 8.4 Survival. Rights and obligations under Sections 3.4, 3.5, 3.6, 3.7, 3.8, 4, 5, 8.3, 9, 10, 11 and 13 of this Agreement shall survive termination of this Agreement.

9. Disclaimer

EMC ASSUMES NO LIABILITY WHATSOEVER FOR ANY ACT, WHETHER INTENTIONAL, NEGLIGENT OR OTHERWISE, OF ANY PERSON CERTIFIED UNDER THE PROGRAM.

10. Limitation of Liability

IN NO EVENT SHALL EMC BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS PROFITS) ARISING FROM THIS AGREEMENT OR IN ANY WAY RELATED TO

YOUR STATUS, YOUR FAILURE TO ACHIEVE OR MAINTAIN RECOGNITION, YOUR USE OR INABILITY TO USE THE DESIGNATIONS OR LOGOS, OR THE TERMINATION OF YOUR RECOGNITION, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF EMC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Indemnification

You agree to indemnify and hold EMC harmless against any loss, liability, damage, cost or expense (including attorneys' fees) arising out of any claims or suits, whatever their nature and however arising, which may be brought or made against EMC arising out of or in any manner connected with: (i) any breach by you of this Agreement including, but not limited to, your use of the Designations and Logos in any way that is inconsistent with this Agreement; (ii) any claim alleging that your services were promoted, sold or performed in a deceptive, incomplete, illegal, negligent, improper or unauthorized manner, (iii) EMC's termination of this Agreement pursuant to the terms of this Agreement or (iv) your use or misuse of the intellectual property or confidential information of EMC or any third party.

12. Changes to Program

- 12.1 **Right to Change.** EMC reserves the right to terminate the Program or change the Program at any time, including, but not limited to, (a) changes to the number, scope, organization, objectives and content of the tests, (b) additions, deletions or other modifications to the requirements for obtaining or maintaining recognition status, (c) addition of new Tracks, Designations and Logos, and (d) deletion, modification or replacement of any Track, Designation or Logo.
- 12.2 **Notice of Changes.** EMC will post a notice of any Program changes at the URL identified in 2.1 above. If EMC records indicate that you are recognized for a Track and any change to the Program affects the requirements for that Track, EMC intends, but is not obligated, to send an e-mail notification to you at the e-mail address on file with the Program Office, however it is your responsibility to monitor the posted Program information and Requirements for any changes potentially affecting your recognition status.
- 12.3 **Effect of Changes.** If EMC changes the requirements for maintaining recognition for a Track for which you are entitled, you must comply with the changed requirements. EMC will post a notice of any Program changes at the URL identified in 2.1 above. If you have not fully complied with the new or modified requirements, your recognition for that Track shall terminate and you shall cease all use of the Designation or Logo associated with that Track.

13. Other Provisions

- 13.1 **No Joint Venture or Partnership.** This Agreement shall not create a joint venture, partnership, principal-agent, employer-employee, or similar relationship between the parties. You agree that you will not represent yourself as an agent, employee, consultant, contractor or legal representative of EMC or any subsidiary thereof based upon this Agreement.
- 13.2 **No Warranties by You.** This Agreement does not give you any right or authority to make any representation, warranty, or promise on behalf of EMC or EMC's products or services.
- 13.3 **Injunction.** You recognize and acknowledge that a material breach by you of any of your covenants, agreements or undertakings hereunder will cause EMC irreparable damage, which cannot be readily remedied in monetary damages in an action at law. Therefore, in addition to its rights and remedies otherwise available at law, upon an adequate showing of material breach, and without further proof of irreparable harm other than this acknowledgment, EMC shall be entitled to immediate equitable relief, including, but not limited to, both interim and permanent injunctions, to stop such damage.
- 13.4 **Governing Law and Jurisdiction.** This Agreement shall be governed and construed and enforced in all respects in accordance with the substantive and procedural laws of the Commonwealth of Massachusetts, U.S.A. and shall be deemed to be executed in Hopkinton, Massachusetts. Unless waived by EMC in its sole discretion, any legal action or proceeding relating to this Agreement shall be instituted in a state or federal court in Worcester County, Massachusetts. The parties agree to submit to the jurisdiction of, and agree that venue is proper in, these courts in any such legal action or proceeding. The parties agree to accept service by U.S. certified mail or registered mail, return receipt requested, or by other legally available method.
- 13.5 **Waiver and Severability.** The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. In the event any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, then the other provisions of this Agreement shall continue in full force and effect. Except for actions for breach of EMC's proprietary rights, no action, regardless of form, arising out of this Agreement may be brought by either party more than two years after the cause of action has accrued.
- 13.6 **No Assignment.** This Agreement may not be assigned by you in whole or in part. Any attempted assignment shall be null and void.

13.7 Notices. All notices required by this Agreement to be sent to EMC must be addressed to:

EMC Corporation
55 Constitution Boulevard
Franklin, Massachusetts 02038, U.S.A.
ATTN: EMC Proven Professional Program

All notices to be mailed to you will be directed to the most recent address for you in the Program Office files. It is your responsibility to ensure that the Program Office has your current e-mail and postal address.

13.8 Entire Agreement. This Agreement constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement.