Blackblot Certification Program Agreement

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1. **Purpose**

1.1. Blackblot$^{®}$ - Product Management Expertise™ (Blackblot) provides focused, practical training in the discipline of product management and also provides consulting to high-tech firms by focusing on strategic, market-driven techniques. It uses advanced courseware and seminar programs to provide that training. Through its work, Blackblot has demonstrated a commitment to the development of the product management discipline and the recognition of this field as a respected profession.

1.2. As part of that continuing development, Blackblot has developed a certification program. The certification designation provides product managers with a designation to differentiate themselves, validate their skills, gain professional acknowledgment, and demonstrate a commitment to the product management profession. Blackblot reserves the right to add or retire the certification designations at its own and sole discretion, and without prior notice.

1.3. The certification program provides the certified individual with a recognized indication that the individual has a high level of knowledge regarding a defined set of best practices and proven methods of performing specific tasks in product management, as taught by Blackblot or by Blackblot content licensees using Blackblot official courseware, and is capable of displaying a defined level of competency in a narrowly defined sub-domain of product management. By indicating your consent to the "*Blackblot Certification Program Agreement*" ("Certification Agreement"), you acknowledge that the certification program does not substitute for actual product management experience, teach, or "Test" all that is needed to become a qualified product manager or provide for actual on-the-job performance training.

1.4. This "Certification Agreement" governs all Blackblot certification programs.

2. **Definitions**

2.1. "Program" – One of the certification programs offered by Blackblot under this "Certification Agreement". Each "Program" includes a formally documented process whereby individuals may opt for training, following which they may demonstrate competence, knowledge, and proficiency in a particular sub-domain of the product management methodology as taught by Blackblot or by Blackblot's content licensees using Blackblot official courseware.

2.2. "Test" – An examination; a series of questions designed to gauge a person's knowledge of a particular subject. A certification "Program" may include one or more "Tests" who are independent or dependent of each other.

2.3. "Track" – A combination of two or more "Tests" within a given certification "Program". The "Tests" are logically linked to provide candidates with a structured progression path and/or an elevated tier designation.

2.4. <u>"Marks"</u> – The Blackblot trademark, service marks and logos, including, but not limited to, any marks of Blackblot that are registered with the appropriate Patent and Trademark Office and the certification marks, logos, and any other marks or logos that Blackblot may designate as certification marks for use in Blackblot's certification program.

2.5. <u>"Blackblot Seminars"</u> – The seminars and training conducted by Blackblot that are recommended prior to taking the "Tests" necessary for the certification.

3. <u>Certification</u>

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

4. <u>Transfer Of Certification</u>

4.1. 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. <u>Grant And Consideration</u>

5.1. Subject to the terms and conditions of this "Certification Agreement", Blackblot grants to you a non-exclusive and non-transferable license to use the "Marks" solely in connection with providing product management services within the subject matter of 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, use to promote you are providing product management services within the subject matter of the "Program" certification. You may not use the "Marks" for any purposes that are not directly related to the provision of such services. You may not use the "Marks" of any "Program" unless you have completed the "Program" certification requirements for that particular

"Program". It is your responsibility to ensure that any personal contact information about you is current and accurate.

6.   Term And Termination

6.1.   Term – This "Certification Agreement" will commence on the date you electronically sign this document at the outset of the certification "Test", and will terminate as provided in this "Certification Agreement". THIS CERTIFICATION AGREEMENT WILL NOT TAKE EFFECT UNTIL ALL PROGRAM REQUIREMENTS HAVE BEEN MET, INCLUDING YOUR ACCEPTANCE OF THE TERMS OF THIS CERTIFICATION AGREEMENT. If additional "Programs", "Tests", or "Tracks" will be made available, and if you later upgrade your status to include any other "Programs", "Tests", or "Tracks" for a certification; this "Certification Agreement" will remain in effect and govern your right to use any new certification "Marks" and your obligation with respect to the use of those new certification "Marks". Blackblot retains the right to designate new certification marks in writing that will be included as "Marks" subject to this "Certification Agreement".

6.2.   Termination by Either Party – Either party may terminate this "Certification Agreement" with or without cause, by giving thirty (30) days or more prior written notice to the other party.

6.3.   Termination by Blackblot – Without prejudice to any rights it may have under this "Certification Agreement" or in law, equity, or otherwise, Blackblot may terminate this "Certification 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 "Certification Agreement";

6.3.2.   If you represent yourself as qualified to use the certification designation without complying with the testing required under this "Certification Agreement";

6.3.3.   If any government agency or court finds that product management services provided by you are defective or improper in any manner or form or that you have engaged in any form of fraud, misrepresentation, or deception; or

6.3.4.   If any actual or potential adverse publicity or other information about you, your provision of product management services, or your use of the "Marks" causes Blackblot, in its sole judgment, to believe that Blackblot's reputation will be adversely affected.

6.4.   Default Event – In the event of a "Default", Blackblot will give you written notice. In the event of a "Default" under section 6.3, Blackblot may immediately terminate this "Certification Agreement" with no period for correction and without further notice. In the event of a "Default" under section 6.3, you will be given thirty (30) days from receipt of notice in which to correct any "Default". If you fail to correct the "Default" within the notice period, this "Certification Agreement" will automatically terminate on the last day of the notice period without further notice.

6.5.   Effect of Termination – Upon termination of this "Certification 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 Blackblot. Upon termination, all rights granted under this "Certification Agreement" will immediately and automatically revert to Blackblot.

7.   Conduct Of Business

7.1.   You agree to (1) conduct business in a manner which reflects favorably at all times on the services provided by, goodwill and reputation of Blackblot; (2) avoid deceptive, misleading, or unethical practices which are or might be detrimental to Blackblot or its products; and (3) refrain from making any representations, warranties, or guarantees to customers that are inconsistent with the policies established by Blackblot or representing that any such representations, warranties, or guarantees are the representations, warranties, or guarantees of Blackblot. Without limiting the above, you agree to not misrepresent your certification status or your level of skill and knowledge related thereto.

8.   Ownership

8.1.   No title to or ownership of the "Marks", the "Test", or of any software or proprietary technology or intellectual property is transferred to you. Blackblot owns and retains all title and ownership of all intellectual property rights in the Blackblot seminars, including all presentations, courseware, manuals, software, firmware, software master files on diskettes/CDs/DVDs, digital storage media of any kind, copies of software, documentation, related materials, the "Test", and all modifications to and derivative works from those items. Blackblot does not transfer any portion of such title and ownership, or any of the associated goodwill to you, and this "Certification 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 "Certification Agreement".

9.   Reservation Of Rights And Good Will

9.1.   Blackblot retains all rights not expressly conveyed to you by this "Certification 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, Blackblot. You have no rights of any kind whatsoever with respect to the "Marks" licensed under this "Certification Agreement" except to the extent of the license granted in this "Certification Agreement".

10.   No Registration By You

10.1.   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, province or state, for any trademark, collective mark, service mark, certification mark, and/or trade name that, in Blackblot's opinion, is the same as, similar to, or that contains, in whole or in part, any or all of Blackblot's trade names, trademarks, collective marks, service marks, and/or certification marks, including, without limitation, the "Marks" licensed under this "Certification Agreement". You agree not to register or use as your own any internet domain name which contains Blackblot'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 "Certification Agreement".

11. Protection Of Rights

11.1. You agree to assist Blackblot, to the extent reasonably necessary and at Blackblot's expense, to protect or to obtain protection for any of Blackblot's rights to the "Marks". In addition, if at any time Blackblot 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 Blackblot to ensure all legal obligations have been met with regards to use of the "Marks".

12. Indemnification By You

12.1. You agree to indemnify and hold Blackblot harmless against any loss, liability, damage, cost or expense (including reasonable legal fees) arising out of any claims or suits made against Blackblot: (1) by reason of your performance or non-performance under this "Certification Agreement"; (2) arising out of your use of the "Marks" in any manner whatsoever except in the form expressly licensed under this "Certification Agreement"; and/or (3) for any personal injury, product liability, or other claim arising from the promotion and/or your provision of product management services. If Blackblot seeks indemnification under this section, Blackblot will immediately notify you in writing of any claim or proceeding brought against it for which it seeks indemnification under this "Certification Agreement". In no event may you enter into any third party agreements, which would in any manner whatsoever, affect the rights of, or bind, Blackblot in any manner, without the prior written consent of Blackblot.

13. Revision Of Terms

13.1. Blackblot reserves the right to revise the "Certification Agreement" terms from time to time. In the event of a revision, your signing or otherwise manifesting assent to a new "Certification Agreement" may be a condition of continued certification.

14. General Provisions

14.1. Governing Law and Venue – The formation, performance, construction, interpretation, or discharge of this "Certification Agreement" will in all respects be governed by the law of the State of Israel (excluding its choice

of law rules). Venue for any action will be proper either in the courts of the State of Israel.

14.2.   <u>Non-Waiver</u> – 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.

14.3.   <u>Assignment</u> – Neither this "Certification Agreement" nor any of your rights or obligations arising under this "Certification Agreement" may be assigned or delegated without Blackblot's prior written consent. This "Certification Agreement" is freely assignable by Blackblot and will be for the benefit of Blackblot's successors and assigns.

14.4.   <u>Independent Contractors</u> – You acknowledge that you and Blackblot have no relationship of agency, partnership, employment, or a relationship of a hiring party to an independent contractor and you agree that you will not represent yourself as an agent or legal representative of Blackblot.

14.5.   <u>Compliance with Laws</u> – You agree to comply, at your own expense, with all statutes, regulations, rules, ordinances, and orders of any governmental body, department, or agency which apply to or result from your rights and obligations under this "Certification Agreement" or your provision of product management services.

14.6.   <u>Modifications</u> – Any modifications to the typewritten face of this "Certification Agreement" will render it null and void. This "Certification Agreement" will not be supplemented or modified by any course of dealing or usage of trade. Any modifications to this "Certification Agreement" must be in writing and signed by both parties.

15.   **Pre-Test Consent**

15.1.   <u>Personal Responsibility</u> – You agree that all work submitted by you in satisfaction of certification requirements (for example, "Test" taking, submission of exercises, etc.) will be entirely your own work. You will neither: (1) provide or accept improper assistance; nor (2) use unauthorized materials (collectively "Misconduct"), in attempting to satisfy certification requirements. You understand that if Blackblot or its agent determines that you have engaged in "Misconduct", Blackblot may revoke any certifications and rights previously granted to you, and may prohibit you from any further participation in the certification program.

15.2.   <u>Testing Regulations</u> – In taking any "Test", you will comply with all testing regulations including but not limited to testing regulations governing the materials that you may bring into the testing area and/or refer to during the "Test". You understand that you must wait at least two (2) days before attempting to re-take any "Test".

15.3.   <u>Nondisclosure</u> – You understand and agree that the content of all tests and any "Test" materials are proprietary and confidential information of Blackblot, and you agree not to disclose or share any of the content of

these materials. In addition, you will not ask for, write (in any media), publish, or otherwise disclose any "Test" questions or answers. You understand that the content of the certification "Test" or any portion of it may not be reproduced, downloaded, disseminated, published, or transferred in any form or by any means. You further agree and acknowledge that Blackblot, in addition to any other remedy it may have, may enforce your obligations not to disclose or duplicate by obtaining temporary, preliminary, or permanent injunctive relief, and that the court of the State of Israel, is a court that has jurisdiction to grant those types of injunctions against you. That court or any other court of competent jurisdiction may issue those types of injunctions without the need to prove the lack of an adequate remedy at law, or irreparable injury, or require the posting of any form of injunction bond.

15.4.   Commercial Exploitation – The content of the certification "Test" or any portion of it may not be reproduced, duplicated, copied, sold, resold, or otherwise exploited for any commercial purpose. Prohibited is the resale or commercial use of the content of the certification "Test" or any of its supporting documentation; including and not limited to processes, procedures, tools, guidelines, agreements, terminology, listings, descriptions, or prices; or any derivative of its contents; for the benefit of any person or entity other than Blackblot, unless done so with the prior written notice from Blackblot.

15.5.   Data Privacy – Blackblot respects all privacy concerns and rights. Blackblot will collect, store, process, and use data collected from this "Test" in order to process and validate your "Test", and may contact you with "Test" satisfaction inquiries. Blackblot will use its best efforts to ensure that the information collected will not be distributed outside Blackblot; however, Blackblot may share your personal data with those companies with which Blackblot has contracted to perform any, or all, of these testing services for the purposes listed above and to determine if you have passed the "Test". Blackblot will comply with the provisions and principles of the applicable data protection legislation, if any, and makes reasonable efforts to contract with companies that also value data protection and meet Blackblot's standards. Data may be transferred from your location to Blackblot or its affiliated companies. "Test" information provided to Blackblot in this context will be gathered and transmitted to a secure, password-protected, database controlled by Blackblot and its authorized agents and accessible by authorized persons only. Your information will be stored only for the length of time necessary to complete the certification process listed above and in compliance with related record retention regulations.

15.6.   Before Blackblot will grant accreditation under any Blackblot certification program, you must consent to the terms and conditions of the "Certification Agreement". By taking any "Test" belonging to any Blackblot certification "Program", you are consenting to the terms and conditions of the "Certification Agreement".

15.7.   Consenting will be done electronically when you take a "Test". At the outset and as part of the test-taking process, a screen will appear and

display a pre-test notice. By proceeding with the "Test" following the pre-test notice, you are stating that you have read and agree to the terms and conditions of the "Certification Agreement". Selecting the affirmative option on the screen will allow you to proceed with taking the actual certification "Test". Pre-test notice reading time does not count towards the actual certification "Test" which is time-constrained. If you do not agree with the terms and conditions of the "Certification Agreement" then do not proceed with registering or taking the "Test". You will not obtain a refund of your "Test" fee.

15.8. BY SELECTING THE "*START TEST*" OPTION IN THE CERTIFICATION TEST YOU STATE THAT YOU HAVE READ AND UNDERSTAND THE CERTIFICATION AGREEMENT AND YOU AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

16. General Disclaimer

16.1. Blackblot does not guarantee the accuracy, completeness, efficacy, timeliness, or correct sequencing of all information contained in any certification "Program", "Test", and "Track". No one should rely on the accuracy, completeness, efficacy and timeliness of such information. Reference herein and within any certification "Program", to any specific product, process, or service by trade name, trademark, service mark, manufacturer, or otherwise does not constitute or imply endorsement, recommendation or favoring by Blackblot.

16.2. Blackblot (including its employees and agents) assumes no responsibility for consequences resulting from the use of the information herein, or from use of the information obtained, or in any respect for the content of such information, including (but not limited to) errors or omissions, the accuracy or reasonableness of factual or scientific assumptions, studies or conclusions, the defamatory nature of statements, ownership of copyright or other intellectual property rights, and the violation of property, privacy, or personal rights of others.

Blackblot is not responsible for, and expressly disclaims all liability for, damages of any kind arising out of use, reference to, or reliance on such information. No guarantees or warranties, including (but not limited to) any express or implied warranties of merchantability or fitness for a particular use or purpose, are made by the Blackblot with respect to such information.