

# **LOGO LICENSE AGREEMENT(S)**

## **ADOBE CERTIFIED ASSOCIATE**

**EXHIBIT B-3**

**ADOBE CERTIFICATION PROGRAM MARKS  
SUB-LICENSE AGREEMENT**

This Certification Program Marks Sub-License Agreement (the "Agreement") is by and between Certiport, a business of NCS Pearson, Inc. a Minnesota Corporation having its principal place of business at 1276 South 820 East, Suite 200, American Forks, UT 84002 ("Certiport"), and the company described below and contains a sub-license from Certiport for use of the Adobe certification program marks shown on Attachment 1 ("Certification Program Marks") and is effective as of the date set forth below. Adobe Systems Incorporated, a Delaware corporation having offices located at 345 Park Avenue, San Jose, CA 95110 ("Adobe") shall be a third party beneficiary to this Agreement as provided for herein

1. COMPANY INFORMATION. Please provide the following information:

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Name and Title of Principal: \_\_\_\_\_

Contact in Company: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

URL for site(s) where trademark(s) will appear: \_\_\_\_\_

Proposed use or brief description of proposed use of trademark(s): \_\_\_\_\_

THE COMPANY SET FORTH ABOVE IS REFERRED TO AS "SUB-LICENSEE" IN THIS AGREEMENT.  
 WHEREAS, Certiport has entered into an Certification Testing Alliance Agreement ("Alliance Agreement") with Adobe Systems Incorporated ("Adobe") wherein Certiport has agreed to administer, distribute, manage and operate the Certification Program (as defined in the Alliance Agreement);  
 WHEREAS, Certiport is acting as Adobe's limited agent in regards to this Agreement to grant certain Certification Program Marks sub-licenses as authorized under the Alliance Agreement and herein;  
 WHEREAS, Certiport has awarded Sub-Licensee authorization under the Certification Program in accordance with the terms of the Alliance Agreement  
 WHEREAS, Sub-licensee must use the Certification Program Marks in connection with the marketing, promotion and delivery of Published Exams (as defined in the Alliance Agreement) authorized by Certiport;  
 NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained the parties hereto, each intending to be legally bound, hereby agree as follows:

## 2. SUB-LICENSE.

(a) Sub-license Grant. All rights not expressly granted in this Agreement are reserved by Adobe, as applicable. Certiport grants to Sub-licensee, a nonexclusive, nontransferable right to use, under the terms of this Agreement, the Certification Program Marks.

(b) Sub-license Restrictions. Nothing in this Agreement shall give Sub-licensee any right, title or interest in any Certification Program Mark, other than the sub-license rights granted in this Agreement. Sub-licensee recognizes the value of the goodwill associated with the Certification Program Marks, and acknowledges that such goodwill exclusively inures to the benefit of and belongs to Adobe. Sub-licensee shall not assign, transfer or sub-license this Agreement (or any right granted in this Agreement) without the prior written consent of Certiport and Adobe. Sub-licensee agrees not to use the Certification Program Marks in any way that would disparage Adobe or injure Adobe's reputation for high quality.

## 3. IDENTIFICATION AND USE.

(a) Use. The Sub-licensee may use the Certification Program Marks solely to identify Adobe as the source of the Certification Examinations and corresponding Published Exams in the Sub-licensee's marketing and promotion of the Certification Exams, and delivery of the corresponding Published Exams, to Candidates (as defined in the Alliance Agreement) if Sub-licensee is a Certiport Authorized Testing Center (as defined in the Alliance Agreement), or in the marketing and promotion of the Certification Examinations to Candidates and Certiport Authorized Testing Centers if the Sub-licensee is a Certiport reseller of the Certification Program (as defined in the Alliance Agreement), all in connection with Certiport's administration of the Certification Program (collectively "Purpose of Use").

(b) Identification of Certification Program Marks. Sub-licensee may use the Certification Program Marks on the Certification Examinations referenced herein, as well as on web sites or in print media, labels or packaging, for the Purpose of Use, so long as such use complies with this Agreement, the trademark guidelines available at the "Permissions and trademark guidelines" pages of the Adobe web site ([www.adobe.com](http://www.adobe.com)) and the "Adobe Trademarks Guidelines for third parties who license, use or refer to Certification Program Marks," also available from the Adobe web site ([http://www.adobe.com/support/certification/pdfs/Cert\\_Logo\\_Guide.pdf](http://www.adobe.com/support/certification/pdfs/Cert_Logo_Guide.pdf)). Such guidelines may be revised and updated at any time by Adobe and Sub-licensee shall remain at all times in compliance with the then-current version of the guidelines. In addition, Sub-licensee shall comply with the requirements on Attachment 1 hereto and shall:

- (i) mark its use of Certification Program Marks with the symbol ® or "™" as specified by the Adobe guidelines;
- (ii) include the trademark attributions as required by the "Adobe Trademarks Guidelines for third parties who license, use or refer to Certification Program Marks" (located at the Adobe website, [http://www.adobe.com/support/certification/pdfs/Cert\\_Logo\\_Guide.pdf](http://www.adobe.com/support/certification/pdfs/Cert_Logo_Guide.pdf)) in reasonably close proximity to its first use of any Certification Program Mark in any document or on a screen display, or in a location to which users are directed for statements concerning the ownership of intellectual property rights of Sub-licensee;
- (iii) not alter any Certification Program Mark logos in any way, including without limitation, skewing, changing the color, rotating, animating, morphing, separating logo elements or changing a type face;
- (iv) display any Certification Program Mark logo in a type size greater than 2cm high at all times;
- (v) not display any Certification Program Mark as a primary or prominent feature on any non-Adobe products or materials;
- (vi) not incorporate, combine or use any Certification Program Mark in any manner as part of, or in close proximity to, another company's name, domain name, product or service name, logo, trade dress, design, slogan or other trademarks; and
- (vii) reproduce the Certification Program Marks only from electronic files as shall be provided by Certiport to Sub-licensee (and as may be modified or amended by Adobe from time to time).

(c) Protecting the Certification Program Marks. Sub-licensee acknowledges the validity of the Certification Program Marks and Adobe's ownership of the Certification Program Marks. Sub-licensee shall not represent that it is the owner of the Certification Program Marks or claim any right in it. Sub-licensee shall employ best efforts to use the Certification Program Marks in a manner that does not derogate from Adobe's rights in the Certification Program Marks and will take no action that will interfere with or diminish Adobe's rights in the Certification Program Marks. All uses of the Certification Program Marks by Sub-licensee will inure to the benefit of Adobe. Sub-

licensee will not use the Certification Program Marks in any way as an endorsement or sponsorship by Adobe or Certiport of a Sub-licensee product, or Sub-licensee's Web site, services, information or other content. Sub-licensee agrees that it will not challenge or do anything to impair Adobe's ownership of the Certification Program Marks or Certiport's license therefrom. In particular, Sub-licensee will not register or attempt to register any Certification Program Mark in any jurisdiction and will not oppose Adobe's registration of any Certification Program Mark. Sub-licensee agrees that it will not adopt or use a trademark, service mark, or any other designation confusingly similar to the trademark, or use any other trademark, word, symbol, letter or design in combination with any Certification Program Mark in a manner that would create a combination mark.

#### 4. QUALITY STANDARD: APPROVAL PROCESS, FEES, AND INSPECTION.

(a) **Standard.** Sub-licensee agrees to use the Certification Program Marks in connection with the marketing, promotion or delivery of Published Exams only where:

- (i) Sub-licensee's self-promotional activities are in compliance with all applicable U.S. and foreign fair advertising laws and regulations;
- (ii) Sub-licensee's self-promotional activities are in compliance with all other applicable U.S. and foreign laws and regulations;
- (iii) Sub-licensee's services are compatible with Adobe products if so indicated on the promotional materials for Sub-licensee's services;
- (iv) Sub-licensee's services are of a quality and reputation consistent with the high quality of Adobe products and services; and
- (v) Sub-licensee's services are performed in a manner consistent with industry standards set forth via the following website:  
<http://www.apa.org/science/standards.html#overview>

(b) **Inspection.** Upon reasonable request from Adobe, Sub-licensee shall notify Adobe of the locations of Sub-licensee's use of the Certification Program Marks and furnish Adobe with suitable specimens of Sub-licensee's use of the Certification Program Marks. If Adobe so requests, Sub-licensee agrees to submit to Adobe any uses of the Certification Program Marks for Adobe's approval prior to the dissemination of these materials. Sub-licensee agrees to undertake such steps as Adobe may reasonably request to assist in monitoring and maintaining the quality and form of use of the Certification Program Marks. Adobe may review Sub-licensee's use of the Certification Program Marks at any time to evaluate Sub-licensee's compliance with the quality standards described in this Agreement. If at any time Adobe determines that Sub-licensee is not maintaining adequate quality standards, Sub-licensee shall be considered in breach of this Agreement and subject to the termination provisions herein. Sub-licensee shall immediately remedy any material deficiencies in its use of the Certification Program Marks upon reasonable notice from Adobe.

#### 5. SUB-LICENSEE'S LIABILITY.

Sub-licensee shall indemnify, defend, and hold harmless Adobe and Certiport from and against any claims relating to Sub-licensee's use of the Certification Program Marks that does not comply with this Agreement.

#### 6. LIMITATION OF LIABILITY.

NEITHER ADOBE NOR CERTIPOINT MAKE ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE ADOBE TRADEMARKS. IN NO EVENT SHALL ADOBE OR CERTIPOINT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES (INCLUDING LOSS OF BUSINESS PROFITS) ARISING FROM OR RELATED TO SUB-LICENSEE'S USE OF THE ADOBE TRADEMARKS, EVEN IF ADOBE AND/OR CERTIPOINT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### PROTECTION OF THE ADOBE TRADEMARKS.

Sub-licensee agrees to cooperate with Certiport and Adobe in the protection of the Certification Program Marks by informing Certiport in writing of any infringements or imitations by others of any Certification Program Mark which come to Sub-licensee's attention, and Certiport and/or Adobe may bring appropriate action or proceeding with respect to such infringement at its own expense and for Adobe's benefit. In such event, Sub-licensee agrees to cooperate with and assist Certiport and Adobe and to join in such action or proceeding as a party if so requested by Certiport or Adobe.

#### 7. TERM AND TERMINATION.

(a) The date of acceptance of this Agreement by Sub-licensee shall be the Effective Date of this Agreement. The term of this Agreement shall be for the same duration as set by the Alliance Agreement. Certiport or Adobe shall have the right to terminate this Agreement with cause upon fifteen (15) days prior written notice if it determines, in its sole discretion, that Sub-licensee is not using a Certification Program Mark in compliance with this Agreement. Either Adobe or Certiport may terminate this Agreement for any reason upon ninety (90) days prior written notice.

(b) This Agreement and the sub-license it grants shall terminate automatically without prior notice or legal action by Certiport or Adobe upon the happening of any of the following events:

- (i) the Alliance Agreement between Adobe and Certiport terminates;
- (ii) if Certiport's licensing or sublicensing rights terminates;
- (iii) Sub-licensee is adjudicated in any legal proceeding to be a voluntary or involuntary bankrupt;
- (iv) Sub-licensee makes any general assignment of assets or business for the benefit of creditors;
- (v) a trustee or receiver is appointed to administer or conduct Sub-licensee's business or affairs;
- (vi) ownership or control of Sub-licensee is substantially changed; or
- (vii) Sub-licensee's materials or revised materials fail to be approved or approval is withdrawn pursuant to paragraph 4(b).

(c) From and after termination or expiration of this Agreement, Sub-licensee shall cease and desist from all use of the Certification Program Marks, shall not adopt any colorable imitation or confusing simulation thereof, and shall refrain thereafter from representing directly or indirectly that it is a sub-licensee of the Certification Program Marks.

#### 8. NOTICES.

All notices under this Agreement shall be in writing and shall be deemed given if delivered personally, mailed by registered or certified mail, return receipt requested, or sent by facsimile with a receipt confirmed by telephone, to Sub-licensee at the address set forth in this Agreement, to Certiport or Adobe at the address provided for Certiport above.

#### 9. MISCELLANEOUS.

This Agreement contains the entire agreement of the parties with respect to the subject matter of the Agreement and shall not be amended except by a written agreement subsequent to the Effective Date and signed by authorized representatives of each party. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Sub-licensee consents to jurisdiction and venue in the state and federal courts sitting in the State of California. If either party employs attorneys to enforce any rights arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, and other expenses. Sub-licensee acknowledges that a breach by Sub-licensee of any of its obligations under this Agreement will cause Adobe irreparable harm. In the event of any breach by Sub-licensee that could result in irreparable harm to Adobe, or cause some loss or dilution of Adobe's goodwill, reputation, or rights in any Certification Program Mark, Adobe shall be entitled to seek an immediate injunction in addition to any other remedies available to it. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision of this Agreement, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect. This Agreement does not create a partnership, joint venture or agency, employment, or grant a franchise between or among Certiport, Adobe and/or Sub-licensee.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

EXHIBIT B3-A

TO CERTIPOINT AUTHORIZED TESTING CENTER ADOBE TRADEMARKS SUB-LICENSE AGREEMENT

CERTIFICATION PROGRAM MARKS:

CERTIFICATION PROGRAM MARKS:

- A. Certification Examination: Web Communication using Dreamweaver CS5



- B. Certification Examination: Rich Media Communication using Flash CS5



C. **Certification Examination:** Visual Communication using Photoshop CS5



D. **Certification Examination:** Video Communication using Premiere Pro



**REQUIREMENTS:**

See Adobe Certified Program Guidelines for Logos and Credentials at [http://www.adobe.com/support/certification/pdfs/Cert\\_Logo\\_Guide.pdf](http://www.adobe.com/support/certification/pdfs/Cert_Logo_Guide.pdf)