



CERTIPORT CENTER AGREEMENT

1. Participant's Information.

<b>Name:</b>	
<b>Channel:</b>	
<b>Address:</b>	
<b>Country:</b>	
<b>E-mail:</b>	
<b>Fax:</b>	

2. Purpose. Certiport Inc. (“Certiport”) is establishing authorized testing centers ("Certiport Centers") worldwide to administer Certification Exams and Assessment Exams, as defined below. Participant owns and operates a testing center that it desires to appoint as a Certiport Center™. Certiport hereby appoints and Participant hereby agrees to the appointment of Participant’s testing center as a Certiport Center™, subject to the terms and conditions of this Agreement

3. Definitions.

3.1 "Assessment Exam" means an examination offered now or in the future by Certiport to assess the skill of an examinee with respect to the subject matter thereof.

3.2 "Certification Exam" means a proctored examination offered now or in the future by Certiport that if passed will certify the skill of an examinee with respect to the subject matter thereof.

3.3 "Distributor" means a third party expressly authorized by Certiport to resell Exams within a certain region or channel.

3.4 "Exam(s)" means Certification Exam(s) and/or an Assessment Exam(s) as the context may warrant.

3.5 "Exam Expiration Date" means the last date on which an Exam within a particular Program may be administered by a Certiport Center™. The Exam Expiration Date is defined in the Program Addendum.

3.6 "Certiport Center" means the testing center owned and operated by Participant described in Section 1.

3.7 "Certiport Center Manual" means the latest version of the manual prepared by Certiport, and revised by Certiport from time to time, related to Certiport Center administration. The Certiport Center Manual is incorporated herein by reference.

3.8 "Program(s)" means the Certification and/or Assessment Exam product groupings that Participant has elected to participate in through Certiport's Internet application process. Such Program(s) is/are described in the Program Addendum(s), which is/are incorporated herein by reference.

3.9 "Software" means all software provided by Certiport to the Certiport Center related to the administration of Exams.

4. Duties and Representations of Participant. Participant will establish, operate and maintain its Certiport Center in accordance with this Agreement, which includes all provisions of the Certiport Center Administrative Manual as revised by Certiport from time to time. In the event of conflict between this document and the Certiport Center Administrative Manual this Agreement shall govern. Participant represents that its Certiport Center will serve the channel referenced in Section 1 and no other channel without Certiport's prior written consent, which shall not be unreasonably withheld. If Participant's Certiport Center serves a channel other than the channel referenced in Section 1 without obtaining the prior written consent of Certiport, Certiport may terminate this Agreement pursuant to Section 7.3.

#### 5. Purchases.

5.1 Initial Purchase Requirement. Within forty-five (45) days after accepting this Agreement, Participant must purchase the minimum number of Exams specified in one or more of the Program(s) from either Certiport or the Distributor. Failure of to satisfy this initial purchase requirement within forty-five (45) days after Participant's acceptance of this Agreement shall render this entire Agreement void and unenforceable by either party. Participant shall not be entitled to a refund of the purchase price of any Exam.

5.2 Subsequent Purchase(s). After the initial purchase, Participant may order additional Exams from either Certiport at <https://www.certiport.com> (at the price specified therein from time to time) or from the Distributor. Participant shall not be entitled to a refund of the purchase price of any Exam.

5.3 Payment. In the event Certiport grants Participant credit terms, Participant must pay the full amount when due or incur a late fee equal to \$30.00 per order, or the highest late fee permitted by law, whichever is less. In addition, interest shall accrue on the unpaid balance at one and one-half percent (1.5%) per month, or the highest rate permitted by law, whichever is less. Certiport may deny Participant access to all Exams for which payment is past due whether purchased from Certiport or the Distributor. Participant shall reimburse Certiport for all reasonable costs and expenses, including reasonable attorney fees that Certiport incurs in connection with collecting any amount due to Certiport by Participant.

5.4 Expiration of Exam(s). Any Exam that is not administered by its Exam Expiration Date shall automatically expire. Participant shall not be entitled to a refund of the purchase price of any expired Exam.

6. License; Proprietary Rights; Warranty Disclaimer; Limitation of Damages.

6.1 License. Certiport grants Participant a non-transferable, non-exclusive license to use the Software in order to operate its Certiport Center in accordance with this Agreement. Participant shall upon expiration or termination of this Agreement promptly return or destroy all copies of the Software and all related documentation in its possession.

6.2 Proprietary Rights. Certiport warrants that it has all rights to the Software, the Certification Exams and the Assessment Exams necessary to grant the license in Section 6.1, and Certiport shall indemnify and defend Participant from and against any and all claims, losses, suits, liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising from any claim that the Software, the Certification Exams or the Assessment Exams infringe on the rights of any third party, provided that Participant promptly informs Certiport of any such claims of which Participant becomes aware, and permits Certiport to defend such claims.

6.3 Warranty Disclaimer. Except for the warranties in Section 6.2, Certiport makes no warranty concerning the Software, the Certification Exams, Assessment Exams, or any other goods or services provided under this Agreement, and Certiport hereby disclaims all implied warranties, including without limitation any implied warranty of merchantability or fitness for a particular purpose.

6.4 Limitation of Damages. Under no circumstance shall Certiport be liable to Participant for any amount in excess of that paid to Certiport under this Agreement and neither party shall be liable to the other for any indirect, incidental, consequential, exemplary or punitive damages or lost profits or business interruption, even if advised as to the prospects of the same.

7. Term; Termination.

7.1 Term. This Agreement shall become effective upon Participant's acceptance of this Agreement ("Effective Date") and, subject to Participant's initial purchase requirement in Section 5.1, shall continue for a term of twelve months from the Effective Date. Certiport shall not be responsible to refund the purchase price of any unused Exams held by Participant upon any expiration of this Agreement, but such Exams may be used by Participant at its Certiport Center if Participant subsequently enters into a new agreement with Certiport prior to their Exam Expiration Dates. Such new agreement, however, will not extend their Exam Expiration Dates.

7.2 Termination for Convenience. Either party may terminate this Agreement for convenience (i.e., without specifying or having any cause) by providing thirty (30) days written notice of termination to the other party. Only if Certiport is the terminating party shall Certiport, at Participant's request, refund the purchase price of any unused Exams

held by Participant that have not expired at the time of the request.

7.3 Termination for Cause. Either party may terminate this Agreement for breach of this Agreement by the other party, if the other party does not cure the breach within ten (10) days of receiving written notice specifying the breach from the party seeking termination. Only if termination is due to Certiport's breach shall Certiport, at Participant's request, refund the purchase price of any unused Exams held by Participant that have not expired at the time of the request.

7.4 Certain Consequences of Expiration or Termination. Upon the expiration or termination of this Agreement, the license granted in Section 6.1 shall be deemed terminated, all rights of Participant hereunder to operate an Certiport Center shall be deemed terminated, and Participant shall immediately cease administering any Exams or holding itself out as an Certiport Center™.

## 8. Limitations on Use of Information.

8.1 Confidentiality. Neither party shall use or disclose to any third party any Confidential Information of the other for any purpose other than the performance of its obligations under this Agreement. "Confidential Information" as it applies to Certiport includes all Software and codes and materials related thereto, all Certification Exams, Assessment Exams and the contents thereof, and any other information or material provided by Certiport to Participant that is marked "confidential" or "proprietary" or that Certiport informs Participant in writing it regards as confidential, proprietary or a trade secret of Certiport. "Confidential Information" as it applies to Participant includes all information or material provided by Participant to Certiport that is marked "confidential" or "proprietary" or that Participant informs Certiport in writing it regards as confidential, proprietary or a trade secret of Participant. Notwithstanding the foregoing, the obligations imposed hereunder shall not apply to Confidential Information that (a) is made public by the disclosing party, (b) is or hereafter becomes part of the public domain through no wrongful act, fault or negligence on the part of the recipient, (c) the recipient can reasonably demonstrate was in the possession of the recipient prior to its disclosure by the disclosing party other than as a consequence of any breach of any duty of confidentiality, (d) or the recipient is required to disclose pursuant to law, provided, however, that the recipient shall first give written notice to the disclosing party of the disclosure and shall give the disclosing party a reasonable opportunity to interpose an objection or obtain an appropriate protective order. In the event of a breach or threatened breach of this Section by a party, the other party shall be entitled to obtain injunctive and other equitable relief therefore, in addition to any other applicable remedies at law.

8.2 Exam Related Information. All information provided by an examinee through the Assessment Exam or Certification Exam interface or through the Internet, and all Assessment Exam and Certification Exam results shall, as between Certiport and Participant, be the sole and exclusive property of Certiport unless the examinee grants rights therein to Participant in writing. Participant agrees not to access, compile, use or disclose any information about any examinee or any results of any Assessment Exam or Certification Exam for any purpose without the prior written consent of the examinee.

9. Trademarks. Participant's Certiport Center must prominently display in location(s) conspicuous to its customers any materials provided by Certiport verifying its association with Certiport. Except as set out in the preceding sentence, neither Participant nor its Certiport Centers shall have the right to use any trademark, trade name or trade dress of Certiport without the prior written consent of Certiport. Nothing contained in this Agreement shall convey any right, title, or interest in or to any trademarks, trade names, logos, copyrights, trade secrets or other intellectual property of one party to this Agreement to the other party to this Agreement.

10. Logo License Agreement(s). Certiport Center shall accept and adhere to the guidelines, obligations and limitations, pertaining to logo licensing.

#### 11. Miscellaneous

11.1 Entire Agreement; Amendments; Severability. This Agreement, the Program Addendum(s), and the Certiport Center Administrative Manual constitute the entire agreement between the parties and supersedes all previous communications, whether oral or written, with respect to the subject matter hereof. Except for amendments to the Certiport Center Administrative Manual by Certiport, no amendment of this Agreement or the Program Addendum(s) shall be binding unless in writing, signed by a duly authorized officer or representative of each of the parties. For purposes of this Section, a written electronic communication by a duly authorized officer or representative of a party expressing acceptance of an amendment may be considered a "writing" that has been "signed" by such party. The illegality or invalidity of any part(s) of this Agreement shall not affect the legality or validity of the remainder thereof.

11.2 Governing Law. This Agreement shall be governed by the laws of the state where Participant is located and shall be considered a "writing" that has been "signed" by both parties pursuant to such state's laws. This Agreement shall not be construed against either party.

11.3 Force Majeure. Neither party shall be liable for failure to perform any obligation under this Agreement where such failure is due to fire, flood, labor dispute, natural calamity, war, acts of the government, or other event beyond the reasonable control of such party.

11.4 Independent Parties; No Third Party Beneficiaries. This Agreement does not create an employer-employee relationship, agency relationship, partnership, franchise or joint venture between the parties. Nor does this Agreement confer any rights or remedies upon any person not a party hereto.

11.5 Disputes. In the event of a dispute, either party may send written notice to the other party describing the nature of the dispute. If the amount in dispute is less than \$5,000, then within sixty (60) days after sending such notice, the parties shall schedule a conference call to resolve the dispute. If the amount in dispute is equal to or greater than \$5,000, then within sixty (60) days after sending such notice, the parties shall agree upon a mutually acceptable location approximately equidistant from their respective primary

places of business to meet and resolve the dispute. An officer of each party at least one level above the level where the dispute arose shall conduct the conference call or meeting. If the parties are unable to resolve the dispute at such conference call or meeting, then either party may take whatever action is legally appropriate to resolve the dispute. The foregoing shall not apply to disputes arising under Sections 8 or 9 hereof.

10.6 Notices. Any notice under this Agreement shall be written in English and sent by facsimile transmission and shall be deemed received upon transmission, provided that a print copy is sent immediately by pre-paid, post.

If to Certiport, to:	Certiport Incorporated 1276 South 820 East American Fork, Utah 84003 Attn: Vice President Finance Fax: (801) 492-1771
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If to Participant, to:	Participant's address and facsimile in Section 1.
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10.7 Taxes. Participant shall promptly pay, reimburse and hold Certiport harmless from and against, all taxes of any character incurred a result of its purchase or sale of any Exams or other goods or services from Certiport.