

ADOBE® TRAINING SERVICES

For Omniture® technology

Adobe Certified Expert Agreement

Adobe Systems, Incorporated (“Adobe”), and you hereby agree that the following terms and conditions (the “Agreement”) shall govern your participation in the Adobe Certified Expert Program (the “Program”).

1. Eligibility. The Program is available to any candidate who has satisfied the applicable training requirements.

2. Certification Requirements. The Program shall be comprised of different levels of technical certification as set forth in the Adobe Certification Program Guide (the “Program Guide”). Certification for each level shall be based upon successful completion of the applicable courses and testing identified in the Program Guide, acceptance of the terms of this Agreement, payment of any applicable fees identified in the Program Guide, and compliance with any additional requirements identified in the Program Guide. Adobe shall have the right, at any time, to change the requirements for obtaining and maintaining each level of certification. Once Program Certification is granted, you may maintain your certification by completing, within the time frame specified by Adobe, any and all continuing certification requirements. Adobe will announce, on its website, the establishment of any continuing certification requirements, including requirements related to Adobe Product updates and new releases. You are responsible for keeping yourself informed of Adobe’s continuing certification requirements and for maintaining your certification. If you do not complete the continuing certification requirements within the time frame specified by Adobe, your certification will be revoked without further notice, and all rights pertaining to that certification (including all rights to use the Program Designations and Logos), will terminate. **NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, ADOBE HAS THE RIGHT NOT TO GRANT OR RENEW YOUR CERTIFICATION IF ADOBE REASONABLY DETERMINES THAT YOUR CERTIFICATION OR USE OF THE CORRESPONDING DESIGNATION AND LOGO WILL ADVERSELY AFFECT ADOBE.**

3. Certification Grant. When you have successfully completed each of the requirements for a particular level of certification, Adobe will provide you with written notice that you have achieved Program Certification status, and at that time, subject to the terms and conditions of this Agreement, Adobe will grant

to you a personal, nonexclusive, nontransferable right to designate yourself with a specified Program Designation, and to use a specified Program Logo on your business literature for the sole purpose of promoting your experience and qualifications related to the use of the applicable Adobe technology and for no other purpose. Your grant of such right does not extend to any third parties, and nothing in this Agreement shall give you any right, title or interest in the Program Designations or Logos or any associated goodwill, other than the rights granted expressly herein. You may not use or reproduce the Program Designations or Logos in any manner whatsoever other than as described herein or in the Program Guide. You may commence use of the Program Designation specified by Adobe and the Program Logo provided by Adobe upon receipt of written notice from Adobe that you have achieved Program Certification status. When this Agreement terminates, you agree immediately to cease all use and display of all Program Designations and Logos. Except as specifically provided herein, you shall have no further rights or obligations under this Agreement after termination.

4. Quality and Conduct of Business. You agree to conduct business in a manner that reflects favorably at all times on the products, goodwill and reputation of Adobe. You agree to avoid deceptive, misleading or unethical practices that are or might be detrimental to Adobe or its products. You agree that the nature and quality of the services provided by you in connection with your Program Certification shall be of the highest quality and integrity and otherwise conform to standards satisfactory to Adobe. You agree to comply with all applicable laws and regulations and obtain all appropriate government approvals pertaining to the sale, distribution and advertising of the consulting services provided by you in connection with your Program Certification.

5. Term. This Agreement will commence on the date you receive written notice from Adobe that you have met all the Certification Requirements, and will terminate as provided in this Agreement or the Program Guide, if applicable. The term during which you may use the specified Program Designation and Logo shall continue until terminated, provided that you have complied with all continuing certification requirements. shall be deemed to amend or modify this Agreement.

6. Termination. Either party may terminate this Agreement and your Program Certification, with or without cause, by giving thirty (30) days prior written notice to the other party. Adobe may elect to terminate this Agreement and your Program Certification immediately on written notice, upon your failure to comply with the continuing certification requirements as provided in Section 3 above, or upon your failure to perform any of your obligations under this Agreement.

7. No Warranties. ADOBE MAKES, AND YOU RECEIVE, NO WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, RELATED TO OR ARISING IN ANY WAY OUT OF THIS AGREEMENT. ADOBE SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY FOR MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF ANY THIRD PARTY RIGHTS. IN NO EVENT SHALL ADOBE BE LIABLE FOR INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR USE) ARISING OUT OF THIS AGREEMENT OR INCURRED BY ANY PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF ADOBE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ADOBE'S LIABILITY FOR DAMAGES HEREUNDER SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES ACTUALLY PAID TO ADOBE UNDER THIS AGREEMENT.

This Section shall survive termination or expiration of this Agreement for any reason.

8. Indemnification. You agree to indemnify and hold Adobe 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 Adobe (i) arising out of your use of the Program Designation or Logo licensed herein; and/or (ii) for any personal injury, property damage or other claims which are caused, directly or indirectly, in whole or in part, by your negligent or illegal acts or omissions. The foregoing includes but is not necessarily limited to such claims made against Adobe by persons who acquired goods or services from you.

This Section shall survive termination or expiration of this Agreement for any reason.

9. No Warranties by You. In no event shall you have any right to make any representation, warranty, or promise on behalf of or binding upon Adobe.

10. Governing Law, Jurisdiction, and Venue. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of California, without reference to conflict of laws principles, and any suit relating to this Agreement shall be instituted in any court of competent jurisdiction within Santa Clara County.

This Section shall survive termination or expiration of this Agreement for any reason.

11. 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.

12. No Assignment. This Agreement may not be assigned by you, in whole or in part. Any attempted assignment shall be null and void.

13. Independent Contractors. You acknowledge that both parties are independent contractors. You will not represent yourself as an agent or legal representative of Adobe, Inc., or any subsidiary thereof, based upon this Agreement or grant of Program Certification.

14. 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.



Return To:
Adobe Training Services
550 East Timpanogos
Circle
Orem, Utah 94097
fax: 801-722-7001
email: ats@adobe.com

CANDIDATE SIGNATURE

CANDIDATE NAME (print)

COMPANY