

## Form of CNM Certification Agreement

This CNM Certification Agreement (“Certification Agreement”) is entered into by the prospective CNM Certified Coach Trainer (“CNM Certified Coach Trainer”) or CNM Certified Coach (“CNM Certified Coach”) concurrently with such individual’s completion of an application to be trained for either of the aforementioned certifications. The CNM Certified Coach Trainers and the CNM Certified Coaches, as applicable, are referred to herein as “I”, “my”, “its” and “Licensee”. Awarding of a certification hereunder is subject to the Licensee’s completion of initial requirements as described herein. The undersigned Licensee has been chosen to participate in the training program (“Program”) offered through an organization authorized by CNMI (“Organization”), which has entered into a CNM Certified Coach Training and License Agreement (“License Agreement”) with CNM Ingenuity, Inc., a New Mexico nonprofit corporation (“CNMI”). As part of the Organization’s obligations to CNMI under the License Agreement, and as a material inducement to CNMI granting the Organization the rights set forth in the License Agreement, as well as a material inducement for CNMI to process the Licensee’s application, each Licensee who participates in the Program is required to execute this Certification Agreement for the benefit of CNMI.

In consideration of the foregoing, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1) **Definitions.** The defined terms set forth above are incorporated herein. As used in this Certification Agreement, the following terms shall have the meanings ascribed to them below, whether used in the singular or plural. Other terms may be defined elsewhere in this Certification Agreement or the License Agreement and shall have the meanings indicated thereby.

a) “CEU” shall mean a Continuing Education Credit earned through courses approved by CNMI.

b) “Coaching Session” means any presentation, class, coaching or other instruction of individuals by any certified CNM Certified Coach relating to the Program or the Curriculum, whether in person, online, via telephone or otherwise.

c) “Confidential Information” means any and all forms and types of financial, business, marketing, operations, scientific, technical, economic and engineering information, whether tangible or intangible, including without limitation, patterns, plans, compilations, program devices, formulas, designs, prototypes, samples, methods, techniques, processes, procedures, programs, codes, trade secrets, know-how, source code, databases, data, proposed product names or marks, marketing materials or programs, plans, specifications, information relating to past, present and prospective customers, users, partners, vendors and suppliers, manufacturing information, business plans, manufacturing information, price lists, costing information, employee and consulting relationship information, accounting and financial data, profit margin, marketing and sales data, strategic plans, and all other proprietary information (including all originals, copies, digests and summaries in any form) provided by or on behalf of CNMI to the Organization under the License Agreement or otherwise directly to Licensee, including any and all non-public information. Notwithstanding the foregoing to the contrary, Confidential Information shall exclude any information that the CNM Certified Coach Trainer can establish by concurrent documentary evidence, bearing the burden of proof: (i) was known to the CNM Certified Coach Trainer before receipt thereof from or on behalf of CNMI or the Organization, as

demonstrated with written contemporaneous evidence; (ii) was disclosed to the CNM Certified Coach Trainer by a third person who had a right to make such disclosure without any obligation of confidentiality to CNMI or the Organization; (iii) is available in the public domain without violation of this Agreement by the CNM Certified Coach Trainer or other obligation of confidentiality; or (iv) is independently developed by the CNM Certified Coach Trainer without use of or reference to CNMI's Confidential Information, as demonstrated by written contemporaneous evidence. 2

d) "CNMI Training" shall mean the training of the CNM Certified Coach Trainer by CNMI for the requirement amount of hours of total instruction time, or the training of a CNM Certified Coach by a CNM Certified Coach Trainer, as applicable. The CNMI Training shall not be deemed complete until the Licensee successfully meets CNMI's minimum requirements for certification as a CNM Certified Coach Trainer or CNM Certified Coach, as applicable, as set forth in the License Agreement.

e) "Curriculum" means the Licensed Materials (as defined in the License Agreement) and any other Program-related computer programs or software, slide shows, texts, films, website content, audio, videos or any other form or media, whether in tangible form or not, including, without limitation, the following items: (1) course objectives, (2) lesson plans, (3) exams, (4) class materials (including any interactive or computer-aided materials), (5) faculty notes, (6) course handouts, (7) diagrams, (8) syllabi, (9) sample externship and placement materials, (10) clinical checklists, (11) course and faculty evaluation materials, (12) policy and procedure manuals, and (13) other related materials relating to the Program. The Curriculum shall also include, without limitation, (a) all copyrights, copyright applications, copyright registrations and trade secrets to the extent incorporated in the above- listed items and Revisions. The term "Revisions," as used in this Agreement, means all periodic updates or revisions to the Curriculum.

f) "Program" shall mean the CNM Certified Coach training program described in the License Agreement.

g) "TMS" shall mean the CNMI's Training Management System.

h) "Training Session" shall mean any CNM Certified Coach training sessions, in-person, online, via telephone or otherwise, conducted by the CNM Certified Coach Trainer for the end purpose of an individual receiving certification as a CNM Certified Coach, or any such sessions conducted by a CNM Certified Coach to benefit individuals.

**2) Acceptance of Agreement.** The Licensee agrees to be bound by the terms of this Agreement by doing any of the following:

- a) Logging onto the TMS.
- b) Receiving any Program materials from CNMI or the Organization.
- c) Signing and returning the Certification Agreement.

**3) Grant of License and Certification.** Upon acceptance of and agreement to be bound by this Certification Agreement, and CNMI's determination that the CNM Certified Coach Trainer or CNM

Certified Coach, as applicable, has (i) completed the applicable requirements of the Program, (ii) satisfied CNMI's initial certification requirements, (iii) satisfied the initial certification period requirements and, when applicable, CEU requirements, and (iv) paid any certification fee ((i) through (iv) (collectively, the "Certification and License Standards"), CNMI shall certify in writing that Licensee has satisfied its requirements for certification ("Certification"), and grant to Licensee a limited, personal, non-transferable, non-sub licensable, royalty-free, non-exclusive, revocable license ("License") to use the Certification Marks (as defined below in this paragraph) solely in connection with the promotion and conduct of the offering of financial coach training or financial coaching services (the "Services") performed in the Territory. No other rights are granted with respect to the Certification Marks and CNMI reserves all rights other than those explicitly granted herein. "Certification Marks" shall mean 1) CNM CERTIFIED COACH and 2) additional marks, if any, indicated on Addendum B from time to time, as CNMI may update unilaterally, in its sole discretion, to add additional marks. The term "Certification Marks" does not include, and the License does not grant the Licensee, any right, title, or interest in or to any other trademark, service mark, logo, or trade name of CNMI.

#### 4) Licensee Covenants.

a) Rights. CNM Certified Coach Trainer covenants and agrees to the following:

- i) CNMI owns or will own all right, title and interest in all elements and all forms of embodiment of the Program, and the Curriculum, including without limitation the Licensed Materials the design, software, copyright and the Certification Marks as well as any additional, Programrelated trademarks CNMI may acquire in the future (which may be used by Licensee only if such use is expressly permitted in writing by CNMI.)
- ii) The Program, Curriculum, the Certification Marks and the Licensed Materials will not be resold, lent, rented, assigned or transferred to any party in any form nor used to produce any other commercial product either for sale, lease or give-away.
- iii) The Licensed Materials or other Curriculum may not be duplicated for any purpose other than as permitted hereby in connection with the CNM Certified Coach Trainer's training of CNM Certified Coaches, or, to the extent permitted by CNMI, the CNM Certified Coaches coaching of individuals, in each case in accordance with the terms of the License Agreement. The CNM Certified Coach Trainer is entitled to allow persons who attend Training Sessions that are enrolled in the TMS to retain copies of the printed Licensed Materials but will ensure that electronic versions of the materials are not distributed to or retained by participants.
- iv) The Training Sessions and Coaching Sessions will only occur in live, face to face CNM Certified Coach Trainer or CNM Certified Coach led situations and will not be used to provide any form of distance learning other than live voice to voice training. CNM Certified Coach Trainers or CNM Certified Coaches may not make the Curriculum or Licensed Materials available to people that have not attended a Training Session or Coaching Session, as applicable.
- v) The Licensee will not produce or create derivative works of the Curriculum or Licensed Materials.

vi) Each Licensee can use the Curriculum materials only as expressly approved by CNMI during the Training Sessions and Coaching Sessions, as applicable. All of the Licensed Materials must be used by the CNM Certified Coach Trainer over the course of Training Sessions for each prospective CNM Certified Coach.

vii) Each Licensee shall keep confidential all CNMI Confidential Information disclosed to the Licensee pursuant to this Certification Agreement and/or the License Agreement.

b) Ongoing Requirements.

i) Certification. Each Licensee will be required to earn, at Licensee's own expense, such number of CEU's annually as determined by CNMI in order to maintain certification as a CNM Certified Coach Trainer or CNM Certified Coach, as applicable.

ii) Reporting. Each CNM Certified Coach Trainer and CNM Certified Coach shall comply with the reporting obligations set forth by CNMI and the Organization pursuant to the License Agreement as attached hereto in Addendum A.

c) Protection of the Certification Marks. Licensee acknowledges the Certification Marks are valid marks, owned by CNMI, and that CNMI has the sole right, subject only to the express terms of any license granted by it, to control the use of the Certification Marks. CNMI shall have the sole right to file applications to register, and to obtain registration for, the Certification Marks. Licensee agrees to cooperate fully with CNMI in filing such applications and obtaining such registrations, including providing CNMI with specimens of use of the Certification Marks and executing any documents requested by CNMI, or in protecting, enforcing, and defending the Certification Marks. Licensee will notify CNMI in writing of any infringements, imitations, claims, or other problems with respect to the Certification Marks which may arise or otherwise come to its attention. CNMI shall have the sole right, but not the obligation, to take any action on account of any such infringement, imitation, claim, or problem. Licensee shall not institute any suit or take any other action on account of such infringements, imitations, claims, or problems without the prior express written consent of CNMI's authorized representative.

d) Ownership; Goodwill. Licensee acknowledges CNMI's ownership of all right, title, and interest in and to the Certification Marks. Any goodwill resulting from Licensee's use of the Certification Marks will inure exclusively to the benefit of CNMI. Licensee will conduct its business in a professional manner and in a way that does not adversely affect CNMI's reputation or goodwill. Licensee will only display or use the Certification Marks as permitted in the Guidelines on Trademark Usage attached hereto as Exhibit A Licensee further agrees not to: (1) challenge CNMI as the sole, absolute, or exclusive owner of all right, title and interest in and to the Certification Marks and the goodwill associated therewith, (2) challenge the validity of this License, (3) register, use, adopt, or promote any mark that is confusingly similar to any trademark, service mark, logo, or trade name owned by CNMI, any composite mark which uses all or a portion of the Certification Marks, or any of the Certification Marks, (4) take or encourage any action which would impair the rights of CNMI in and to the Certification Marks, or impair the goodwill associated with the Certification Marks, or (5) infringe any trademark, service mark, logo, or trade name owned by CNMI.

## 5) Termination.

a) Licensee's Certification and License exists solely for the initial certification period and, when applicable, the certification renewal period, as defined by CNMI (collectively, the "Applicable Certification Period"), unless earlier relinquished, revoked, or terminated in accordance with this Certification Agreement. If at the end of the Applicable Certification Period, the Licensee's Certification and License is not renewed, it will expire and the License will automatically terminate. If the License expires, is relinquished, revoked, or terminated, Licensee must immediately cease all use of the Certification Marks. Licensee expressly agrees and acknowledges that its use of the Certification Marks following relinquishment, expiration, revocation, or termination of the License constitutes infringement of CNMI's rights, and that CNMI is entitled to pursue all legal and equitable remedies for such infringement. This Certification Agreement shall terminate at any time (i) if CNM Certified Coach Trainer fails to maintain required CEUs; or (ii) upon notice from CNMI. Upon the termination or expiration of the License Agreement, the License granted to each CNM Certified Coach Trainer shall automatically terminate; however, provided each CNM Certified Coach otherwise maintains compliance with this Agreement, the License granted to each CNM Certified Coach shall not terminate solely due to the termination of the License Agreement between CNMI and the Organization.

b) Within thirty (30) days after termination of this Certification Agreement, CNM Certified Coach Trainer shall return all hard and electronic copies of any Curriculum or Licensed Materials then in his or her possession (the "Materials") to the Organization, and shall certify in writing that same has been returned.

## 6) Additional Agreements.

a) Disclaimer of Warranty. THE LICENSE TO THE CERTIFICATION MARKS IS PROVIDED ON AN "AS IS" BASIS. CNMI DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING, USAGE OF TRADE, EMPLOYABILITY OR NONINFRINGEMENT, EXCEPT TO THE EXTENT THESE DISCLAIMERS ARE HELD TO BE 5 LEGALLY INVALID. CNMI HAS NO DUTY OR OBLIGATION TO REGISTER, RENEW, OR OTHERWISE MAINTAIN ANY REGISTRATION FOR THE CERTIFICATION MARKS.

b) Quality Control. The nature and quality of all advertising, promotional, or other uses Licensee makes of the Certification Marks, and Services to be performed by Licensee associated therewith, will conform to and comply with all applicable laws and regulations. CNMI has the right to monitor the manner in which Licensee uses the Certification Marks and the quality of Services performed in connection therewith. CNMI retains, at all times, the right to revoke Licensee's Certification and License if CNMI determines, in its sole discretion, that the quality, accuracy, or other characteristics of any of the Services fails to comply with this Certification Agreement. In addition, CNMI can revoke the Licensee's Certification and License if it determines, in its sole discretion, that Licensee, through its behavior or otherwise, is causing harm the reputation of CNMI. Notwithstanding its ability to monitor Licensee, CNMI has no responsibility for, liability with respect to, or right to control or participate in, my provision of

services, Licensee's representations with respect to such services, or the agreements into which Licensee may enter.

c) Authorization to Review Background. Licensee hereby authorizes CNMI and its agents and representatives to review Licensee's background, which may include, but is not limited to (1) the review of criminal history records from any criminal justice agency in any or all federal, state, and county jurisdictions, (2) the review of regulatory history records from any regulatory or self-regulatory agency or organization, (3) the review of public records, and (4) interviews of third parties concerning, among other things, my professional background and record, regulatory history, and integrity and fitness to use the Certification Marks.

d) Consent to Enforcement and Release of Information. Licensee understands and agrees that CNMI has the authority to discipline Licensee in accordance with this Certification Agreement, for acts or omissions that CNMI determines, in its sole discretion, constitute grounds for discipline. Licensee understands and agrees that Licensee may be subject to discipline by CNMI for any act or omission that occurs between the date that Licensee first receives a Certification or License through the last date that Licensee has a Certification or License, including dates during that interval when Licensee does not have a Certification or License, as well as for any act or omission that occurs in connection with Licensee's communications with CNMI, regardless of the date those communications occur.

e) Cooperation. Licensee agrees to fully cooperate with CNMI with respect to any potential ground for discipline. Licensee's cooperation shall include, but not be limited to, providing to CNMI all documents, statements, testimony, answers, responses, and other information under my control (collectively, "Information") that CNMI requests, including but not limited to Information that is in Licensee's possession or in the possession of any person or entity that Licensee controls, either directly or indirectly (collectively, "Controlled Persons"), and requiring Controlled Persons to provide to CNMI the Information that CNMI requests. Licensee agrees to demonstrate, upon CNMI's request, that Licensee has complied with the requirements of this paragraph.

f) Voluntary Relinquishment of Certification and Termination of License. Licensee may voluntarily relinquish its Certification and terminate its License at any time by submitting written notice to CNMI. A written notice that voluntarily relinquishes my Certification or terminates the License, but not both, shall both voluntarily relinquish Licensee's Certification and terminate Licensee's License. A voluntary relinquishment of Certification and termination of License shall not take effect until CNMI processes the relinquishment and termination and updates CNMI's records accordingly ("Effective Date of Relinquishment"). On the Effective Date of Relinquishment, Licensee's Certification is revoked, Licensee's License terminates, and Licensee shall discontinue using the Certification Marks. Licensee's voluntarily relinquishment of its Certification and termination of its License does not relieve Licensee of any indebtedness or any other obligation that Licensee may have to CNMI.

g) Revocation of Certification and Termination of License. Should CNMI determine, in its sole discretion, that Licensee has failed to comply with these terms (including the Guidelines on Trademark Usage), CNMI may, in its sole discretion, revoke Licensee's Certification and terminate Licensee's License and/or take other action permitted by law. Should CNMI

determine, in its sole discretion, that Licensee has misused the Certification Marks, Licensee understands and agrees that such action may cause irreparable harm, and at and in accordance with CNMI's direction, Licensee will immediately stop using the Certification Marks or change the manner in which Licensee uses the Certification Marks so that Licensee not misusing the Certification Marks. Licensee understands CNMI may have additional rights under applicable law with respect to the Certification Marks, and that the remedies provided under this Certification Agreement are in addition to, and not in lieu of, CNMI's other rights.

h) Retention of Jurisdiction. Notwithstanding any expiration, relinquishment, revocation, or termination of Licensee's Certification and License, Licensee shall continue to be subject to any form of discipline available under this Certification Agreement.

i) Waiver and Release. In consideration for CNMI processing Licensee's application to be a CNM Certified Coach Trainer or CNM Certified Coach, Licensee hereby and forever waives and releases CNMI, its directors, officers, employees, volunteers, representatives, agents, and others acting on its behalf or at its discretion (collectively, "Released Parties," and individually, a "Released Party") from any and all actions, claims, and demands, of any kind whatsoever, arising out of or relating to this Certification Agreement (collectively, "Released Claims"), except to the extent that the Released Claims are based upon the willful misconduct or gross negligence of the person or entity against whom it was raised. To the extent applicable, and particularly if Licensee resides in California, Licensee expressly waive any benefits that California Civil Code section 1542 or any other laws, legal decisions and/or legal principles of similar effect might provide to Licensee now or in the future, and agree that the releases provided above extend to all claims, whether or not claimed or suspected by Licensee, subject to the representations and warranties provided by the parties herein. California Civil Code section 1542 (to the extent such section is applicable) reads as follows:

i) A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

ii) I represent and certify that I have read the provisions of California Civil Code section 1542, and that the effect and import of those provisions have been explained to me by my own counsel. I further acknowledge and agree that this waiver of rights under California Civil Code section 1542 has been separately bargained for and is an essential and material term of this Certification Agreement, and, without such waiver, this Certification Agreement would not have been entered into. I understand that the facts with respect to which this Certification Agreement are given may hereafter prove to be different from the facts as I now know them or believe them to be, and I hereby accept and assume the risk thereof and agree that this Certification Agreement shall be and shall remain, in all respects, effective and not subject to termination or rescission by reason of any such difference in facts. I understand and acknowledge the significance and consequence of such specific waiver of unknown claims and hereby assume full responsibility for any injuries, damages, losses or liabilities that I may hereinafter incur or discover from the waiver of these unknown claims.

j) Indemnification. Licensee covenants and agrees to defend, indemnify, and hold harmless CNMI, its directors, officers, employees, volunteers, representatives, agents, and others acting on its behalf or at its discretion (collectively, "Indemnified Parties," and individually, "Indemnified Party") from any and all actions, claims, and demands, of any kind whatsoever, brought or threatened by any third parties or governmental entities ("Claimant"), and from any judgments, awards, damages, and costs and expenses (including reasonable fees of attorneys and other professionals), arising out of or relating to: (1) any actual or alleged misrepresentation or omission by Licensee in its application or actual or alleged breach by Licensee of this Agreement, (2) any actual or alleged failure by me or my authorized agents to comply with applicable laws, (3) any of 7 my acts or omissions, including, without limitation, the services provided by Licensee or those acting on my behalf or at my discretion, (4) any unauthorized representation, warranty, agreement or the like, express or implied, made or alleged to have been made by Licensee or its authorized agents to or with any third party with respect to any acts or omissions, or (5) actual or alleged acts or omissions by Licensee in connection with the use of the Certification Marks or the Services offered by Licensee using the Certification Marks (collectively, "Indemnified Matters", and individually, an "Indemnified Matter"). Promptly upon the existence of any such claim, Licensee will confirm its intention to defend. Whether or not Licensee confirms its intention to defend, Licensee agrees that each of the Indemnified Parties, at their sole discretion, shall have the right to retain counsel of their choice to represent them in the defense or settlement of any Indemnified Matter, without prejudice to Licensee's obligation to indemnify all resulting costs and expenses (including reasonable fees of attorneys and other professionals). Licensee further agrees that Licensee may settle an Indemnified Matter only if that settlement (a) does not entail an admission on the part of an Indemnified Party that an Indemnified Party violated any law or infringed the rights of any person, (b) has no effect on any other claims against an Indemnified Party, (c) is paid for entirely by Licensee, (d) requires the Claimant to release the Indemnified Parties from all alleged liability, and (e) does not impose any obligation on an Indemnified Party to which the Indemnified Party objects.

k) Limitation of Liability. TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT WILL CNMI'S LIABILITY FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL PUNITIVE, OR ANY OTHER KIND OF DAMAGES, INCLUDING WITHOUT LIMITATION ATTORNEY'S FEES, LOSS OF BUSINESS, REVENUE, PROFITS OR OTHER ECONOMIC ADVANTAGE, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND DEFAMATION), OR OTHERWISE, REGARDLESS OF THE THEORY OF LIABILITY, ARISING OUT OF OR RELATED TO (1) LICENSEE'S APPLICATION AND/OR THIS CERTIFICATION AGREEMENT, (2) THE RELINQUISHMENT, REVOCATION, AND/OR TERMINATION OF LICENSEE'S CERTIFICATION AND/OR LICENSE, (3) LICENSEE'S USE OF, AND/OR INABILITY TO USE, ANY OF THE CERTIFICATION MARKS, (4) DISCIPLINE AND/OR THE IMPLEMENTATION OF DISCIPLINE, IN ANY FORM, AND (5) CNMI'S RELEASE OR DISCLOSURE OF ANY INFORMATION, WHETHER THE INFORMATION IS OR WAS CONFIDENTIAL, PRIVATE, OR OTHERWISE, EXCEED \$1,000, EXCLUDING ANY AMOUNTS AWARDED UNDER ANY ATTORNEY'S FEES PROVISION SET FORTH IN THIS CERTIFICATION AGREEMENT. LIABILITIES SHALL BE LIMITED AND EXCLUDED, EVEN IF CNMI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF THE REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE LIABILITY OF CNMI SHALL BE SUBJECT IN ALL CASES TO THE IMMUNITIES AND



LIMITATIONS OF THE NEW MEXICO TORT CLAIMS ACT, SECTION 41-4-1 ET SEQ., NMSA 1978, AS AMENDED.

I) Mandatory Arbitration and Waiver of Claims Brought Other Than in an Individual Capacity.

This mandatory arbitration provision is governed by the Federal Arbitration Act. Any action, claim, or demand (collectively "Claims," and individually a "Claim") arising out of or relating to this Certification Agreement (including Licensee's obligation to comply with, and CNMI's enforcement of, CNMI's Standards and Policies) or the breach thereof, or Licensee's relationship with CNMI, or regarding the application, enforcement, or interpretation of these Terms and this arbitration provision, shall be resolved through arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, as modified by this paragraph. All Claims are subject to arbitration, no matter the legal theory on which they are based or the remedy (damages, injunctive, or declaratory relief) that is sought. This includes Claims based on contract, tort (including intentional tort), fraud, agency, negligence, common law (including common law due process), statutory or regulatory provisions, or any other sources of law, and Claims made independently or with other Claims. Licensee may not bring a Claim (whether as a plaintiff or class member) in any purported class action, private attorney general, or other representative action. The arbitrators will not award relief for or against anyone who is not a party. No demand for arbitration may be made after the date when the institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitation. The arbitration shall be conducted by one arbitrator ("Arbitration Panel"), who shall have at least five years of experience as a federal and/or state court judge. The place of arbitration shall be Albuquerque, New Mexico. The AAA shall send contemporaneously to each party an identical list of 5 names of persons chosen from the National Roster who satisfy the requirements of this paragraph. Each party shall strike no more than three of the names, number the remaining names in order of preference, and return the list to the AAA. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of three arbitrators to serve. If for any reason the appointments cannot be made from the submitted lists, the AAA shall have the power to make the appointment from among other members of the National Roster who have at least five years of experience as a federal and/or state court judge, without the submission of additional lists. The arbitrator shall require the parties to exchange only the documents on which the parties rely in support of or in opposition to any claim, defense or counterclaim, and to identify, including by providing the name and, if known, address and telephone number, of each person the parties will call to testify at the hearing. Additional discovery may be had only where the arbitrators so order, upon a showing of substantial need. The arbitration award shall be made within nine months of the filing of the demand to arbitrate; however, the parties may agree to extend this time limit. The arbitrators and the arbitration award shall comply with this Certification Agreement, including but not limited to, the Choice of Law, Limitation of Liability, and Attorney's Fees provisions. The arbitrators are not authorized to award punitive or other damages not measured by the prevailing party's actual damages. Each party shall bear an equal share of the arbitrator's and AAA's administrative fees of arbitration. The arbitration award and any interim measure shall be final and binding on the parties and may be entered in a court of appropriate subject matter jurisdiction in Albuquerque, New Mexico. In the event that Licensee publicly discloses facts

relating to the arbitration, CNMI shall have the right to publicly disclose facts relating to the arbitration, including information which otherwise may be private or confidential under CNMI's Standards and Policies. In any event, CNMI shall make a public report about the result of the arbitration that, without disclosing my identity, states who prevailed in the arbitration, and identifies the nature of the dispute including facts relating to the arbitration.

m) Attorney's Fees. In the event that Licensee is the prevailing party in the arbitration of a Claim involving it as a party in opposition to either CNMI or any of the Released Parties, the Arbitration Panel shall award me my actual attorney's fees and costs up to an amount that shall not exceed \$30,000, and CNMI shall pay the full amount of the arbitrators' and AAA's administrative fees of arbitration.

## 7) **Miscellaneous.**

a) Integration. This Certification Agreement (including the documents incorporated herein by reference, as modified as permitted herein), and any written document signed by both Licensee and CNMI that is titled "Amendment to CNM Certification Agreement" constitutes the complete agreement between Licensee and CNMI, and supersedes all prior or contemporaneous oral or written representations, discussions, or understandings, with respect to the subject matter hereof. CNMI may modify this Agreement upon notice to Licensee. No modifications by Licensee to this Agreement shall be binding upon CNMI unless agreed to in writing by CNMI.

b) Assignment. Licensee understands that Licensee shall not assign or transfer its Certification or License or any of its rights or obligations under this Certification Agreement. Any assignment or delegation by Licensee of this Certification Agreement, Licensee's Certification or License, or any of Licensee's rights or obligations hereunder, shall be null and void. CNMI may assign this Certification Agreement, in whole or in part, and any other of its rights herein, without prior notice to Licensee and without restricting or obtaining Licensee's prior consent.

c) Relationship. Licensee's relationship with CNMI is that of an individual granted a Certification and License pursuant to this Agreement. Licensee does not have a partnership, franchise, joint venture, or agency relationship with CNMI. Neither this Certification Agreement nor Licensee's Certification or License create an employment relationship with CNMI.

d) Interpretation. This Certification Agreement, which Licensee understands is binding upon Licensee in consideration for CNMI processing Licensee's application, shall be interpreted in such a manner as to aid in effectuating the purposes and business of CNMI. Except for the Indemnified Parties and the Released Parties, to the limited extent of their rights as addressed above, there are no third-party beneficiaries of this Agreement. No third-party private right of action shall be permitted against CNMI for acts or omissions taken by CNMI in the furtherance of its purposes and business or in connection with this Certification Agreement. Failure of CNMI to insist on strict performance of the provisions contained herein shall not constitute a waiver of those provisions or of this Certification Agreement and shall not prevent CNMI from later enforcing its rights under this Certification Agreement. For the purposes of this Certification Agreement, (1) words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender as the context requires, (2) the word "including" and words of similar import when used shall mean "including, without

limitation,” unless the context otherwise requires or unless otherwise specified, and (3) the word “or” shall not be exclusive. The presumptions of laws or rules relating to the interpretation of contracts against the drafter of any particular clause shall not be applied to this Certification Agreement.

e) Notices and Announcements. Except as expressly provided otherwise herein, all notices to CNMI must be in writing, delivered via overnight, courier, or certified mail, return receipt requested, to CNM Ingenuity, Inc., Attn: Kyle Lee, 525 Buena Vista, SE, Albuquerque, NM 87106-4096

f) Licensee agrees to provide CNMI its e-mail address, mailing address, and telephone number on the signature page hereof (“Contact Information”), and to notify CNMI within thirty days of any changes to Licensee’s Contact Information. All notices to Licensee will be delivered to the mailing address or email address that it has provided to CNMI or that is associated with Licensee in CNMI’s account records; however, CNMI may provide notice to Licensee of modifications to this Certification Agreement or CNMI’s Standards and Policies via newsletter and website announcements. Licensee authorizes CNMI to contact Licensee via telephone, e-mail, or postal mail regarding information that CNMI deems is of potential interest to me, unless Licensee opts out in accordance with the procedures set forth in CNMI’s Privacy Policy. Notices and announcements may include commercial e-mails, telephone solicitations, and other notices describing changes, new educational products, and services or other information.

g) Choice of Law. Licensee agrees and stipulates that this Certification Agreement shall be deemed to have been entered into by both Licensee and CNMI in New Mexico. This Certification Agreement and any Claim shall be governed by the law of the State of New Mexico and controlling U.S. federal law. No choice of law rules of any jurisdiction will apply.

h) Forum; Waiver of Objections to Personal Jurisdiction and Venue; Waiver of Right to Jury Trial. Licensee will not bring any Claim except (a) in accordance with the Mandatory Arbitration provision set forth above, and (b) where permitted under this Certification Agreement (including the Mandatory Arbitration Provision set forth above), in a court of appropriate subject matter jurisdiction in New Mexico. Licensee expressly consents, and waive all objections to personal jurisdiction and venue by and in the courts located in New Mexico. LICENSEE HEREBY VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT WHICH LICENSEE MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY PROCEEDING, LITIGATION, OR COUNTERCLAIM BASED ON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THESE TERMS.

i) Survival. Upon relinquishment, revocation, or termination of Licensee’s Certification or License, Licensee’s obligations under any section which by its nature is intended to survive termination of this Certification Agreement shall so survive.

j) Headings; Severability. The headings of paragraphs herein are for convenience of reference only and are without substantive significance. In the event that any provision of this Certification Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision and this Certification Agreement shall be interpreted and construed as if such term or provision, to the extent the

same shall have been held to be invalid, illegal, or unenforceable, had never been contained herein.

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l) The Licensed Materials and other Curriculum are to be used exclusively by Licensee in Licensee's capacity as a CNM Certified Coach or CNM Certified Coach Trainer. Unauthorized commercial resale of any Curriculum is prohibited. Please be advised that CNMI personnel may monitor various commercial online websites in order to prevent the unauthorized sale of CNMI materials. CNMI reserves all its rights in the event of a violation of this Certification Agreement, which may include discontinuation of any sale, auction or other distribution, suspension of Licensee's privileges, and enforcement of CNM's rights under law and equity.

Accepted and Agreed:

CNM Certified Coach Trainer or CNM Certified Coach

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

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

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

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

## **Exhibit A to CNM Certification Agreement**

### **Guidelines on Trademark Usage**

#### **HOW TO USE THE CNM Certified Coach MARKS**

As CNM Coach Training's trademarks are an important business asset, we must be steadfast in our efforts to protect them. CNM employees, students, coaches, coach trainers, certification holders, licensees, and other third parties can help in these efforts by using the marks properly and providing appropriate attribution. The following trademark usage guidelines apply to everyone using CNM marks. There are exceptions, namely, individuals and organizations that are under license with CNM should follow the special trademark guidelines provided to them, pursuant to their respective agreements. The guidelines below will be updated periodically by CNM. These guidelines are not intended to be a comprehensive guide for all legal uses. Related questions should be directed to CNM.

Please refer to the following guidelines for proper use of the CNM Certified Coach™ certification marks. When used, the trademarks must be displayed under strict use and reproduction guidelines, or their value as trademarks could be lost.

#### **CNM Certified Coach™**

Always use capital letters for "CNM" and each first letter in "Certified" and "Coach".

Never use periods.

Always use directly following the name of the individual certified by CNM.