

MICROSOFT VOUCHER TERMS AND CONDITIONS

Please read these Microsoft Voucher Terms and Conditions (the “**Agreement**”) carefully. This Agreement is by and between the entity you represent (“**You**,” “**Your**” or “**Yourself**”) and Microsoft Corporation, a Washington corporation located at One Microsoft Way, Redmond, WA, 98052, USA together with its affiliates (“**Microsoft**”), concerning Microsoft’s distribution of discount Microsoft Exam Vouchers (“**Vouchers**”) to You and Your distribution of such vouchers to Indirect Resellers (if authorized under Section 4 below). You and Microsoft may be referred to herein collectively as the “**Parties**” or individually as a “**Party**.” You represent and warrant that you have the legal authority to bind Yourself to this Agreement.

BY ACCEPTING OR USING THE VOUCHERS, RECEIVED DIRECTLY FROM MICROSOFT OR FROM ANOTHER SOURCE, YOU ACKNOWLEDGE THAT YOU HAVE REVIEWED THE [MICROSOFT PRIVACY STATEMENT](#), AND AGREE TO BE BOUND BY THE [Microsoft Partner Code of Conduct](#) AND THE TERMS AND CONDITIONS OF THIS AGREEMENT AND ALL TERMS INCORPORATED BY REFERENCE HEREIN. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND ALL TERMS INCORPORATED BY REFERENCE HEREIN, YOU CANNOT PARTICIPATE IN THE VOUCHER PROGRAM AND YOU MAY NOT USE SUCH VOUCHERS. THE “**EFFECTIVE DATE**” OF THIS AGREEMENT IS THE DATE UPON WHICH YOU RECEIVE THE VOUCHERS.

In consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Voucher Targets.** If Microsoft determines You are not attaining your metrics or targets as set forth below, then Microsoft may withhold or reduce the provision of any Vouchers to You (either for distribution pursuant to Section 4 below or for Your own use), including but not limited to reducing the discount rate, or may cancel the Vouchers that have been provided to you. Microsoft will review the following in its decision to withhold or reduce the provision of Vouchers:
 - (a) Exam no-show rates exceeding 10% of Vouchers allocated to You; or
 - (b) Lack of reasonable usage of Vouchers.
2. **Rescheduling.** You must ensure your learners reschedule or cancel exam appointments at least 24 hours before their scheduled exam, otherwise, the relevant Voucher(s) will be forfeited. The exam reschedule and cancellation policy is available here: <https://learn.microsoft.com/certifications/exam-reschedule-and-cancellation-policy>.
3. **Changes.** Microsoft may change this Agreement from time to time by notifying You of such changes by any reasonable means.
4. **Distributing Vouchers to Indirect Resellers.** If You are an Indirect Provider (as defined in your Microsoft Partner Agreement) and Microsoft has identified a Voucher as a “Reseller Voucher,” a “Voucher for Resellers,” or a substantially similar label, You must comply with the following requirements:
 - (a) **Distribute to Indirect Reseller.** You will distribute such Voucher to an Indirect Reseller (as defined in your Microsoft Partner Agreement);
 - (b) **Include Terms and Conditions.** You will include a complete copy of these Microsoft Voucher Terms and Conditions with any distribution of such Voucher or Voucher code along with the following notice to the recipient: “**By accepting or using a Voucher, you agree to the Microsoft Voucher Terms and Conditions**”; and

- (c) **Distribute Securely.** You will distribute such Vouchers and Voucher codes only via secure hyperlink or other encrypted communication method and not by unencrypted email.
5. Intellectual Property. You will not, and will not allow any other person or entity to: (a) sublicense, assign, distribute, publish, transfer or otherwise make the Vouchers available to any third parties, except and only as expressly permitted under Section 4 of the Agreement; (b) access or use the Vouchers in any manner or for any purpose that infringes, abuses, misappropriates or otherwise violates any intellectual property or proprietary right or other right of any third party or that is otherwise unlawful; (c) make any representations, warranties or promises on behalf of Microsoft or its suppliers; or (d) use the Vouchers for any purpose other than that explicitly permitted herein. Your use of the Vouchers is subject to the following: (A) You will require your employees and agents to protect the confidentiality and security of the Vouchers to the same extent You are required to protect the same under these terms; (B) You will take any and all steps reasonably necessary to ensure the confidentiality and security of the Vouchers; and (C) You will not permit any employee or agent to use Vouchers in violation of U.S. Export Administration Regulations.
6. Representations and Warranties.
- (a) **Mutual Representations and Warranties.** Each Party represents and warrants that: (i) it has full power to enter into this Agreement and perform its obligations hereunder; and (ii) upon Your entering into this Agreement, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.
 - (b) **Your Representations and Warranties.** You represents and warrants that: (i) You will not engage or participate in any activity or course of action that could diminish or tarnish the image or reputation of Microsoft; (ii) Your use of the Vouchers will not infringe, misappropriate or otherwise violate the intellectual property or other rights of any third party or violate any applicable regulation or law; (iii) You have and will comply with all applicable laws, rules and regulations in using the Vouchers; and (iv) You will not distribute, transfer or resell Vouchers except to the extent authorized under Section 4.
 - (c) **Disclaimer of Representations and Warranties.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE VOUCHERS ARE PROVIDED ON "AS IS". MICROSOFT EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE VOUCHERS, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. ALL DISCLAIMERS OF ANY KIND (INCLUDING IN THIS SECTION AND ELSEWHERE IN THIS AGREEMENT) ARE MADE FOR THE BENEFIT OF BOTH MICROSOFT AND THE MICROSOFT PARTIES (DEFINED BELOW) AND THEIR SUCCESSORS AND ASSIGNS. MICROSOFT EXPRESSLY DISCLAIMS THAT THE VOUCHERS HAVE ANY INDEPENDENT MONETARY VALUE AND THAT ANY WARRANTY ATTACHES TO YOUR DISTRIBUTION OF THE VOUCHERS.
7. Indemnification.
- (a) **Indemnity.** You will indemnify, defend and hold harmless Microsoft and its officers, directors, employees, agents, affiliates, successors, assigns and Partners (collectively, the "**Microsoft Parties**") from and against any and all losses, damages, liabilities and costs (including reasonable attorneys' fees) incurred by Microsoft resulting from any third party claim, suit, action or proceeding ("**Third Party Claim**") relating to or arising from any

actual or alleged breach of the representations, warranties, covenants or other obligations under the Voucher Distribution Terms and Conditions by (i) You or (ii) any person or entity that received Vouchers from You.

- (b) **Indemnification Procedures.** If a Third Party Claim described in Section 6(a) is brought against a Microsoft Party, Microsoft will: (i) provide notice to You of the commencement of the Third Party Claim for which indemnification is sought; (ii) cooperate (at Your sole cost and expense) with You; and (iii) allow You to control the defense and settlement; provided, that (A) the Microsoft Party may, at its option and expense, participate and appear on an equal footing with You in the Third Party Claim, and (B) You may not settle a Third Party Claim without approval of the Microsoft Party, which approval will not be unreasonably withheld or delayed. You will not publicize any settlement without the Microsoft Party's prior written approval.
8. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MICROSOFT LIMITS ITS LIABILITY FOR ANY CLAIMS UNDER THIS AGREEMENT TO FIVE THOUSAND DOLLARS (\$5,000.00) AND IN NO EVENT WILL MICROSOFT, INCLUDING THE MICROSOFT PARTIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF THIS AGREEMENT. THESE EXCLUSIONS APPLY REGARDLESS OF WHETHER APPLICATION OF THESE EXCLUSIONS CAUSES ANY REMEDY TO FAIL OF ITS ESSENTIAL PURPOSE.
 9. Confidentiality.
 - (a) The Vouchers as well as all related information are considered "Confidential Information" and subject to the nondisclosure agreement between the Parties, if any, and the requirements of this Section 9, except that You may disclose to Indirect Resellers the Vouchers that you lawfully obtained from Microsoft only as expressly required under Section 4 of the Agreement.
 - (b) You will take reasonable steps to protect Microsoft's Confidential Information and will use Microsoft's Confidential Information only for purposes set forth herein. You will not disclose the other Party's Confidential Information to third parties.
 - (c) You will not use or disclose the other's Confidential Information for five (5) years after receipt of such information. The five (5) year period does not apply if applicable law requires a longer period.
 10. Publicity. You may not issue any press releases or other public announcements or make any other disclosures relating to this Agreement or Your receipt of the Vouchers without the prior written approval of Microsoft.
 11. Term and Termination.
 - (a) **Term.** This Agreement begins on the Effective Date and will continue in effect for so long as Microsoft makes the Vouchers available to You, unless earlier terminated pursuant to Section 11(b) (the "**Term**").
 - (b) **Termination.** Microsoft may terminate this Agreement at any time: (i) if You are in material breach of any provision of this Agreement, or (ii) if, in Microsoft's sole reasonable discretion, immediate termination is required (e.g., to prevent Your or Your learners' further fraud or abuse of the Vouchers or to prevent learners' further breach of their confidentiality obligations).

- (c) **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Your access to the Vouchers, and its learners' right to access and use the Vouchers, will immediately cease, without any obligation to provide any further access to any of the foregoing.
- (d) **Survival.** The provisions of this Agreement that, by their terms, require performance after the Term or have application to events that may occur after the Term, will survive the expiration or termination of this Agreement. Without limiting the foregoing, all confidentiality and indemnity provisions will survive the expiration or termination of this Agreement.

12. Miscellaneous.

- (a) **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous representations, discussions, proposals, negotiations, conditions and agreements, whether oral or written, and all communications between the Parties relating to the subject matter hereof and all past courses of dealing or industry custom.
- (b) **Waiver; Severability.** No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise or delay in exercising any right, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver thereof. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, that provision will be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provision.
- (c) **Governing Law; Submission to Jurisdiction.** This Agreement is governed by and construed in accordance with the laws of the State of Washington without giving effect to any choice or conflicts of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Washington. Any legal suit, action or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted in the federal courts of the United States or the courts of the State of Washington, in each case located in King County, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.
- (d) **No Third-Party Beneficiaries.** This Agreement does not create or confer any legal or equitable right, benefit or remedy upon any person or entity other than the Parties. No person or entity will be deemed a third-party beneficiary under or by reason of this Agreement.