**Future-Ready Skills (FRS) - Pilot Program Agreement**

This Future-Ready Skills (FRS) Pilot Program Agreement (this *“Agreement*”) is between Microsoft Worldwide Learning, a Redmond, Washington corporation (“*Microsoft*”) and [insert name], a [insert place of organization and entity type] (the “*Institution*”). This Agreement will be effective on the date written below (the *“Effective Date”*).

1. **Microsoft Content; License**

**Ownership**. Any materials or content, whether tangible or intangible, that Microsoft provides to Institution or Institution’s educators registered to participate (each, an “*Educator*”) in the Future-Ready Skills (FRS) Pilot Program (the “*FRS Program*” and such materials and content, “*Microsoft Content*”), and all intellectual property rights in and to Microsoft Content, are owned by Microsoft.

**License**. From the Effective Date and until the end of the Institution’s 2021 spring academic term, Microsoft grants Institution (together with its Educators) a right and license to (a) incorporate Microsoft Content into the Educators’ pedagogical materials and curriculum and (b) use Microsoft Content as directed by Microsoft, each (a) and (b) solely for use inside of the Institution, in a classroom setting, in connection with the FRS Program, and subject to the terms of the FRS Program guide (the “*Program Guide*”) provided by Microsoft. For clarity, Microsoft Content may not be used for any purpose other than as expressly set forth herein. Additionally, Institution may not use Microsoft Content in any manner that partially or inaccurately portrays such Microsoft Content.Microsoft reserves all rights not expressly granted in this Agreement (including rights under any trademarks, copyrights, patents or other intellectual property) and no other rights are granted by implication, estoppel, statute or otherwise.

**Termination**. Microsoft may revoke the foregoingauthorizations and terminate this Agreement by providing written notice to the Institution (a) upon 30 days’ written notice to the Institution for any reason or (b) immediately upon Institution’s breach of this Agreement or the requirements of the Program Guide. Immediately upon termination, Institution will cease using the Microsoft Content, return to Microsoft any of Microsoft’s confidential information, and provide Microsoft with the Feedback and Materials; provided that any Microsoft Content in use in accordance with the Program Guide at the time of such termination may continue to be used through completion of the learning modules applicable to the particular course being taught.

1. **Institution and Educator Obligations**

**Educator Agreement**. Institution is responsible for each Educator’s compliance with this Agreement and the Program Guide as if such Educator were the Institution hereunder. Prior to receiving any Microsoft Content, each Educator participating in the FRS Program will execute, and the Institution will deliver to Microsoft, a Educator Agreement in the form attached hereto as **Exhibit A**.

**Microsoft Content**. Institution and Educators must use the Microsoft Content as-delivered through the FRS Program and may not alter, copy, modify, or create derivative works or improvements of the Microsoft Content in any manner.

**Feedback**. At any time upon Microsoft’s request during the term of the FRS Program, and promptly upon completion of each learning module, Institution will, and will cause Educator to, provide Microsoft with written and, if requested by Microsoft, oral, Feedback. Feedback will not contain any information that relates, directly or indirectly, to an identified or identifiable person (such as a student or Educator), including, without limitation, names, email addresses, postal addresses, identification numbers, location, online identifiers or one or more factors specific to the physical or social identity of such individual (collectively, “*Personal Data*”). Institution will not, and will ensure Educators do not, provide any such Feedback to any third party without Microsoft’s prior written consent in each instance. Any Feedback provided to Microsoft hereunder will become the sole property of Microsoft, and, in consideration of its participation in the FRS Program, Institution hereby assigns, on its behalf and behalf of its Educators, all rights in and to Feedback. “*Feedback*” means information, feedback (including questions, comments, suggestions, or the like) and testimony regarding the performance, features, functionality and overall experience relating to participating in the FRS Program or using the Microsoft Content.

**Materials**. Microsoft does not claim ownership rights to any of the writings, ideas, concepts, research, proposals, or materials, or any other work product of any nature whatsoever, that are created, prepared, produced, authored, edited, modified, or conceived by Institution or Educator in connection with, arising out of or relating to the FRS Program (the “*Materials*”). However, Institution, on its behalf and on behalf of its Educators, grants to Microsoft a nonexclusive, irrevocable, worldwide, royalty-free, sublicensable, and perpetual right to use, distribute, reproduce, publicly perform or display, transmit, modify, translate, or create derivative works of the Materials for any purpose. Materials will not contain any Personal Data.

**Exam Vouchers or Practice Test Keys**. Upon receipt and use of any exam vouchers or practice test keys as part of the FRS Program, Institution agrees that recipients of such vouchers or practice test keys will comply with the policies located at <https://www.microsoft.com/en-us/learning/certification-exam-policies.aspx> and <https://www.measureup.com/terms-of-use-and-privacy>, including the policies with respect to collection of Personal Data contained therein.

1. **Confidentiality and publicity; Release**

**Existing NDA**.Any confidential information of Microsoft shared under this Agreement is subject to the Non-Disclosure Agreement (“*NDA*”) between Microsoft and Institution. If there is no NDA, Institution agrees it will not disclose any of Microsoft’s non-public information to third parties. The terms and conditions of this Agreement, and the existence of the FRS Program itself, are confidential information.

**Publicity/Promotion**.Institutiongrants Microsoft the right to publicize Institution’s participation in and experience relating to the FRS Program, including through use of Institution’s name, logos, or other identifying information. Microsoft will comply with reasonable guidelines from the Institution in the use of Institution’s logo.

**Release; Indemnification**. To the extent permitted by law, Institution, on its behalf and on behalf of its Educators, hereby releases and discharges Microsoft andits employees, officers, affiliates, licensees, agents, successors, and assigns(collectively, the “*Microsoft Parties*”)from any and all claims and causes of action arising out of its participation in the FRS Program or use of the Materials. Institution will defend, indemnify and hold harmless the Microsoft Parties from and against all claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys’ fees) arising out of or relating to any claim made against Microsoft by an Educator, student or other third party in connection with Institution’s participation in the FRS Program and use of the MS Content, excluding any claims that the Microsoft Content infringes, misappropriates or violates the intellectual property rights of a third party.

1. **DISCLAIMERS; LIMITATION OF LIABILITY**

THE FRS PROGRAM AND MICROSOFT CONTENT are provided ‘as is’. to the maximum extent permitted BY law, MICROSOFT HEREBY disclaims any and all warranties, whether express or implied, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose. TO THE MAXIMUM EXTENT PERMITTED BY LAW, MICROSOFT WILL NOT BE LIABLE TO INSTITUTION, ITS EDUCATORS, EMPLOYEES, OFFICERS, AFFILIATES, STUDENTS OR LICENSEES FOR ANY DAMAGES, WHETHER DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE FRS PROGRAM, OR THE MICROSOFT CONTENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

1. **Miscellaneous**

**Relationship**. The parties are independent contractors. This Agreement does not create an exclusive relationship between the parties. Institution’s employees and subcontractors are not Microsoft employees.

**Governing law; jurisdiction**. The laws of the State of Washington govern this Agreement. Both parties consent to jurisdiction and venue in the applicable courts in the State of Washington. Each party shall be responsible for its own attorneys’ fees, costs and expenses.

**Severability**. If any court of competent jurisdiction determines that any provision of this Agreement is illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect.

**Counterparts**. The parties may execute this Agreement in counterparts. Each counterpart will be deemed an original and all counterparts will constitute one agreement binding both parties.

**Effective Date**:

**Acknowledged and Agreed:**

|  |  |
| --- | --- |
| ***Microsoft Worldwide Learning***  By:  Name:  Title: | *[****Institution****]*  By:  Name:  Title: |
|  |  |

**Exhibit A**

**Educator Agreement**

In consideration of my participation in the Future-Ready Skills (FRS) Pilot Program (the “*FRS Program*”), I enter into this Educator Agreement (this “*Agreement*”), effective as of the signature date below, with respect to information learned or materials developed during the course of my participation in, and teaching of, the FRS Program.

1. **Nondisclosure**

I will not disclose or use any Confidential Information Microsoft or its agents provide to me in connection with the FRS Program for two years from the date I receive that information. “*Confidential Information*” includes: (1) unreleased versions of any Microsoft products or services; (2) materials relating to Microsoft products or services, including the learning materials provided through the FRS Program; (3) the existence of the FRS Program; or (4) any other information that is not publicly available that Microsoft designates as confidential or which a reasonable person would treat as confidential.

The following types of information, however marked, are not Confidential Information. Information that: (1) is, or becomes, publicly available without a breach of this Agreement; (2) was lawfully known to me without an obligation to keep it confidential; (3) is received from another source who can disclose it lawfully and without an obligation to keep it confidential; (4) is independently developed; or (5) is a comment or suggestion I have volunteered about Microsoft’s business, products or services.

This obligation will exist until the Confidential Information is publicly available through no fault of my own or two years after I receive the information, whichever is earlier.

1. **Use of materials; feedback**

**Feedback**. At any time upon Microsoft’s request during the term of the FRS Program, and promptly upon completion of each learning module, I will provide Microsoft with written and, if requested by Microsoft, oral, Feedback on my behalf and will obtain and share with Microsoft Feedback from each student participating in the FRS Program as reasonably requested by Microsoft. Feedback will not contain any information that relates, directly or indirectly, to an identified or identifiable person (such as a student), including, without limitation, names, email addresses, postal addresses, identification numbers, location, online identifiers or one or more factors specific to the physical or social identity of such individual (collectively, “Personal *Data*”). I will not provide any such Feedback to any third party without Microsoft’s prior written consent in each instance. Any Feedback provided to Microsoft hereunder will become the sole property of Microsoft, and, in consideration of my participation in the FRS Program, I hereby assign all rights in and to Feedback. “*Feedback*” means information, feedback (including questions, comments, suggestions, or the like) and testimony regarding the performance, features, functionality and overall experience relating to participating in the FRS Program or using the Microsoft Content.

**Materials**. Microsoft does not claim ownership rights to any of the writings, ideas, concepts, research, proposals, or materials, or any other work product of any nature whatsoever, that are created, prepared, produced, authored, edited, modified, or conceived by me or my students in connection with, arising out of or relating to the FRS Program (the “*Materials*”). However, I grant Microsoft a nonexclusive, irrevocable, worldwide, royalty-free, sublicensable, and perpetual right to use, distribute, reproduce, publicly perform or display, transmit, modify, translate, or create derivative works of the Materials for any purpose. Materials will not contain any Personal Data.

1. **No fees/waiver**

I will not be paid in connection with this Agreement or the license to the Materials granted above. In consideration of my participation in the FRS Program, I hereby waive all other forms of compensation for granting the above license to Microsoft and further release Microsoft, its affiliates, contractors, agents, employees, licensees and assignees from all liability arising out of this Agreement or Microsoft’s use of the Materials and related information.

1. **Miscellaneous**

**Relationship**. I understand and agree I am neither an employee nor independent contractor of Microsoft.

**Governing law; jurisdiction**. The laws of the State of Washington govern this Agreement.

**Agreed and accepted:**

Signature:

Name:

Date: