

MICROSOFT DREAMSPARK PREMIUM SUBSCRIPTION AGREEMENT

This is a subscription agreement (“agreement”) between Microsoft Corporation (or based on where you live, one of its affiliates) and you for the Microsoft DreamSpark Premium subscription (“DreamSpark Premium Subscription”). Please read it. For purposes of this agreement, the term “software” applies to the software provided to you under the DreamSpark Premium Subscription, which includes any media on which you received it.

1. DEFINITIONS

a. You means either

- Departments of accredited higher educational institutions offering courses in science, technology, engineering or mathematics (“STEM”), or
- an organization that shares students, faculty, or facilities with STEM departments or is operated for the purpose of helping such departments train students in STEM disciplines.

b. Additional Definitions:

- i. "students" means persons currently enrolled in your STEM courses, labs, or programs where such enrollment may lead to academic credit or certification.
- ii. "staff" means persons providing IT support directly associated with managing your DreamSpark Premium Subscription; and
- iii. "faculty" means persons employed to teach STEM courses to your students, assist with STEM courses, labs or programs for your students, or conduct non-commercial STEM research on your behalf.
- iv. “lab” means a computer-focused classroom specifically dedicated to conducting STEM education at an accredited educational institution subordinate to the STEM department to which the DreamSpark Premium Subscription is licensed. General purpose laboratories used for such general activities as email or web access, are excluded from this definition.

2. TERMS FOR DREAMSPARK PREMIUM SUBSCRIPTION

a. DreamSpark Premium Subscription. Subject to the terms of this agreement, the DreamSpark Premium Subscription provides subscription access to software and other benefits. Microsoft may change or terminate the DreamSpark Premium Subscription or any associated benefits at any time without prior notice to you. **b. Availability of the DreamSpark Premium Subscription.** DreamSpark Premium is available to most entities that meet the definitions in Section 1(a). Microsoft reserves the right to determine in its sole discretion whether an organization meets (or continues to meet) the eligibility criteria to receive the DreamSpark Premium Subscription.

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a. Access to the Software Available Under the DreamSpark Premium Subscription. Only those individuals specifically authorized under this agreement may access and use the software. **b. Installation and Use Rights.** Your use of the software is subject to the license terms provided with the software, such as click-through license terms, except for any changes to those terms that are provided in this agreement. The DreamSpark Premium Subscription and software may not be shared, transferred, resold, assigned or used to develop or maintain your own administrative or IT systems. Regarding DreamSpark Premium Subscription software, you may:

- have your staff make and install copies of the software on any number of servers, personal computers, and media on your premises for use in support of the DreamSpark Premium

Subscription pursuant to the terms of this agreement;

- let your staff, faculty, and students use the software only (a) to teach, develop, support, conduct, or take courses, labs, or programs you offer; (b) in non-commercial research on your behalf; or (c) to design, develop, test, and demonstrate software programs for the above purposes;
- let your staff, faculty, and students make one additional copy of the software on their own computer or other device solely for use as a backup copy, provided that their use is pursuant to these terms; and
- run the DreamSpark Premium Subscription software in a virtualized environment only to the extent such rights are granted by the individual application end user license of the respective software.

c. Using Windows Desktop Operating Systems. Your DreamSpark Premium Subscription includes certain Windows operating system products. You may install these products only on computers within the STEM lab(s) of the STEM department that is the licensee under this program even if these computers do not already have a Windows operating system installed on it, only if (i) the computers are owned by or leased to you, (ii) the computers will at all times remain physically located in the STEM lab(s) of the STEM department that is the licensee under this agreement, (iii) the products are used to support STEM learning, teaching and research relating to Microsoft technologies, and (iv) are not used for general purpose activities as web browsing or email access or non-STEM activities. If the use of the Windows operating system products included with the DreamSpark Premium Subscription will be used in any other way, a valid Certificate of Authenticity (COA) for a Windows operating system must first be affixed to the computer(s) on which the products are installed.

d. No commercial use. Except as provided below, you may not use the DreamSpark Premium Subscription software for commercial purposes or commercial software application development, publication or distribution unless you first purchase the appropriate commercial license(s) for the software.

• **Windows Phone Application Requirements.** To commercially publish and distribute a phone-based software application that you developed using the DreamSpark Subscription software, the application must be submitted through the Windows Phone Dev Center (<https://dev.windowsphone.com/>) for publication in the Windows Phone Store and comply with all applicable Windows Phone Store Application Provider requirements.

• **Windows Application Requirements.** To commercially publish and distribute a computer-based software application that you developed using the DreamSpark Subscription software, the application must be published in the Windows Store and comply with all applicable Windows Store Application Developer requirements.

• **Xbox LIVE Indie Games Development Requirements.** To commercially publish and distribute a console-based game or software application that you developed using the DreamSpark Subscription software, the application must be published to Xbox LIVE Indie Games and comply with all applicable Xbox LIVE Indie Games requirements.

Visit the DreamSpark App Developer portal at <https://www.dreamspark.com/Student/App-Development.aspx>.

4. ADDITIONAL TERMS FOR THE DREAMSPARK PREMIUM SUBSCRIPTION

a. Changes in status. You will stop providing DreamSpark Premium Subscription benefits or any software keys to anyone who ceases being one of your staff, faculty, or students as such terms are defined above. However, students who have received software under the DreamSpark Premium Subscription may continue to use such software when they are no longer students provided that they do so in accordance with these terms. **b. Copy quality.** You will ensure that each copy your students, faculty, and staff makes of the software is a true and complete copy, and includes all license terms, copyright, trademark, and other notices. **c. Windows Server 2008 HPC Edition.** In the case of Windows HPC Server 2008 and all subsequent and prior editions, you are limited to create 16 “instances” of that software as that term is defined and used in the software license terms for Windows HPC Server 2008. **d. Not for Resale Software.** You may not resell, transfer or assign the software. **e. Administrator.** You must assign an administrator to act as the primary contact person for Microsoft regarding the following:

- administering and managing the DreamSpark Premium Subscription software;
- enforcing the guidelines set by these DreamSpark Premium Subscription terms; and
- keeping records of the number of downloads of the DreamSpark Premium Subscription software from your servers, and records of the staff, faculty, and students to whom you provide media containing the DreamSpark Premium Subscription software.

f. Parental or legal guardian consent. Access to the software included in the DreamSpark Premium Subscription can only be given to students under thirteen (13) years of age if their parent or guardian has first consented to the minor having such access. You agree that:

- responsibility of verifying age and giving account access to the DreamSpark Premium Subscription software lies solely with you or with the subscription administrator, not with Microsoft; and
- such consent will be collected in a verifiable method and stored in a retrievable way before creating an account for the student or providing software access to the student, either through a DreamSpark Electronic License Management System (ELMS), web store or through any other means.

5. PRODUCT KEYS. The software may require a key to install or access it. You are responsible for the use of any keys assigned to you. You may only disclose keys to your staff, faculty, and students if needed to support the DreamSpark Premium Subscription. Individual product keys distributed to staff, faculty and students are solely for activating software on student and faculty personal machines and may not be shared, transferred, assigned. You will use best efforts to make those persons aware of the restrictions on use of the keys. The following terms apply to lab keys provided under the DreamSpark Premium Subscription: (a) lab keys are to be used solely for activating the software in labs; and (b) lab keys may only be activated on the physical campus for which the DreamSpark Premium Subscription was procured.

6. END OF DREAMSPARK PREMIUM SUBSCRIPTION

a. Cancellation and non-renewal. You may cancel your subscription to the DreamSpark Premium Subscription at any time. Your membership expires if you do not renew it or do not pay the annual fee prior to the expiration of the membership period. **b. Termination.** Microsoft may terminate this agreement if, in Microsoft’s sole determination, you fail to comply or any of your staff, faculty or students fail to comply with these terms. In addition, if

you no longer qualify for the DreamSpark Premium Subscription (by meeting the definition of "you" above), then your membership will automatically terminate. **c. Effect.** If your

DreamSpark Premium Subscription program membership or eligibility ends for any reason:

- these terms and your rights to access the DreamSpark Premium Subscription software will terminate;
- you may no longer claim any keys, or distribute the software or any other benefits of the DreamSpark Premium Subscription to your staff, faculty, and students; however, you and your staff, faculty, and students may continue to use copies of the software received prior to termination of your DreamSpark Premium Subscription in accordance with these terms (including Section 3); and
- you must destroy all other copies of the software in your possession.

7. SUPPORT SERVICES. The DreamSpark Premium Subscription is provided "as is." Any support provided under this agreement will be subject to the Microsoft standard support terms found at: <http://support.microsoft.com/>.

8. ENTIRE AGREEMENT. This agreement, and the terms for software, supplements, updates, Internet-based services and support services that you use, are the entire agreement for the DreamSpark Premium Subscription and all benefits provided thereunder.

9. APPLICABLE LAW.

a. United States. If you entered into the agreement in the United States, Washington state law governs the interpretation of this agreement and applies to claims for breach of it, regardless of conflict of laws principles. The laws of the state where you live govern all other claims, including claims under state consumer protection laws, unfair competition laws, and in tort.

b. Outside the United States. If you live in any other country, the laws of that country apply.

10. LEGAL EFFECT. This agreement describes certain legal rights. You may have other rights under the laws of your country. This agreement does not change your rights under the laws of your country if the laws of your country do not permit it to do so.

11. LIMITATION ON AND EXCLUSION OF REMEDIES AND DAMAGES. You can recover from Microsoft and its suppliers only direct damages up to U.S. \$5.00. You cannot recover any other damages, including consequential, lost profits, special, indirect or incidental damages.

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It also applies even if Microsoft knew or should have known about the possibility of the damages. The above limitation or exclusion may not apply to you because your country may not allow the exclusion or limitation of incidental, consequential or other damages.

For questions about your DreamSpark Premium Subscription, please see

<https://www.dreamspark.com/Institution/Support.aspx>.

LIMITED WARRANTY

PLEASE NOTE: THIS WARRANTY SUPERCEDES ANY WARRANTY WHICH YOU MAY ENCOUNTER IN USING THE SOFTWARE

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TO THE EXTENT PERMITTED BY LAW, ANY IMPLIED WARRANTIES, GUARANTEES OR CONDITIONS LAST ONLY DURING THE TERM OF THE LIMITED WARRANTY. Some states do not allow limitations on how long an implied warranty lasts, so these limitations may not apply to you. They also might not apply to you because some countries may not allow limitations on how long an implied warranty, guarantee or condition lasts.

3. **EXCLUSIONS FROM WARRANTY.** This warranty does not cover problems caused by your acts (or failures to act), the acts of others, or events beyond Microsoft's reasonable control.
4. **REMEDY FOR BREACH OF WARRANTY. MICROSOFT WILL REPAIR OR REPLACE THE SOFTWARE AT NO CHARGE. IF MICROSOFT CANNOT REPAIR OR REPLACE IT, MICROSOFT WILL REFUND THE AMOUNT SHOWN ON YOUR RECEIPT FOR THE SOFTWARE. IT WILL ALSO REPAIR OR REPLACE SUPPLEMENTS, UPDATES AND REPLACEMENT SOFTWARE AT NO CHARGE. IF MICROSOFT CANNOT REPAIR OR REPLACE THEM, IT WILL REFUND THE AMOUNT YOU PAID FOR THEM, IF ANY. YOU MUST UNINSTALL THE SOFTWARE AND RETURN ANY MEDIA AND OTHER ASSOCIATED MATERIALS TO MICROSOFT WITH PROOF OF PURCHASE TO OBTAIN A REFUND. THESE ARE YOUR ONLY REMEDIES FOR BREACH OF THE LIMITED WARRANTY.**
5. **CONSUMER RIGHTS NOT AFFECTED. YOU MAY HAVE ADDITIONAL CONSUMER RIGHTS UNDER YOUR LOCAL LAWS, WHICH THIS AGREEMENT CANNOT CHANGE.**
6. **WARRANTY PROCEDURES.** You need proof of purchase for warranty service.

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- (800) MICROSOFT;
- Microsoft Customer Service and Support, One Microsoft Way, Redmond, WA

98052-6399; or

• visit www.microsoft.com/info/nareturns.htm.

2. Europe, Middle East and Africa. If you acquired the software in Europe, the Middle East or Africa, Microsoft Ireland Operations Limited makes this limited warranty. To make a claim under this warranty, you should contact either

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3. Outside United States, Canada, Europe, Middle East and Africa. If you acquired the software outside the United States, Canada, Europe, the Middle East and Africa, contact the Microsoft affiliate serving your country (see www.microsoft.com/worldwide).

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8. **LIMITATION ON AND EXCLUSION OF DAMAGES FOR BREACH OF WARRANTY. THE LIMITATION ON AND EXCLUSION OF DAMAGES CLAUSE ABOVE APPLIES TO BREACHES OF THIS LIMITED WARRANTY.**

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM COUNTRY TO COUNTRY.

Please note: As this software is distributed in Quebec, Canada, some of the clauses in this agreement are provided below in French.

Remarque : Ce logiciel étant distribué au Québec, Canada, certaines des clauses dans ce contrat sont fournies ci-dessous en français.