



**HensonGroup**

# **CSP and Product Agreement**

CSP and Product Agreement Number: \_\_\_\_\_

DOCUMENT VERSION: 03.2023

## CSP AND PRODUCT AGREEMENT

### VERSION 03.2023

THIS CSP AND PRODUCT AGREEMENT ("**Agreement**") between The Henson Group, Inc., a New York corporation of 1221 Brickell Avenue, Suite 900, Miami, FL 33131 ("**THG**") and the undersigned ("**Client**") is effective upon execution by Client. THG and Client are referred to below as the "**parties**" and each as a "**party**".

**1. Products and Services.** This Agreement identifies products and services Client seeks to purchase from THG in Schedule A and establishes the terms and conditions upon which THG will sell such products and services to Client. This Agreement hereby incorporates the terms and conditions of that certain Master Service Agreement ("**MSA**") between the parties. Unless indicated otherwise in this Agreement, the MSA governs any conflict with the terms of this Agreement or any SOW existing under this Agreement.

Following execution of this Agreement, each subsequent engagement under this Agreement shall be defined in a separate Statement of Work ("**SOW**") incorporating the terms of this Agreement and including a statement of deliverables identifying products and services, pricing and payment terms, acceptance criteria, and other applicable terms and conditions of such engagement. Each SOW constitutes a separate contract. Unless indicated otherwise in a SOW, this Agreement governs any conflict with the terms of any SOW existing under this Agreement.

The terms and conditions of this Agreement are subject to amendment from time to time by THG on 30 days prior written notice. Client expressly agrees to be bound by any such revisions prior to termination of this Agreement. All changes to this Agreement will be available for your review here: [www.hensongroup.com/terms](http://www.hensongroup.com/terms). Please review these changes thoroughly and often.

**2. Authorized Use and Compliance.** THG is an authorized reseller of Microsoft business computing products and services ("**Microsoft Products and Services**") and other products and services (altogether with Microsoft Products and Services, the "**products and services**"). In addition to the terms and conditions of this Agreement, Client's purchase and use of and access to Microsoft Products and Services, and all other third-party products and services, is subject to compliance with all terms and conditions applicable to such products and services, as amended by the vendor of such products and services from time to time.

Microsoft Products and Services are licensed and not sold. Licenses granted for metered products billed periodically based on usage continue as long as Client continues to pay for its consumption of the Microsoft Products and Services. Microsoft may, in its sole discretion, modify Microsoft Products and Services, including by adding/removing new features or functionality, or otherwise, from time to time and without prior notice. THG is not an agent of Microsoft and is not authorized to enter into any Agreement with Client on behalf of Microsoft.

**3. Support.** THG provides support options including Microsoft Premier support, THG support, project based consulting, and managed services. After presentation of these options, Client will indicate the support level needed in Schedule A.

**4. Payment.** All fees and charges applicable to products and services, and support under this Agreement are described in Schedule A (altogether, the "**Fees**"). The MSA includes invoicing and payment terms applicable to this Agreement. Client acknowledges that THG purchases Microsoft Products and Services from Microsoft and third-party distributors for resale to Client. Upon execution of this Agreement, THG will be obligated to Microsoft and/or third-parties for the cost of any such Microsoft Products and Services delivered to Client under this Agreement. THG will be billed periodically for metered Microsoft Products and Services provided to Client under this Agreement based on Microsoft usage reports for the prior month. Immediately upon such billing, THG will charge or invoice Client for such amounts and Client agrees to pay THG such amounts in accordance with this Agreement.

(a) **Payment Due Date.** Unless extended credit terms are made available under paragraph (b) below, all THG invoices

are due immediately upon receipt by Client (the "**Due Date**"), without setoff. Prepayment for products and services may be required initially and at any other time during the term of this Agreement upon written notice. Failure to pay any amounts due to THG in accordance with this Agreement is a material breach of this Agreement.

(b) **Extended Invoice Payment Terms.** THG may offer eligible Clients extended payment terms. Client's eligibility for extended payment terms is subject to THG's approval of Client's financial condition as of the date of this Agreement, and from time to time in its sole discretion. Client authorizes THG to obtain information about Client's financial condition, including credit reports, to assess Client's eligibility extended payment terms. Unless Client's financial statements are publicly available, Client may be required to provide balance sheets, profit and loss and cash flow statements to THG from time to time. Client may also be required to provide security for payment in a form(s) acceptable to THG. THG may withdraw Client's eligibility for extended payment terms at any time and for any reason. Client must promptly notify THG of any changes in its company name or location and of any significant changes in its ownership, structure, or operational activities.

(c) **Cancelation Fee.** Client shall be responsible for all cancelation fees charged by Microsoft for cancelation of Microsoft Products and Services.

(d) **Refunds.** Except as specifically provided in this Agreement, THG does not provide refunds of any amounts paid under any agreement for any reason. Client may request that THG initiate a refund request with Microsoft and/or other third-party distributor(s). Any such request must be made by Client to THG in writing within 30 days of the event giving rise to the refund request. To the extent THG uses any third-party distributor to provide products and services to Client under this Agreement, such refund request must be made directly by such third-party distributor to Microsoft. THG cannot guaranty that such third-party distributor will make a refund request to Microsoft. Microsoft may or may not consider any refund request. If Microsoft does consider a refund request, there is no guarantee it will refund any amount. All refund determinations are made directly by Microsoft and not by THG. **Initiating a refund request with Microsoft or a third-party distributor does not change the Due Date or payment terms of any THG invoice. All amounts invoiced to Client by THG remain due and are payable in accordance with this Agreement notwithstanding any refund request.** The process of requesting and receiving any refund from Microsoft or a third-party distributor can be lengthy. To the extent any refund or other credit is issued to THG in favor of Client by Microsoft or another third-party distributor, Client hereby directs and authorizes such refund to be first applied to any amounts due to THG under this Agreement, or other amounts due from Client to THG until such refund is exhausted, and any remaining balance shall be delivered to Client.

(e) **Taxes.** THG prices exclude applicable taxes unless specifically identified as tax inclusive. Client shall pay all applicable sales, stamp, use, excise, value added, goods and services, gross receipts, or other similar transaction taxes, fees, charges, or surcharges, or any regulatory cost recovery surcharges, assessments or duties or similar amounts imposed by any governmental authority (plus related interest and penalties) that are based on related to products or services provided by THG to Client, or amounts paid to THG by Client. Client shall be responsible for all other taxes that it is legally obligated to pay including any taxes that arise from distribution or provision of any products or services by Client to its affiliates, taxes based upon its net income, gross receipts taxes imposed in lieu of taxes on income or profits, and taxes on its property ownership. If THG or Client is subject to an audit by a government agency responsible for the administration of taxes arising from this Agreement, or any other agreement between the parties, each party shall use reasonable efforts to cooperate in defense of such audit.

This Section 4 is a material term of this Agreement and THG would not sell products and services to Client on other payment terms.

**5. Client Responsibilities.** In addition to Client responsibilities set forth in any SOW under this Agreement:

(a) Client will provide THG with the cooperation, access and information required by THG to implement, configure, maintain, support and deliver the products and services, including, where applicable, test time on Client's computer systems and networks and personnel appointed for project management as set forth below.

(b) Client acknowledges and agrees that it is solely responsible for the following:

- (i) Client use of products or services delivered by THG under this Agreement;
- (ii) Use of products or services delivered by THG under this Agreement by any affiliate of Client;
- (iii) Compliance with terms and conditions of this Agreement, the MSA, any SOWs existing under this Agreement, and all other agreements applicable to Client use of products or services delivered by THG under this Agreement;
- (iv) Compliance with applicable laws governing use of products or services delivered by THG under this Agreement;
- (v) Monitoring consumption of Azure and other products and services subject to metered billing and enabling consumption warnings and governance of all metered products and services. Client acknowledges and agrees that THG is not responsible for costs incurred by Client from metered products and services, including Microsoft Azure;
- (vi) Validating Azure Reserved Instance types prior to provisioning. Any problems or other issues with such Reserved Instances must be disclosed to THG within five (5) business days of provisioning. THG will honor Microsoft terms for any refund granted by Microsoft for such products, which include a restocking fee (12% as of December 2021) if the Reserved Instance is incorrect or returned before the end of the license term. Reserved Instances over \$50,000 are non-refundable;
- (vii) Client will provide Azure / Office 365 Lighthouse permissions which are required for Microsoft Premier Support. Without these permissions /roles, THG cannot provide Microsoft Premier Support, and all pricing of Azure / Office 365 will revert to MSRP;
- (viii) Client shall specify Henson Group as PAL on all CSP and non-CSP Microsoft cloud subscriptions and accept Ingram Micro and Henson Group relationship links;
- (ix) Payment of all amounts billed to Client accounts by Microsoft or other vendors for products or services delivered by THG in accordance with this Agreement;
- (xi) Notifying THG at least 3 business days in advance regarding the details of any changes by Client to the products and services purchased under this Agreement;
- (xii) Accept all relationship and administration permission links which are required to provision products and services and provide access for Microsoft Premier Support and THG Support Services when needed;
- (xiii) Notifying Client's insurance providers of the work to be undertaken by it and THG under this Agreement in connection with Client's computer systems and information systems; and
- (xiv) All other Client responsibilities specifically identified in a SOW.

(c) Client will be the primary administrator for Client's Azure account(s), and all other Client accounts for Microsoft Products and Services. Client will not identify THG as the primary administrator on any Client account for Microsoft Products and Services, or other products or services.

(d) THG will be excused from its failure to perform any obligation under this Agreement to the extent such failure is caused by Client's delay or failure to perform its responsibilities.

(e) Client shall be solely responsible for the installation, operation, maintenance, use and compatibility of hardware or software not sold or otherwise provided by THG, and THG shall have no responsibility or liability in connection therewith or for the security of Client's own facilities, network and systems. Except as may otherwise be specifically stated herein, in the event that hardware or software not provided by THG impairs Client's use of any services: (i) Client shall remain liable for payment for all deliverables; (ii) any service specifications or service levels applicable to the services shall not apply; and (iii) THG shall not be liable for any losses, damages, costs or expenses of Client as a result thereof. Client shall cooperate with THG in setting the initial configuration of hardware and software provided by THG and comply with THG's instructions and other technical requirements in connection therewith.

## 6. Termination.

(a) **Term.** The term of this Agreement shall commence on the date it is executed and delivered by Client and shall continue until terminated as provided below.

(b) **Termination Without Cause.** Either party may terminate this Agreement without cause on 90 days' prior written notice to the other. Termination without cause will not affect Client's prepaid licenses for products or services, which will continue for the duration of the applicable subscription period(s), subject to the terms of this Agreement. Client may not terminate this Agreement without cause unless and until all amounts due and owing to THG have been paid in full, and Client has prepaid amounts requested by THG for non-invoiced metered Products based on estimated consumption. Client will receive a refund of any prepaid amounts in excess of actual consumption.

(c) **Termination With Cause.** Without limiting other remedies it may have, either party may terminate this Agreement for material breach on 60 days' ("**Notice Period**") prior written notice to the other if the other party fails to cure the breach within the Notice Period. Upon such termination: (1) All licenses granted under this Agreement will terminate immediately except for prepaid licenses. Prepaid licenses will continue through the expiration date. No refund will be made for perpetual or term licenses; (2) Client may not terminate this Agreement unless and until all amounts due and owing to THG have been paid in full; and (3) Client shall prepay amounts requested by THG for non-invoiced metered Products based on estimated consumption. Client will receive a refund of any prepaid amounts in excess of actual consumption. During any Notice Period, Client agrees to engage with THG in good faith efforts to resolve any disputes and plan for migration of existing resources.

(d) **Notice to Terminate.** Termination shall not be effective under any circumstances until Client has completed the required Client Cancellation Request Form. THG will provide the Client Cancellation Request Form following notice of termination by Client.

(e) **Suspension.** Upon a material breach of this Agreement by Client, THG may disable Client access by electronic means or otherwise prevent use of any products or services provided by THG to Client under this Agreement. All rights of Client under this Agreement are subject to payment in full of all Fees in accordance with this Agreement. THG will give at least 24 hours' notice to Client's Billing Contacts before suspending any products or services.

**7. Entire Agreement.** This Agreement, together with the MSA, and all SOWs, schedules and exhibits hereto and thereto constitute the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all prior written and oral understandings between THG and Client regarding the subject matter hereof. The terms and conditions of this Agreement are subject to amendment from time to time by THG on 30 days prior written notice. Client expressly agrees to be bound by any such revisions prior to termination of this Agreement. This Agreement is further subject to the agreements between Microsoft and the distributors of Microsoft-branded products and services through Microsoft's Cloud Solution Provider program, the Microsoft Partner Network, and any applicable agreement(s) between THG and Microsoft and/or the Client and Microsoft regarding use or access of Microsoft Products and Services; provided, however, that this Agreement does not create, confer upon or give Client any third-party beneficiary rights with respect to any THG agreement(s) with Microsoft or any other party

**8. Authority; Binding Agreement.** This Agreement is a legally binding document between THG and Client. The undersigned signatory of Client represents and warrants that he/she: (i) is authorized to bind Client; and (ii) agrees on behalf of Client that the terms of this Agreement shall govern the relationship of the parties with regard to the subject matter of this Agreement and waives any rights, to the maximum extent permitted by applicable law, to any claim anywhere in the world concerning the enforceability or validity of this Agreement.

**9. Counterparts.** This Agreement may be executed and delivered (including by facsimile transmission or by e-mail of a .pdf, .tif, .jpeg or similar attachment) in two or more counterparts, and by the different parties in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall

constitute one and the same Agreement. Any such counterpart, to the extent delivered using facsimile transmission or by e-mail of a .pdf, .tif, .jpeg or similar attachment shall be treated in all manner and respects as an original executed counterpart and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

**[SIGNATURE PAGE FOLLOWS]**

**CSP AND PRODUCTS AGREEMENT**

**SIGNATURE PAGE**

**IN WITNESS WHEREOF**, each of the parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative as of the last date set forth below.

**THE HENSON GROUP, INC.**

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

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

Title: \_\_\_\_\_

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

**CLIENT**

Company Name:

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

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

Title: \_\_\_\_\_

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

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

**CSP AND PRODUCT AGREEMENT**

**SCHEDULE A – PRODUCTS, FEES, AND SERVICES**

Product Subscription Consumption Pricing. All subscriptions for cloud-based Microsoft Products and Services are licensed by THG to Client under this Agreement at the price charged by Microsoft direct to consumers. THG will invoice Client on a monthly basis for Azure consumption. THG will invoice Client on a monthly/annual basis for nonconsumption-based Microsoft licensing subscribed to in this Agreement, and changes in such products or configuration and prior use, if any. If actual Consumption varies from anticipated Consumption billed in advance for any month, Client’s next invoice will be adjusted accordingly.

Pricing of Microsoft Products and Services changes without prior notice to THG. THG has no control over price changes implemented by Microsoft.

Payment Terms: Due upon receipt of invoice

Product Order Form

Microsoft License	QTY	Term*	Microsoft MSRP Unit Price	Discount %	Henson Group Unit Price	Total Unit Price

Azure Reserved Instances are provided by THG at Microsoft’s public pricing. No discounts apply to Azure Reserved Instances under any circumstances. Azure Reserved Instances may be exchanged based on Microsoft’s Azure Reserved Instances terms and conditions. Azure Reserved Instances are not eligible for any discount or promotional pricing that may be offered for other products or services.

\*The contract term for all annual Office 365 licenses (paid monthly or annually) is one (1) year from the date provisioned. Office 365 annual licenses will auto-renew on each anniversary of the commencement date unless Client duly cancels the subscription. Monthly billing of annual license subscriptions is subject to THG credit review of Client and THG may require payment in advance at any time, as described in this Agreement.