Software as a Service (SaaS) Terms and Conditions
These Subscription Commerce and Billing Software as a Service Terms and Conditions shall constitute a legally binding agreement between AppXite and You governing your use of AppXite Subscription Commerce and Billing Software as a Service.

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE ACCEPTING, OR BEFORE USING APPXITE SUBSCRIPTION AND BILLING SOFTWARE AS A SERVICE, OR ANY PART THEREOF.

IF YOU CLICK ‘I AGREE’ OR TAKE ANY OTHER AFFIRMATIVE ACTION INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, YOU ARE BOUND BY THE TERMS AND CONDITIONS SET FORTH BELOW. IF YOU ARE AN INDIVIDUAL ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU WARRANT AND REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND THAT ENTITY TO THIS AGREEMENT.

1. DEFINITIONS AND INTERPRETATIONS

1.1. For the purposes of this Agreement, in addition to the capitalized terms defined elsewhere in the Agreement, the following terms shall have the meaning ascribed to them as follows:

a) “Agreement” means this AppXite Subscription Commerce and Billing Software as a Service Terms, including all the annexes attached hereto, and any other documents incorporated herein by reference, and all modification or amendments made by the Parties to the extent permitted by the applicable provisions thereof;

b) “AppXite” means SIA “AppXite”, company registration number: 40003843899, having its registered address at Matrožu 15 street, Riga, LV-1048, Republic of Latvia, and its affiliates;

c) “Documentation” shall mean all documents, policies, procedures, programs, requirements, and/or information that pertain to the Software. AppXite may update or modify the Documentation from time to time, by providing a notice to the Customer or otherwise publishing updated versions of Documentation available at www.appxite.com, provided, however, that changes to the Documentation will not result in a material reduction in the level of performance or availability of the Software for the duration of the Subscription Term hereof;

d) “Platform” shall mean the cloud commerce platform provided by AppXite as software as a service and designed to manage sales and operations for subscription-based digital enterprises;

e) “Customer Data” shall mean all materials provided by Customer to AppXite and or its suppliers hereunder, including but not limited to data, image files, text, graphics, or materials generated in any form or media;

f) “Customer” or “You” shall mean a customer of AppXite who has entered into this Agreement to use the Software for its own business purposes and not for sale, in accordance to this Agreement;

g) “Software” shall mean AppXite Subscription Commerce and Billing Software as a Service, provided by AppXite to you, and that enables all Dynamics 365 Business Central partner and end-customers to transform from traditional and transactional business models, to subscription, hybrid and Digital;

h) “Subscription” means the right to use the Software for the duration of the Subscription Term;

i) “Subscription Date” means the date in which the Customer has subscribed for Software by executing the Authorization Form and accepting this Agreement;
j) “Subscription Term” means the subscription period for the Software specified in the Authorization Form;

k) “Authorization Form” means a form which enables you to order Software from AppXite, which specifies, among other things, a description of a Software, the applicable fees, the number of Units purchased, and the Subscription Term;

l) “Party” shall mean AppXite or Customer as the context requires, “Parties” shall be construed accordingly.

2 SCOPE OF SAAS

2.1. Software as a Service. During the Subscription Term, AppXite shall provide to Customer the Software as a service on a subscription-basis and in accordance with the applicable Documentation.

2.2. Implementation. In order for AppXite to provide the Software, you must ensure that You, and Your computing environment meets the following prerequisites:

2.2.1. You must have the active Microsoft Dynamics 365 Business Central license;

2.2.2. You must accept the AppXite Cloud Commerce Platform Software as a Service Agreement, and be a Platform user;

2.2.3. You must configure your Enterprise Recourse Planning (“ERP”) system to be compatible with the Software.

2.3. Customer acknowledges that AppXite’s ability to provide the Software is dependent upon the aforesaid prerequisites. For avoidance of doubt, AppXite shall not be liable for failure or delay in performing its obligations to the extent such failure or delay arises from Customer’s failure to meet the prerequisites outlined in the sub-clause 2.2. of this Agreement.

3 RESPONSIBILITIES AND UNDERTAKINGS

3.1. System Compliance. Customer shall be responsible for its computer hardware and software required to access the Software.

3.2. Restrictions. Customer shall not: (i) use, or misuse the Software in any way which may impair the its functionality or impair the ability of any user to use the Software; (ii) modify, copy or create any derivative works based on the Software; (iii) license, sublicense, sell, resell, lease, transfer, assign, or otherwise make the Software available to any third party other than to parties as permitted herein; (iv) reverse engineer or decompile any portion of the Software; access Software in order to build a similar product or competitive services; (v) use Software to receive, transmit, host or otherwise process any material that is menacing, of a junk-mail or spam-like nature, illegal, obscene, threatening, defamatory, discriminatory, or in violation of any applicable law to which the use of the Software is subject.

3.3. Third party service providers. Customer acknowledges and agrees that Software may be interlinked with third party services and products, such as Microsoft Azure as described in the Documentation. AppXite disclaims any warranty or representation on the availability of such third-party services and products.
4 SUSPENSION OF SAAS

4.1. Suspension. AppXite is entitled to suspend the provision of Software, without any liability if:
   4.1.1. AppXite reasonably suspects that Customer’s use of Software infringes third-party intellectual property rights;
   4.1.2. Customer breaches any material provision of the Agreement (for the purposes of the Agreement material provision shall include breach of any provision set forth in Section 3.2. – Restrictions; Article 5 – Prices and Payment Terms; Article 9 - Intellectual Property Rights; Article 10 – Privacy and Data Protection).
   4.1.3. AppXite suspends the Software in accordance with the applicable law.

4.2. Conditions for Suspension. AppXite shall use its best efforts to give the notice of suspension to Customer at least 24 (twenty-four) hours before suspension takes place, unless AppXite determines in its reasonable commercial judgement that a suspension on a shorter notice is necessary to protect AppXite or any third party from operational, legal, financial or security risk. is required, unless such notification is prohibited under the applicable law.

5 PRICES AND PAYMENT TERMS

5.1. Fees. Software as a service fees (“Fees”) shall be set forth in the Authorization Form.

5.2. Invoices. Unless stated otherwise, AppXite will invoice Customer for the Software Fees annually in advance during the Subscription Term wit the first invoice issued on or after Subscription Date.

5.3. Payment Terms. Customer shall pay invoices in full within 30 (thirty) calendar days of the invoice day. All amounts stated in the Authorization Form are non-refundable.

5.4. Taxes. All amounts stated in the Authorization Form are exclusive of all taxes. Customer shall be solely responsible for, and paying all applicable taxes relating to this Agreement, and the use of Software.

5.5. Currency. Unless stated otherwise, all fees are stated and paid in EUR.

5.6. Transfer of Funds. All payments under this Agreement shall be paid via wire transfer, and shall not be reduced by any wire transfer fee, bank processing fee, or other fee pertaining to the rendering of payment.

5.7. Change of Prices. AppXite is entitled to increase by 3% the Fees during any Renewal term by providing Customer with a notice 30 (thirty) days’ prior to the Fee increase.

6 WARRANTIES

6.1. Services Warranties. AppXite warrants that Software will be provided in accordance with the good industry practice and will materially comply with the applicable Documentation. The warranties in this section shall not apply to the extent of any non-conformance caused by use of the Software contrary to the AppXite’s instructions. Should the AppXite breach the warranties set out in this section, AppXite will, at its own discretion, use reasonable commercial endeavours to correct such non-conformities promptly, or provide the Customer with the substitute services that have equivalent or better performance and function than the relevant Software, or refund the relevant Fees for the period in which the Software did not materially conform to the respective Documentation.
7 LIMITATION OF LIABILITY

7.1. In no event shall either Party be liable for any indirect, incidental or consequential loss or damage suffered by the other Party, arising from or in any way connected with this Agreement.

8 INDEMNIFICATION

8.1. AppXite shall indemnify, defend and hold Customer harmless against any claim, lawsuit, losses, liabilities, damages, costs and expenses (including reasonable attorneys’ fees), judgments or settlement amounts arising out of or in connection with claim that Software infringes any Intellectual Property of any third party.

8.2. Customer shall indemnify and hold AppXite harmless against any claim, lawsuit, losses, liabilities, damages, costs and expenses (including reasonable attorneys’ fees), judgments or settlement amounts arising out of or in connection with the Customer’s use of Software contrary to the Documentation.

8.3. Indemnifying party shall have sole control of the defence and all related settlement negotiations, and a complete information required for that party to conduct and settle the negotiations and/or litigation related to infringement of such third party intellectual property rights.

9 INTELLECTUAL PROPERTY RIGHTS

9.1. Ownership. AppXite, its vendors and licensors retain all rights, title, and interest in and to the Software, including without limitation all software or solutions used to provide the Software and all logos and trademarks reproduced through the Software, and this Agreement does not grant Customer any intellectual property rights associated with Software or any of its components. This ownership shall apply to all copies and portions of these items, and all improvements, enhancements and derivative works to these items.

9.2. Modifications. Nothing in this Agreement prohibits AppXite and/or its suppliers to modify, amend and in any way, change the Software whether in content, nature or otherwise by providing a reasonable information to the Customer in writing and/or make amendment to Documentation.

9.3. Use of Marks. Customer grants to AppXite a non-exclusive, non-transferable, non-sublicensable, revocable, license, for the Term, to use the names, trademarks, service marks, trade names, product names and logos of Customer (“Marks”) solely for the purposes of this Agreement.

10 PRIVACY AND DATA PROTECTION

10.1. Customer’s Data. Customer hereby acknowledges and agrees that AppXite may collect, use and process Customer’s data, including personal data (for the purposes of this Agreement “Personal Data” and “Data Subject” will have the meaning ascribed to such term in the European General Data Protection Regulation (Regulation (EU) 2016/679)) to the extent reasonably required to provide the Software. Customer shall be responsible for obtaining all permits and explicit consent from the relevant data subject before providing Personal Data to AppXite, in accordance with the applicable data protection law.

10.2. Under no circumstances AppXite shall be responsible to Customer and/or any third party for Customer’s Data. Customer shall indemnify and hold AppXite harmless for any damages arising out or in connection with Customer’s Data.
11 SUBSCRIPTION TERM

11.1. Initial Term. Unless otherwise stated in the Authorization Form, Agreement shall commence as of the Subscription Date and, unless earlier terminated as provided herein, shall continue in effect for an initial term of 1 (one) year (“Initial Term”).

11.2. Renewal Term. Thereafter, the term of the Agreement shall be automatically renewed annually on the anniversary of the Subscription Date for additional 1 (one) year renewal terms (“Renewal Term”), unless you give a written notice (including electronic means) of non-renewal to AppXite at least 30 (thirty) days prior to the end of the Renewal Term hereof.

12 TERMINATION OF SUBSCRIPTION

12.1. Termination for Convenience. This Agreement may be terminated by either Customer, at any time for any reason, by giving 30 (thirty) days written notice of such termination to the AppXite.

12.2. Termination for Cause. This Agreement may be terminated as follows:

   12.2.1. if either Party breaches any provision of this Agreement and fails to remEDIATE such breach within 14 (fourteen) days after receiving written notice of the breach, specifying with particularity the condition, act, omission or course of conduct asserted to constitute such breach, the non-breaching party may terminate this Agreement on written notice at any time following the end of such 14 (fourteen) day period;

   12.2.2. if either Party becomes insolvent or makes an assignment for the benefit of creditors, then the other Party may terminate this Agreement immediately upon notice;

   12.2.3. if either Party is dissolved or liquidated, then the other Party may terminate this Agreement immediately upon notice;

   12.2.4. If required by the applicable law, then the other Party may terminate this Agreement immediately upon notice.

12.3. Effect of termination. Upon termination or expiry of this Agreement, the following provisions shall apply:

   12.3.1. Any Fees incurred but unpaid shall become immediately due and payable to the AppXite;

   12.3.2. Customer shall forthwith cease to use of the Software and shall promptly return all copies of the Documentation to AppXite or else destroy those copies of Documentation upon AppXite’s request;

   12.3.3. If applicable, AppXite will provide the Customer with one electronic copy of the Customer Data, in the format reasonably accepted by the AppXite. Thereafter, subject to the sub-section AppXite may delete Customer Data at its discretion.

13 GENERAL TERMS

13.1. Assignment. Neither Party can transfer or assign this Agreement, in whole or in part, or delegate any of its duties hereunder, to a third party by change in control, operation of law or otherwise, without the prior written consent of the other Party.

13.2. Amendments. This Agreement and its annexes may be amended only when duly executed by the Parties.
13.3 Governing law. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Latvia without reference to any conflict of laws principles under which different law might otherwise be applicable.

13.4 Dispute Resolution. Any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination or invalidity thereof, shall be referred to and finally resolved by the court of general jurisdiction of the Republic of Latvia.