



Partner Agreement

### Company Details:

#### **SIA AppXite**

Registration No. 40003843899

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[www.appxite.com](http://www.appxite.com)

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This AppXite Partner Agreement ("**Agreement**") constitutes a legally binding agreement between SIA "AppXite", registration number: 40003843899, registered address at: Matrožu street 15, Riga, LV-1048, Republic of Latvia, or any Affiliate thereof ("**AppXite**") and you or any Affiliate ("**Partner**" or "**you**"). Please read the terms and conditions of this Agreement carefully before accepting, or before using AppXite Platform and/or related products and services or any part thereof. If you place an order via <https://solutions.appxite.com/>, click "Agree", sign an Order Form or take any other affirmative action indicating your acceptance of the terms of this Agreement, you are bound by the terms and conditions set forth below.

- Please note that your use of AppXite Platform and/or services are expressly made conditional on your assent to the terms and conditions set forth herein. If you are an individual entering into this Agreement on behalf of the Partner, you warrant and represent that you have the authority to bind Partner to this Agreement.
- Please note that all orders are subject to AppXite's acceptance. AppXite may decline or cancel any order for any reason at any time prior to the provisioning or initiation of use of any such order.
- Please note that we may modify this Agreement from time to time by publishing the most current version on our website. New features, services and components we add to the AppXite Platform are subject to this Agreement. Notwithstanding the foregoing, in the event that modification materially impacts the use of AppXite Platform or any product governed by this Agreement, AppXite will notify you of the new version via AppXite Platform or by sending a message to the email address associated with your account. By continuing to use AppXite Platform or any service governed by this Agreement after the modification comes into effect, you are agreeing to be bound by the modified Agreement.

## 1. DEFINITIONS AND INTERPRETATIONS

- 1.1. "**Affiliate**" means any legal entity that owns, is owned by, or that is under common ownership of AppXite or Partner. Ownership means control of more than 50% of voting rights;
- 1.2. "**Applicable Law**" means any applicable legislative act, statute, law, rule, regulation or directive of any governmental authority having or asserting jurisdiction over the matter or matters in question, whether now or hereafter in effect;
- 1.3. "**Confidential Information**" means all information furnished, whether orally, in writing, electronically or in other tangible form, and identified as confidential or proprietary at the time of disclosure or otherwise disclosed in a manner such that a reasonable person would understand its confidential nature, including but not limited to, information that is related to:
  - a. business plans or operations;
  - b. research and development or investigations;
  - c. fact and results of any incident;
  - d. properties, employees, finances, operations;
  - e. software or/and related documentation, including third-party software and/or related documentation including: (i) computer software (object and source codes), programming techniques and programming concepts, web platforms, processing methods, system designs; and (ii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to such software;
  - f. services offerings, content, partners, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, inventions (whether patentable or not), marketing plans, forecasts and strategies.

Confidential Information shall not include any information that the receiving Party can demonstrate by its written records:

- a. was known to it prior to its disclosure hereunder by the Disclosing Party;

- b. becomes known through no wrongful act of the Receiving Party;
  - c. has been rightfully received from a third party authorized to make such a disclosure;
  - d. is independently developed by the Receiving Party without use of, or reference to the Disclosing Party's Confidential Information;
  - e. has been approved for release with the Disclosing Party's prior written authorization;
  - f. has been disclosed by court order or as otherwise required by law.
- 1.4. **"Customer Agreement"** means the agreement made between Partner and Vendor for delivery of Product(s);
- 1.5. **"Customer"** means entity authorized to use Product(s) for its internal business purposes;
- 1.6. **"Disclosing Party"** means the Party that discloses Confidential Information, directly or indirectly to the Receiving Party under this Agreement;
- 1.7. **"Documentation"** means all documents, policies, procedures, programs, requirements, and/or information that pertain to the Platform and/or Services, including but not limited to, the AppXite Platform Service Description, Support Service Description. AppXite may update or modify the Documentation from time to time, by providing a notice to the Partner or by updating its knowledge base accessible via <https://support.appxite.com/hc/>. Knowledge Base will, at all times, contain the relevant information related to the Platform and Services. Under no circumstances, the changes to the Documentation will result in a material reduction in the level of performance or availability of the Platform and/or Services for the duration of Subscription Term hereof; Partner is permitted to use the Documentation solely in connection with the use of Platform and/or Service(s);
- 1.8. **"End-User"** means a user who has registered or was invited by Partner or AppXite to use the Platform and/or Service(s);
- 1.9. **"Intellectual Property"** means intellectual property rights (including, but not limited to, patents, patent applications, trade secrets, trademarks, trade names, service marks, logos, moral rights, or any other copyrights inherent thereunder, along with any registrations and applications to register, as applicable) in tangible and intangible materials or information which may be continually under development, modification or improvement, including, but not limited to, software, source code, object code, routines, tools, documentation, methodologies, techniques, algorithms, inventions, ideas, databases, and know-how;
- 1.10. **"Onboarding"** the process for configuring a Platform for a Partner as described in the Section 2 of this Agreement;
- 1.11. **"Order Form"** means the (i) document for ordering the Platform and/or Services that contains information about fees, order description and subscription term; (ii) electronic order for Platform placed by the Partner via <https://solutions.appxite.com/>;
- 1.12. **"Partner Data"** means all materials provided by a Partner to AppXite hereunder, including, but not limited to, data, order/financial information, text, graphics, and other materials generated in any form or media;
- 1.13. **"Partner"** means entity authorized to use the Platform in accordance to this Agreement and to whom the Services are provided;
- 1.14. **"Platform"** means the cloud subscription and recurring billing management platform designed to manage sales and business operations (e.g. billing) and enables Partner to market Products to various sellers and/or customers via Platform as outlined in the Documentation;
- 1.15. **"Product"** means a product subscription, including but not limited to, subscription for (i) software as service; (ii) managed services; (iii) support; or (iv) other IT services accessible via Platform;
- 1.16. **"Receiving Party"** means the Party that receives Confidential Information, directly or indirectly, from the Disclosing Party under this Agreement;
- 1.17. **"Product Management"** means offer configuration and management tool used by a Partner to add and manage its Product(s) within the Platform. Product Management availability depends on your Service Tier;

- 1.18. **"Subscription Date"** means the date in which the Partner has subscribed for the Platform and/or Service by executing the Order Form;
- 1.19. **"Subscription Term"** means the subscription period for the Platform and/or Service specified in the Order Form;
- 1.20. **"Seller"** means Partner and/or Partner's seller (available in Enterprise Service Tier) that markets Products to Customers;
- 1.21. **"Services"** means those services outlined in the Order Form or otherwise agreed between Parties, including, but not limited to, support services, white label billing, vendor integration services and other services AppXite makes available to Partner from time to time;
- 1.22. **"Territory"** means worldwide, unless Vendor Terms state otherwise;
- 1.23. **"Vendor Terms"** means terms and conditions associated with the re-sale of specific Vendor Product(s). Vendor Terms must be executed in the form acceptable by Vendor prior to the commencement of sales of the respective Product by a Partner and/or Seller;
- 1.24. **"Service Tier"** means the pricing plan selected by Partner upon Subscription date and specified in the [www.appxite.com](http://www.appxite.com) or Order Form;
- 1.25. **"Subscription"** means the right to use the Platform and/or Service for the duration of the Subscription Term;
- 1.26. **"Vendor"** means the (i) third party supplier of Products (ii) Partner selling its own Products via Platform;
- 1.27. **"Party"** means AppXite or Partner as the context requires, "Parties" shall be construed accordingly.

## 2. ONBOARDING

2.1. **Onboarding.** AppXite will make Platform available to the Partner upon completion of the onboarding process as follows:

2.1.1. Partner shall submit the onboarding form to AppXite:

<b>Direct Seller:</b>	Buying Directly from Vendor	<a href="https://www.csp2go.com/receive-production-portal-direct">https://www.csp2go.com/receive-production-portal-direct</a>
<b>Indirect Seller:</b>	Buying from AppXite or another Indirect Provider	<a href="https://www.csp2go.com/receive-production-portal-indirect">https://www.csp2go.com/receive-production-portal-indirect</a>
<b>Indirect Seller (Free Tier):</b>	Buying from AppXite	<a href="https://www.csp2go.com/receive-production-platfrom">https://www.csp2go.com/receive-production-platfrom</a>

2.1.2. AppXite will review and verify onboarding form and configure the Platform based on the data provided in the Onboarding form;

2.1.3. When the Platform is configured, the Partner will be provided with a Platform account. Upon enablement of this account, the Partner will have 5 (five) days to test the Platform. Should there be any defects or inconsistencies with the onboarding form, the Partner must notify AppXite. Then, the Parties shall cooperate in fixing any such defects or inconsistencies;

2.1.4. Thereafter, AppXite shall use all reasonable commercial efforts to configure the Platform to be accessible via URL as designated by the Partner. The Partner shall be deemed to have accepted the Platform if (i) the Partner notifies AppXite that all information provided in the Platform along with the Partner customization is correct; (ii) the Partner does not notify Partner of defects within such 5 (five) day period, whichever occurs first.

## 3. APPXITE PLATFORM

3.1. **Scope of License.** Subject to your compliance with this Agreement, AppXite grants Partner a non-exclusive, non-transferable, revocable, worldwide, limited license, for the Subscription Term, to use the Platform solely for the Partner's internal business purposes and only in accordance with this Agreement and applicable Documentation.

All rights not expressly granted to Partner in this Agreements are reserved by AppXite, its Affiliates and suppliers. Notwithstanding the foregoing, if Partner is using the Services which are not related to the Platform or is using solely Vendor Tier (according to the Section 4 of the Agreement) Platform will not be provided to the Partner.

- 3.2. **Platform Functionality.** Platform will include the features and components associated with the selected Service Tier as outlined in the Order Form. Platform is provided according to the AppXite Platform Service Description.
- 3.3. **Future Functionality.** AppXite will incorporate new functionality into the Platform as reasonably expected from the white-label cloud commerce platform provider. Platform functionality and new features incorporated therein by AppXite is not exclusive for Partner and therefore are generally available to other partners. Without prejudice to the foregoing, some of the updates, addons, or enhancements will be available exclusively in "Professional" and "Enterprise" tiers. Partner may request AppXite to customize the Platform by developing additional functionality and building custom components. Such requested functionality will be added in accordance with the separate order form executed by the Parties.
- 3.4. **Branding.** Platform will be provided as a white-label platform, branded under the Partner's name, and accessible via URL designated by the Partner.
- 3.5. **Catalogue Management.** Partner will be authorized to customize its Product catalogue by selecting the Products which Partner makes available for its customers and/or Sellers via Platform. Products are selected either by indicating the vendors in the Onboarding form or within the Platform.
- 3.6. **Third Party Service Providers.** Partner acknowledges and agrees that Platform may be interlinked with a third-party services and products, such as Microsoft Azure and Auth0. AppXite will reflect such third-party Services in the Documentation. AppXite disclaims any warranty or representation on the availability of such third- party services and products. If Partner uses any of such third-party service and products, Partner agrees to comply with the terms and conditions pertaining to such third-party services and products.
- 3.7. **Use of Marks.** Subject to the terms of this Agreement, and during the applicable term, Partner hereby grants to AppXite and/or Authorized Seller (if applicable) a non-exclusive, non-transferable, non-sublicensable, revocable, license, for the term of this Agreement, to use the names, trademarks, service marks, trade names, product names and logos of Partner related to the Partner and/or Product ("Marks") solely and to the extent necessary for displaying such Marks in the Partner's Platform, advertising, marketing and promotion of the Products to the Customers (if applicable). AppXite agrees and shall procure that its Authorized Sellers will not modify, alter, conceal, remove or make any other modification to any Marks without Partner's prior approval. AppXite agrees not to register, nor attempt to register, and to require its Authorized seller not to register or attempt to register, any trademark which may be confusingly similar to the trademarks of the Partner in any jurisdiction, and (ii) conform such use to Partner's then-current brand guidelines provided or made available by the Partner.
- 3.8. **Services.** In consideration of the payment of Fees to AppXite, AppXite will provide Services to Partner as outlined in the Order Form and in accordance with the applicable Documentation.

## 4. PARTNER PROGRAM

### 4.1 Free Tier

- 4.1.1. **Seller Platform (Limited Functionality).** Upon completion of the Onboarding, AppXite will grant Partner the seller platform which supports the following sales models:
  - a) **Indirect Seller Model.** AppXite hereby appoints Partner, for the Term, as its authorized seller and grants to the Partner, a non-exclusive, non-transferable, revocable license to resell the Products to Customers within the Territory. Partner may market, promote, and re-sell Products only to Customers located solely within the Territory. Purchasing Products from AppXite and its subsequent re-sale shall be governed by the Agreement and Vendor Terms associated with the respective Product (if any).

- 4.1.2. **Limited Functionality.** AppXite disclaims any warranties regarding the platform functionality and availability. In addition, Platform shall contain certain limitations including but not limited to branding, features, reporting functionality and the number of vendors available for the re-sale.

## 4.2 Starter Tier

- 4.2.1. **Seller Platform.** Upon completion of the Onboarding, AppXite will grant Partner the seller platform which supports the following sales models:
- a) **Indirect Seller Model.** AppXite hereby appoints Partner, for the Term, as its authorized seller and grants to the Partner, a non-exclusive, non-transferable, revocable license to resell the Products to Customers within the Territory. Partner may market, promote, and re-sell Products only to Customers located solely within the Territory. Purchasing Products from AppXite and its subsequent re-sale shall be governed by the Agreement and Vendor Terms associated with the respective Product (if any).
  - b) **Direct Seller Model.** Partner may purchase Products via Platform directly from the available Vendors and re-sell such Products to Customers in accordance with the Vendor Terms associated with the respective Product (if any).

## 4.3 Professional Tier

- 4.3.1. **Seller Platform (plus selling own products).** Upon completion of the Onboarding, AppXite will grant Partner the seller platform which supports the following sales models:
- a) **Indirect Seller Model.** AppXite hereby appoints Partner, for the Term, as its authorized seller and grants to the Partner, a non-exclusive, non-transferable, revocable license to resell the Products to Customers within the Territory. Partner may market, promote, and re-sell Products only to Customers located solely within the Territory. Purchasing Products from AppXite and its subsequent re-sale shall be governed by the Agreement and Vendor Terms associated with the respective Product (if any).
  - b) **Direct Seller Model.** Partner may purchase Products via Platform directly from the available Vendors and re-sell such Products to Customers in accordance with the Vendor Terms associated with the respective Product (if any).
  - c) **Direct Vendor Model.** A Partner may add its own Product offers into its Platform by using Product Management as described in the Documentation. Subsequently, Partner may make such products available for Customers.

## 4.4 Enterprise Tier

- 4.4.1 **Enterprise Platform (plus selling own products).** Upon completion of the Onboarding, AppXite will grant Partner the Enterprise Platform which supports the following sales models:
- a) **Multi-Channel Model.** Partner may purchase Products via Platform directly from the available Vendors and re-sell such Products to Customers and/or Sellers.
  - b) **Indirect Seller Model.** AppXite hereby appoints Partner, for the Term, as its authorized seller and grants to the Partner, a non-exclusive, non-transferable, revocable license to resell the Products to Customers within the Territory. Partner may market, promote, and re-sell Products only to Customers located solely within the Territory. Purchasing Products from AppXite and its subsequent re-sale shall be governed by the Agreement and Vendor Terms associated with the respective Product (if any).
  - c) **Multi-Channel Vendor Model.** A Partner may add its own Product offers into its Platform by using Product Management as described in the Documentation. Subsequently, Partner may make such products available



for Customers and/or Sellers. In addition, Partner may grant AppXite a distributor's license to market Partner's integrated product. Thereby, the Partner's offers will be available to other Sellers within the AppXite's seller network. Authorizing AppXite to act as distributor will be governed by the provisions outlined in the Section 4.5. of the Agreement.

- 4.4.2. **Distribution Platform Functionality.** Distribution Platform allows Partner to create platforms for its Sellers and exercise Seller management by adding margin/pricing categories, creating product catalogues, bundling Vendor Products, adding/removing subscriptions, and suspending Sellers.

## 4.5 Vendor Tier

- 4.5.1. **Vendor Model.** Parties may agree to integrate Partner's Product into the Platform. Upon Product integration with the Platform, Partner shall grant AppXite a distributor's license to market Partner's integrated product. Thereby, the Partner's offers will be available to other Sellers within the AppXite network. The Platform is not a prerequisite for the use of this model, hence, unless otherwise agreed, should the Partner solely use the Vendor Model as described in this section, AppXite will not provide that Partner with a Platform. In this case, there will not be any Platform Fees. The Partner shall have all rights, licenses, and permits for a Product to be added to the Platform in accordance with this section. Partner shall notify AppXite without undue delay if Partner is no longer entitled to sell the Products.

The following sections shall apply to the Vendor Model and Multi-Channel Vendor Model:

- a) **AppXite's License.** Subject to the terms and conditions of this Agreement, Partner hereby grants to AppXite the right and license to sell, market and promote the Products, within the territory specified in the form submitted via Product Management (the "Territory"), on a non-exclusive, non-transferable basis, including all modifications, enhancements, upgrades, and new versions and releases thereof, generated and issued by Partner, or any component thereof, together with the right to make modifications of the Products and Documentation, to the extent such modifications are required to: (i) market and promote the Products (ii) market the Products in conjunction with the AppXite's and/or Authorized Seller's value-added services. For purposes of this Agreement, references to "market and promote" shall be interpreted as the solicitation and acceptance of orders from Customers for the Products, and references to "sell", "re-sell" or similar refer to sales of subscription rights or license rights to the Products.
- b) **Appointment of Authorized Sellers.** Notwithstanding the foregoing, AppXite shall be entitled, at its sole discretion, to appoint Authorized Sellers on a non-exclusive and non-transferable basis to market, promote and re-sell the Products to the Customers, within Territory, including all modifications, enhancements, upgrades, and new versions and thereof generated and issued by the Partner, or any component thereof, together with the right to make modifications of the Products, to the extent such modifications are required to: (i) market and promote the Products (ii) market the Products in conjunction with the value-added services provided by AppXite and/or Authorized Seller.
- c) **Accountability.** For the avoidance of doubts, AppXite shall at all time remain liable for the performance of its Authorized Sellers and shall hold Partner harmless against any liability and/or claim raised by a third-party against Partner due to actions or omission of the Authorized Seller. For the avoidance of doubt, Authorized Sellers shall be entitled to define the business terms, such as customer billing, and enter into contracts with Customer(s) with respect to the Products.
- d) **Integration Fee.** Unless otherwise agreed, AppXite will charge Partner the one-time fee for product integration within the Platform. Such fee will be used as prepayment against the transaction fee for selling the Product(s). For avoidance of doubt, AppXite will not charge the transaction fee related to selling the integrated product until the amount of such transaction fee will reach the integration fee. In addition, Partner may use such integration fee to purchase products from AppXite (e.g. Indirect Seller Model, purchasing products for internal business purposes). Such products include Microsoft Azure, AWS, IBM Cloud and Google Cloud.

- e) **Product Prices.** All prices for Products shall be specified in the then current Partner's Price List ("Price List") as provided by Partner to AppXite. For the avoidance of doubt, prices provided in the Price List are applicable to AppXite. Partner reserves the right to change prices for Products by providing the AppXite with a 30 (thirty) days' written notice before new prices are in effect.
- f) **Applicable Margin.** AppXite shall apply margins to the Price List for the Products, as agreed between Parties prior to Product integration.
- g) **Price management.** Partner acknowledges that AppXite and/or Authorized Sellers shall be free to resell the Products for such prices as Authorized Seller may see appropriate in its sole discretion, provided, however, that AppXite's payment to Partner shall be based on the Price List, hence, shall not be less than minimum price per Product subscription, as specified in the Price List.
- h) **Invoicing.** Unless stated otherwise, on the 1st day of each month, the Partner will send one consolidated invoice for all Product subscriptions marketed within the respective month. Upon receipt of an invoice from Partner, the AppXite will consider and verify that invoice in a timely fashion. For avoidance of doubt, Partner may submit an electronic invoice. Electronic invoices shall be deemed delivered after their issuing and sending to the email address: [creditor@appxite.com](mailto:creditor@appxite.com).

The Invoice shall contain the following information:

- a) Invoice number;
- b) Payment due date;
- c) Partner's name and address;
- d) Partner's VAT number (if applicable);
- e) Partner's bank account;
- f) Total license-based charges;
- g) Total usage-based charges;
- h) Total invoice amount;
- i) Indication that invoice is issued by an external party by marking such invoice as "External";
- j) Payment instructions.

The timely Partner's invoice processing is dependent on Partner's compliance with this section h) of the Agreement. Should partner breach any provision of this section, AppXite is entitled to apply a penalty of 50 EUR. This penalty can be imposed every time AppXite sends the Partner a notice of invoice non-compliance. AppXite is entitled to send to Partner up to 4 (four) notices per month. AppXite has the right to set off the penalty against the amounts payable to the Partner under this Agreement.

- i) **Payment terms.** Unless otherwise agreed by the Parties in writing, all Partner fees under this Section shall be paid within 60 (sixty) days from the date on which the AppXite has determined that the relevant invoice is valid and undisputed. If AppXite disputes any invoice in good faith and on a reasonable basis consistent with this Agreement, then AppXite may withhold payment of that portion of the invoice that is the subject of such dispute, subject to AppXite notifying Partner of the dispute within 30 (thirty) days of receipt of the invoice and its causes in reasonable detail, working in good faith to resolve the dispute as soon as reasonably possible, and paying Partner fees in accordance with resolution of such dispute within 30 (thirty) days of such resolution.
- j) **Shared Credit Risk.** Parties agree that in the event that any Authorized Seller or Customer is having an outstanding debt to the AppXite, associated with the Products, and is unable to fulfil its financial obligations to AppXite due to insolvency (including filing for insolvency), dissolution, liquidation or force majeure circumstances, the amount of such debt will be credited against subsequent product fees payable to Vendor. For avoidance of doubt, should AppXite inform Vendor of any overdue amount resulted due to the circumstances defined in this section, Vendor will not charge AppXite for the Products until the amount of such product sales will exceed the amount of the debt. AppXite must nevertheless employ all reasonable measures to minimize the non-payment risk by timely credit verification and dunning.

## 5. RESPONSIBILITIES AND UNDERTAKINGS

- 5.1. **System Compliance.** Partner shall be responsible for its computer hardware and software required to access the Platform and Services.
- 5.2. **Acceptable Use Policy.** In addition to the terms outlined in the applicable Documentation, Partner shall not: (i) use, or misuse the Platform in any way which may impair the its functionality or impair the ability of any user to use the Platform; (ii) modify, copy or create any derivative works based on the Platform and/or Services; (iii) license, sublicense, sell, resell, lease, transfer, assign, or otherwise make the Platform, Services and/or Documentation available to any third party other than to parties as permitted herein; (iv) reverse engineer or decompile any portion of the Platform and/or Services; (v) access Platform, Services or use the Documentation in order to build a similar product or competitive services; (vi) use Platform or Service 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 Platform or Service is subject.
- 5.3. **Adding End-Users.** Partner and/or Seller is entitled to authorize End-Users to access and use the Platform. Partner and/or Seller owns all relationship with its End-Users. End-User is allowed to use the Platform pursuant to the agreement between the Partner/Seller and End-User which governs the access and use of the Platform. Such agreement must include Acceptable Use Policy that contains identical or similar restrictions as stipulated in the sub-section 5.2 of the Agreement.
- 5.4. **Responsibility for the Platform.** Partner acknowledges that the Partner is solely responsible for the operations conducted via its white-label Platform. Therefore, the Partner is solely responsible for ensuring that the Platform is operated in accordance with applicable laws.
- 5.5. **Customer Agreement.** Where AppXite or its Authorized Seller is not is not having a direct relationship with a Customer, Partner shall enter into adequate terms and conditions with its Customers and/or Sellers, and procure that Sellers do the same with their Customers. In addition, if required under the Vendor Terms, Partner shall ensure that Customer accepts Customer Agreement in a manner that creates a legally enforceable contract between Vendor and the Customer before providing Products the respective Customer. If Vendor updates the Customer Agreement, Vendor notifies AppXite of such new versions of Customer Agreement, and then Partner must ensure that Customer accepts the new Customer Agreement at or before renewal of their Product subscription.
- 5.6. **Timely assistance.** The Partner acknowledges that AppXite's ability to provide the Platform is dependent upon timely assistance and information provided by the Partner. 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 Partner's failure to provide such information/assistance. AppXite will notify the Partner when and if it believes there is insufficient information required by AppXite to configure the Platform.
- 5.7. **Support.** Partner is solely responsible for all Customer support related to Products.

## 6. PRICES AND PAYMENT TERMS

- 6.1. **Fees.** Platform fees and Service fees ("Fees") are set forth in one or more Order Form(s) and, unless otherwise stated, will be calculated as of Subscription Date. AppXite reserves the right to change prices for Platform and/or Services by providing Partner with a 60 (sixty) days' written notice before new prices are in effect.
- 6.2. **Product Prices.** All prices for Products purchased from AppXite shall be specified in the Platform. AppXite reserves the right to change prices for Products anytime and without notice in the events including, without limitation, if such prices are changed by the Vendor or due to changes in the currency exchange rate (if applicable).
- 6.3. **Invoicing.** Unless stated otherwise, AppXite will invoice the Partner once per month.

- 6.4. **Electronic Invoice.** All invoices shall be issued by AppXite and sent to the Partner's billing email address indicated in the Order Form or other form provided by AppXite. In case of change of billing details, Partner shall provide new billing details to AppXite in a timely manner. Payment Terms. All Fees are due within 30 (thirty) calendar days from the invoice day.
- 6.5. **Currency.** Unless stated otherwise, all fees are quoted and paid in EUR.
- 6.6. **Out of pocket expenses.** The Partner will reimburse AppXite for reasonable, out-of-pocket travel, and related expenses incurred in performing Services. AppXite shall notify Partner prior to incurring any such expense.
- 6.7. **Taxes.** All fees are exclusive of any taxes, levies, duties, or similar governmental assessments of any nature associated with the Platform or any Service.
- 6.8. **Contractual Penalty.** For each non-performance of the payment obligations by a Partner, that Partner shall, in addition to any other remedies under the Applicable Law, pay to AppXite an immediately due and payable penalty of 50 EUR. This Penalty shall be calculated with respect to each overdue invoice and shall be imposed every time AppXite sends the Partner a notice of an overdue account. AppXite is entitled to send to Partner up to 4 (four) notices per month. This Penalty is used to reimburse AppXite for expenses associated with the collection of accounts receivable and is limited to the total Fees owed by the Partner.
- 6.9. **Late Interest.** AppXite reserves the right to charge interest to the Partner on any amount of fees which are not paid on the due date. Interest may be charged from the date such payments fails due at the rate of 1.5 % per month or the highest rate allowed under the Applicable Law until paid. Interest shall accrue daily from the due date until payment of the overdue amount, together with interest.
- 6.10. **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.

## 7. WARRANTIES

- 7.1. **General Warranties.** AppXite warrants that Platform and Services will be provided in accordance with Best Industry Practices and will materially comply with applicable Documentation. The warranties in this section shall not apply to the extent of any non-conformance caused by use of the Platform and/or Services contrary to the AppXite's instructions or applicable Documentation. In the event a Partner reasonably believes that AppXite violated the warranties described in this section, that Partner must notify AppXite. Then, AppXite shall take reasonable efforts to correct any errors or defects. Notwithstanding the foregoing, Should the AppXite breach the warranties set out in this section, AppXite will, at its own discretion, either use reasonable commercial endeavors to correct such non-conformities promptly, or provide the Partner with the substitute services/product that have equivalent or better performance and function than the relevant Platform/Service, or terminate the Agreement and refund the relevant Fees for the period in which the Platform/Service(s) did not materially conform to the applicable Documentation.
- 7.2. **Availability.** AppXite will use commercially reasonable endeavors to make the Platform and Services available 24/7/365 availability, except for planned maintenance. The SLA commitments are outlined in the Documentation and applicable depending on your Service Plan.
- 7.3. **Substitute Services.** If AppXite, having a legitimate reason, is no longer able to provide any Service, Platform feature, or any combination thereof, AppXite may substitute another service in its place. The substituted service will be available for the remaining Subscription Term and will have equivalent or better performance and function and will be provided at no additional cost to the Partner.

## 8. SUSPENSION OF SERVICES

- 8.1. **Suspension.** AppXite is entitled to suspend access to the Platform and/or Services at its discretion if:

- 8.1.1. AppXite reasonably suspects that Partner's use of Platform and/or Services infringe third-party intellectual property rights;
- 8.1.2. A Partner breaches any material provision of the Agreement. For the purposes of this Agreement, material provision shall include breaches of any provision set forth in Article 6 – Prices and Payment Terms; Article 11 - Intellectual Property Rights; Article 13 - Confidentiality or Data Processing Agreement.
- 8.1.3. AppXite reasonably believes that suspension of the Platform and/or Services is required to protect AppXite's or any third-party system;
- 8.1.4. AppXite suspends the Platform and/or Services in accordance with the Applicable Law.
- 8.2. **Suspension of Product.** AppXite is entitled to suspend any Partner's Products at its own discretion, at any time, and without notice, if AppXite reasonably suspects that a Product is causing operational, legal, financial or security risk to AppXite or any third-party.
- 8.3. **Conditions for Suspension.** AppXite shall use its best efforts to give the notice of suspension to the Partner at least 24 (twenty-four) hours before suspension takes place, unless AppXite determines in 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. Should the Platform and/or Services be suspended due to the sub-clause 8.1.4., AppXite shall notify the Partner without undue delay specifying, in particular, the law or regulation under which suspension of the Platform and/or relevant Service is required, unless such notification is prohibited under the Applicable Law. Without prejudice to the foregoing, AppXite may charge Partner for the reasonable reinstatement fee upon reinstatement of the Services.

## 9. LIMITATION OF LIABILITY

- 9.1. In no event shall either Party be liable for any indirect, incidental, or consequential loss/damage suffered by the other Party, arising from or in any way connected with this Agreement.
- 9.2. AppXite's entire liability for all claims related to the Agreement will not exceed the amount of any actual direct damages incurred by Partner up to 75% of the amounts paid for the Platform or relevant Service which is subject to the claim. In case of recurring fees, up to 12-month fees shall apply.

## 10. INDEMNIFICATION

- 10.1. **AppXite Indemnification.** AppXite shall indemnify, defend, and hold the Partner 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, claims that Platform infringes the Intellectual Property of any third party.
- 10.2. **Partner Indemnification.** Partner 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, (i) the Partner's use of the Platform and/or Services contrary to the Documentation; (ii) a Partner's (or End-User's) operations in the Platform; (iii) a Partner's failure to obtain legal basis for data processing by AppXite. (iii) a Partner's infringement of third-party intellectual property rights by adding and selling any Product via Product Management.
- 10.3. Indemnifying party shall have sole control of the defence, all related settlement negotiations, and a complete information required for that Party to conduct and settle the negotiations and/or litigation.

## 11. INTELLECTUAL PROPERTY RIGHTS

- 11.1. **Ownership.** AppXite, its vendors and licensors retain all rights, title, and interest in and to the Platform, Services and Documentation, including without limitation all software, virtual machines and other technology used to provide the Platform or Services and all logos and trademarks reproduced through the Platform and Service, and this Agreement does not grant Partner any intellectual property rights associated with the Platform or/and Service 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.
- 11.2. **Modifications.** Nothing in this Agreement prohibits AppXite and/or its suppliers to modify, amend and in any way, change the Platform and/or Services whether in content, nature or otherwise by providing a reasonable information to the Partner in writing and/or make amendment to Documentation.
- 11.3. **Partner Reference.** Partner hereby agrees that AppXite may identify Partner as a recipient of services and use Partner's logo for the purposes of advertising.
- 11.4. **Partner's Feedback.** If Partner provides AppXite with reports of defects related to the Platform and/or Services, suggests or any changes or modifications, AppXite and its respective suppliers and licensors shall have the right to use and exploit such suggestions including, without limitation, the incorporation of such suggestions into the Platform and/or Services of the AppXite without any obligations towards the Partner.

## 12. INFORMATION SECURITY

- 12.1 **Information Security Controls.** Each Party shall be responsible for establishing and maintaining the information security program that include appropriate technical and organizational measures to (i) ensure the security and confidentiality of Partner Data; (ii) protect against unauthorized access, alteration, destruction, disclosure, loss or use of Partner Data that could result in substantial harm to Partner or any of its customers and/or End-Users; (iii) protect against any anticipated threats or hazards to the security or integrity of Partner Data. Parties acknowledge that Partner remains ultimately responsible for maintaining information security of its own systems, equipment (including but not limited to servers, workstations, routers, switches), network, data communication lines, as required to operate the Platform or use the Services.
- 12.2 **Backup and disaster recovery.** AppXite has implemented reasonable backup and disaster recovery technology consistent with the best industry practices and as required by applicable Data Protection Law.
- 12.3 **Trained personnel.** Each Party shall ensure that any of its personnel and/or contractors authorized to handle Partner Data or Confidential Information have been appropriately trained and are aware of that Party's information security policies and procedures. Each Party must conduct appropriate information security awareness training for all its personnel and contractors prior to being appointed to work on Partner Data. Thereafter, each party must introduce information security training routines to maintain the appropriate level of information security awareness.
- 12.4 **Data Breach Notification.** Each Party must immediately notify the other Party after becoming aware of any information security breach or suspected breach.
- 12.5 **Compliance with Data Protection Law.** Each Party must ensure that all information security safeguards, including the manner in which Partner Data is collected, used, accessed, processed and disclosed, at all times comply with applicable Data Protection Law, as well as the terms and conditions of this Agreement.

## 13. CONFIDENTIALITY

- 13.1. **Confidentiality Obligations.** Neither Party will use any Confidential Information except as expressly permitted by this Agreement or as expressly authorized in writing by the Disclosing Party or as required under the Applicable Law. Confidential Information shall not be reproduced in any form without the prior written consent

of the Disclosing Party. Any reproduction of any Confidential Information of a Disclosing Party shall remain the property of the Disclosing Party and shall contain any and all confidential or proprietary notices or legends which appear on the original. The Receiving Party may disclose Confidential Information of the Disclosing Party only to those of its employees or contractors on a "need to know" basis. In addition, prior to any disclosure of Confidential Information to any employee or contractor, such employee or contractor shall be made aware of the confidential nature of the Confidential Information and shall execute, or shall already be bound by, a non-disclosure agreement containing terms and conditions consistent with the terms and conditions of this Agreement. Without limiting the foregoing, each Party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the other Party. Each Party shall promptly notify the other Party of any actual or suspected misuse or unauthorized disclosure of the other Party's Confidential Information.

**13.2. Return or Deletion of Confidential Information.** Upon the termination or expiration of this Agreement for any reason, or upon the Disclosing Party's earlier request, the receiving Party will deliver to or delete the Disclosing Party all of the disclosing Party's property or Confidential Information in tangible form that the receiving Party may have in its possession or control. The Receiving Party may retain one copy of the Confidential Information in its legal files.

## 14. TERM

**14.1. Subscription Term.** This Agreement shall commence as of the Subscription Date and, unless earlier terminated as provided herein, shall continue in effect for the Subscription Term.

**14.2. Renewal Term.** At the end of the Subscription Term this Agreement shall be automatically renewed annually on the anniversary of the Subscription Date for additional 1 (one) year renewal terms ("*Renewal Term*"), unless either Party gives written notice of non-renewal to the other Party at least 30 (thirty) days prior to the end of the Renewal Term hereof.

## 15. TERMINATION

**15.1. Termination for Convenience.** This Agreement may be terminated by either Party at any time for any reason, by giving 30 (thirty) calendar days written notice of termination to the other Party.

**15.2. Early Termination Fee.** If the Agreement is terminated by the Partner in accordance with the clause 15.1. of this Agreement, Partner shall pay AppXite the fixed platform fee, depending on Partner's tier, for the remaining period until the end of the Subscription Term. Therefore, fixed platform fee payable for the Subscription Term constitutes a minimum commitment under this Agreement.

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

- 15.3.1. if either Party breaches any provision of this Agreement and fails to remediate such breach within 45 (forty-five) 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 45 (forty-five) day period;
- 15.3.2. if either Party becomes insolvent or makes an assignment for the benefit of creditors, then the other Party may terminate this Agreement effective immediately upon notice;
- 15.3.3. if either Party is dissolved or liquidated, then the other Party may terminate this Agreement effective immediately upon notice;
- 15.3.4. If required by the Applicable Law, then the other Party may terminate this Agreement effective immediately upon notice.

- 15.4. **Effect of termination.** Upon termination or expiry of this Agreement, the following provisions shall apply:
- 15.4.1. any Fees incurred but unpaid shall become immediately due and payable to the AppXite;
  - 15.4.2. Partner shall forthwith cease to use of the Platform and Services and shall promptly return all copies of the Documentation to AppXite or else destroy those copies of Documentation upon AppXite's request;
  - 15.4.3. all rights and authorizations granted to Partner under this Agreement shall immediately cease;
  - 15.4.4. all Partner's products available in the Platform pursuant to the Article 4 of the Agreement will be immediately suspended;
  - 15.4.5. If applicable, AppXite will provide the Partner with one electronic copy of the Partner Data, in the format reasonably accepted by the Partner.

## 16. GENERAL TERMS

- 16.1. **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.
- 16.2. **Amendments.** This Agreement and its annexes may be amended only when duly executed by the Parties in writing. Notwithstanding the foregoing, AppXite reserves the right to amend this Agreement by sending new version of this Agreement to the Partner. Amended agreement must be sent to Partner 30 days prior to its entry into force and during that period Partner shall be entitled to terminate the Agreement by providing 10 days prior written notice of termination to AppXite. Any alterations made by AppXite are valid to the extent such changes are not leading to increase in AppXite's fees or are contrary to the principle of "good faith".
- 16.3. **Order of priority.** In the event of any conflict or inconsistency between any provisions of this Agreement and its annexes, the terms of the annexes shall prevail.
- 16.4. **Compliance with Laws.** Either Party shall, and shall cause each of its affiliates and representatives to, comply with Applicable law and Data Protection Laws and shall obtain and maintain in effect all licenses, certificates, permits, consents and other governmental authorizations required to perform their obligations under this Agreement.
- 16.5. **Severability.** In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Agreement will remain in full force and effect, and shall be construed so as to best effectuate the intention of the parties in executing it.
- 16.6. **Survival.** Any obligations which either expressly or by their nature are to continue after the termination or expiration of this Agreement shall survive and remain in effect.
- 16.7. **Force Majeure.** Neither Party shall be liable in the event that its performance of this Agreement is prevented, by reason of a labour dispute, governmental restrictions or actions, war (declared or undeclared) or other hostilities, or by any other event, condition or cause which is not foreseeable on the Subscription Date and is beyond the reasonable control of the Party. In the event of non-performance or delay in performance attributable to any such causes, the period allowed for performance of the applicable obligation under this Agreement will be extended for a period equal to the period of the delay. However, the Party so delayed shall use its best efforts, without obligation to expend substantial amounts not otherwise required under this Agreement, to remove or overcome the cause of delay. In the event that the performance of a Party is delayed for more than 30 (thirty) days, the other Party shall have the right, which shall be exercisable for so long as the cause of such delay shall continue to exist, to terminate this Agreement without liability for such termination.
- 16.8. **Notices.** All notices, requests, claims, demands and other communications shall be in writing in the English language and shall be signed by a person duly authorized to provide such notice.
- 16.9. **Governing law.** This Agreement shall be governed by and construed in accordance with UNIDROIT Principles of International Commercial Contracts (2016) and, with respect to issues not covered by such principles, by the



law of Republic of Latvia applicable therein without reference to any conflict of laws principles under which different law might otherwise be applicable.

16.10. **Dispute Resolution.** Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled in the Latvian Chamber of Commerce and Industry Court of Arbitration in Riga in accordance with its Rules of Arbitration. The number of arbitrators shall be one. The language of the arbitration shall be English.

These **Microsoft CSP Reseller Terms and Conditions** ("Terms") shall govern the relationship between AppXite as Microsoft Indirect Provider and Partner as Microsoft Indirect Reseller in accordance with the Microsoft Cloud Solution Provider Program and are effective on the day Partner appoints AppXite as its Indirect Provider in the Microsoft Partner Centre.

These Terms must be read in conjunction with the Partner Agreement ("Agreement") made between AppXite and the Partner. Agreement provides the general terms and conditions applicable to the re-sale of Products, including cloud products, whereas these Terms must be construed as Microsoft specific terms pertaining to the CSP Products.

## 1. DEFINITIONS AND INTERPRETATIONS

**"CSP Products"** means Microsoft cloud products, including but not limited to, Microsoft Azure, Microsoft Office 365, Microsoft Dynamics 365, Microsoft Dynamics Navision;

**"CSP Program"** means Microsoft Cloud Solution program designed to govern the sales and support of CSP Products and encompass the relevant cloud agreements, guides and schedules, as amended by Microsoft from time to time;

**"MCA"** means the Microsoft Cloud Agreement that governs the provision, maintenance and support of CSP Products. MCA is made between Microsoft and Customer according to the CSP Program;

**"Customer"** means individual or entity which has assented to the MCA and is thereby authorized to use CSP Products for its internal business purposes;

**"Order Form"** means the document for ordering Platform and/or Services that contains information about fees, order description and subscription term;

**"Documentation"** means Microsoft Online Services Terms and all documents, policies, procedures, programs, requirements, and/or information related to the CSP Products. Microsoft may update or modify the Documentation, from time to time, by promptly informing AppXite and/or Partner pursuant to the CSP Program;

**"Effective Date"** means the date on which the Agreement shall be deemed effective when (i) signed by duly authorized representatives of both Parties; or (ii) Parties sign an order form that includes this Agreement by reference;

**"Pricelist"** means the set of prices for the CSP Product(s) provided by AppXite to Partner by sending the pricelist or otherwise making prices available on the Platform;

**"Microsoft"** means Microsoft Corporation and its affiliates and subsidiaries;

**"Territory"** means European Union and European Free Trade Association member states.

## 2. APPOINTMENT AND LICENSE GRANT

2.1. **Appointment.** Subject to the terms and conditions of this Agreement, AppXite hereby appoints Partner, for the Term, as its indirect reseller in accordance with the CSP Program and grants to the Partner, a nonexclusive, non-transferable, revocable license to resell the CSP Products to Customers within the Territory.

2.2. **Eligibility.** For the term of these Terms, Partner shall have an active Microsoft Partner Network (MPN) membership ID and shall qualify as Microsoft CSP indirect reseller to be eligible to resell CSP Products under the CSP Program. At all times, Partner must comply with Microsoft terms associated with the re-sale of CSP Products.

2.3. **Microsoft Cloud Agreement.** Partner must make sure that the Customer accepts MCA in a manner that creates a legally enforceable contract between Microsoft and the Customer, before providing CSP Products the respective Customer. If Microsoft updates the MCA, then Customer must accept the new MCA at or before renewal of their Product subscription. If Customer does not accept the terms of the MCA, Partner shall be liable to AppXite for any costs and damages incurred by AppXite as a result of such failure.

- 2.4. **MCA Attestation.** Partner must assist AppXite in managing MCA customer acceptance confirmation pursuant to the Microsoft requirements. Microsoft requires its indirect providers to provide the details of customer's acceptance of MCA, which includes the following customer data: (i) date of MCA acceptance; (ii) first and last name; (iii) email address; (iv) phone number (optional). Platform has incorporated Microsoft Partner Centre API to enable AppXite to gather this information directly from Customer and subsequently verify customer's acceptance of MCA prior to making a purchase. Notwithstanding the foregoing, should AppXite fail in gathering the complete and accurate information for MCA attestation, the Partner must, in a timely fashion, upon AppXite's request, supply such information to AppXite. Should a Customer or Partner provide false or inaccurate information, Microsoft and/or AppXite is entitled to suspend Partner's ability to make new purchases or changes to the existing subscriptions (e.g. change number of seats).
- 2.5. **Restrictions.** Partner must not and shall not authorize any third party to (i) make CSP Products available to any person other than the Customer, (ii) modify or create derivative works based upon the CSP Products, except to the extent that enforcement of the foregoing restriction is prohibited by applicable law, (iii) remove, modify or obscure any copyright, trademark, or other proprietary notices contained in the software used to provide the CSP Products, (iv) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the software used to provide CSP Products, except and only to the extent such activity is expressly permitted by Applicable Law, or (v) access CSP Products in order to build a similar product or competitive product.

### 3. SALES ORGANIZATION AND COMPETENCY

- 3.1. Partner shall maintain the sales organization required to effectively support the sale and deployment of the Cloud Products.
- 3.2. Partner must implement the systems, processes and tools required to drive sales and customer satisfaction, while maintaining a system to measure and monitor the performance of such efforts including customer acquisition, user activation and deployment, and Customer renewals. If monitored results (customer acquisition, activation, customer satisfaction, etc) are not being met, Partner must undertake to improve results.
- 3.3. Partner must take its best efforts to maintain MPN Competency for Cloud Customer Relationship Management if it resells Microsoft Dynamics Online Services.

### 4. CSP PRODUCT PRICES

- 4.1. **CSP Product Prices.** AppXite shall charge the Partner for the recurring fees ("Fees") in accordance with the Pricelist associated with the respective CSP Products available via Platform. Fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof.