



Reseller Agreement

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This Reseller Agreement is entered into, effective as of \_\_\_\_\_, by and between,

SIA "AppXite", company registration number: 40003843899, having its registered address at Matrožu street 15, Riga, LV-1048, Latvia, hereinafter referred to as "AppXite", and

\_\_\_\_\_, company registration number: \_\_\_\_\_, VAT number: \_\_\_\_\_, having its registered address at \_\_\_\_\_, hereinafter referred to as the "Reseller".

## 1. DEFINITIONS AND INTERPRETATIONS

- a) "**Agreement**" means this Reseller Agreement, including all the annexes attached, 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) "**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;
- c) "**Customer Agreement**" means the agreement made between Reseller and Customer for delivery of Product(s);
- d) "**Customer**" means entity authorized to use Product(s) for its internal business purposes under the Customer Agreement;
- e) "**Disclosing Party**" means any Party disclosing Confidential Information to the Receiving Party under this Agreement;
- f) "**Documentation**" means any and all documents, policies, procedures, programs, requirements, and/or information related to the Products, including but not limited to the Authorized Use Policy, Product Description, Service Level Agreements, Manuals and Guides. AppXite and/or Vendor may update or modify the Documentation from time to time by promptly informing the AppXite and/or Reseller;
- g) "**Effective date**" means the date on which this 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;
- h) "**Fees**" means the amount payable to AppXite by Reseller under the Agreement for the supply of Products;
- i) "**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;
- j) "**Receiving Party**" means any Party receiving Confidential Information from a Disclosing Party under this Agreement;
- k) "**Territory**" means worldwide, unless Vendor Terms state otherwise;
- l) "**Vendor Terms**" terms and conditions associated with the re-sale of specific Vendor or 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 Reseller.
- m) "**Confidential Information**" means all information furnished, whether orally, in writing, electronically or in other tangible forms, 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,
  - a) business plans or operations;

- b) research and development or investigations;
  - c) properties, employees, finances, operations;
  - d) 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;
  - e) 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.
- n) **"Party"** means AppXite or Reseller as the context requires, **"Parties"** shall be construed accordingly;
- o) **"Product"** means a product subscription, including but not limited to, subscription for (i) software as a service; (ii) managed services; (iii) support; or (iv) other IT services accessible via Platform;
- p) **"Platform"** means the cloud commerce platform owned by AppXite and provided to the Reseller as a white label platform. Platform is designed for sales, subscription and recurring billing management and enables Reseller to market Products to various re-sellers and/or customers via Platform;
- q) **"Vendor"** means the vendor of Products, and its affiliates and subsidiaries, specified in the Vendor Terms.

## 2. APPOINTMENT AND LICENSE GRANT

- 2.1. **Appointment.** Subject to the terms and conditions of this Agreement, AppXite hereby appoints the Reseller, for the Term, as its authorized Reseller. AppXite grants to the Reseller, a non-exclusive, non-transferable, revocable license to resell the Products to Customers within the Territory. Reseller may market, promote, and reseller Products only to Customers located solely within the Territory.
- 2.2. **Eligibility.** Reseller shall accept and conform to Vendor Terms before the re-sale of the respective Products governed by such Vendor Terms. AppXite shall take its best endeavours to provide Reseller with Vendor Terms by making such terms available in the Platform.
- 2.3. **Customer Agreement.** Reseller 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 Reseller must make Customer accept the new Customer Agreement at or before renewal of their Product subscription. If the Customer does not accept the terms of the Customer Agreement, the Reseller shall be liable to AppXite for any costs and damages incurred by AppXite as a result of such failure.
- 2.4. **Restrictions.** Reseller must not and shall not authorize any third party to (i) make Products available to any person other than Customer, (ii) modify or create derivative works based upon the 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 Products, (iv) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the software used to provide Products, except and only to the extent such activity is expressly permitted by applicable law, or (v) access Products in order to build a similar product or competitive product.

### 3. SUSPENSION OF LICENSE

- 3.1. **Suspension.** AppXite is entitled to suspend the Reseller's license granted under the Article 2 of the Agreement without liability if:
- 3.1.1. AppXite reasonably suspects that the Reseller's and/or Customer's use of the Product infringes third-party intellectual property rights;
  - 3.1.2. if any amount owned by the Reseller is 45 (forty-five) or more days overdue, provided that AppXite has given Reseller a notice that its account is overdue. Suspension of the license shall not release Reseller of its payment obligations under this Agreement;
  - 3.1.3. Reseller breaches any material provision of the Agreement. For the purposes of this Agreement material provision shall include breach of any provision set forth in Article 4 – Prices and Payment Terms; Article 6 - Intellectual Property Rights; Article 7 – Confidentiality;
  - 3.1.4. AppXite suspends the license in accordance with the Applicable Law.
- 3.2. **Conditions for Suspension.** AppXite shall use its best efforts to give the notice of suspension to the Reseller at least 24 (twenty-four) hours before suspension takes place, unless AppXite determines in reasonable commercial judgement, that a suspension on shorter notice is necessary to protect AppXite or any third party from operational, legal, financial or security risk.

### 4. PRICES AND PAYMENT TERMS

- 4.1. **Fees.** All recurring Fees paid to AppXite by Reseller shall be based on the total amount of Products purchased by Reseller from AppXite during the preceding month. Fees are based on monthly periods that begin on the Product subscription date and each monthly anniversary thereof. AppXite makes all Fees available to the Reseller prior to such new Fees are in effect.
- 4.2. **Customer Pricing and Billing.** AppXite shall have no responsibility to determine such fees or other amounts, and AppXite shall have no responsibility for billing or collecting such fees or any other amounts from Customers, unless agreed otherwise. Reseller is solely responsible for payment to AppXite for all Products purchased from AppXite. Parties hereby acknowledge that Reseller shall be responsible for such matters as credit verification, deposits, billing, collection, bad debts and any unauthorized use of the Products by or on behalf of Customers. For the avoidance of doubt, the Reseller is obliged to pay all Fees to AppXite regardless of payments made by Customer for the respective Products.
- 4.3. **Invoicing.** Unless stated otherwise, AppXite will invoice Partner once per month.
- 4.4. **Electronic Invoice.** All invoices shall be issued by AppXite and sent to the Reseller's billing email address indicated in the Reseller registration form or other form provided by AppXite. In case of change of billing details, Reseller shall provide new billing details to AppXite in a timely manner.
- 4.5. **Payment Terms.** All Fees are due within 30 (thirty) calendar days from the invoice day.
- 4.6. **Taxes.** Unless otherwise agreed by the Parties, all prices shall be exclusive of the value-added tax, levies, duties or similar governmental assessments of any nature applicable under the Applicable Law. AppXite is responsible for paying all taxes associated with the distribution of the Products, whereas Reseller is responsible for all local taxes, levies, duties or similar governmental assessments of any nature applicable to the re-sale of the Products.
- 4.7. **Contractual Penalty.** For each non-performance of the payment obligations by a Reseller, Reseller shall, in addition to any other remedies under the Applicable Law, pay to AppXite an immediately due and payable penalty of 50 EUR. Penalty shall be calculated with respect to each overdue invoice and shall be imposed every time AppXite is sending Reseller a notice of overdue account. AppXite is entitled to send to Reseller up to 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 Reseller.

- 4.8. **Late Payments.** If the Reseller fails to pay any amount to AppXite under this Agreement, the Reseller shall pay, on demand, 1.5% (one and a half percent) per month up to the amount allowed under the Applicable Law on such balance from the due date until paid.
- 4.9. **Transfer of Funds.** Unless otherwise agreed in writing between the Parties, all payments under this Agreement shall be quoted and paid in EUR, via wire transfer to the AppXite's bank account specified in the relevant invoice.

## 5. DISCLAIMER OF WARRANTIES

- 5.1. **Disclaimers.** EXCEPT AS SPECIFICALLY SET FORTH IN THE APPLICABLE DOCUMENTATION, ALL PRODUCTS ARE PROVIDED "AS IS" AND WITHOUT ANY REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS OF ANY KIND, EACH PARTY AND ITS LICENSORS AND/OR SUPPLIERS SHALL MAKE NO OTHER REPRESENTATIONS AND GIVE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE REGARDING THE SERVICES AND OR PRODUCTS AND EACH PARTY SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, NON-INFRINGEMENT, DURABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, RESELLER ACKNOWLEDGES THAT THE APPXITE DOES NOT REPRESENT OR WARRANT OR PROVIDE ANY CONDITIONS THAT THE PRODUCTS WILL BE ERROR-FREE OR WORK WITHOUT INTERRUPTIONS.

## 6. INTELLECTUAL PROPERTY RIGHTS

- 6.1. **Ownership.** AppXite, Vendors, and licensors retain all rights, titles, and interest in and to the Products, including, without limitation, all software used to provide the Products and all logos and trademarks reproduced through the Products. This Agreement does not grant Reseller any intellectual property rights associated with the Product 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.
- 6.2. **Modifications.** Nothing in this Agreement prohibits Vendor from modifying, amending and in any way, change the Products whether in content, nature or otherwise by making amendments to Documentation.

## 7. CONFIDENTIALITY

- 7.1. **Confidentiality Obligations.** Neither Party will use any Confidential Information of the Disclosing Party except as expressly permitted by this Agreement or as expressly authorized in writing by the other 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 who need to know such information. In addition, prior to any disclosure of such Confidential Information to any such 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.

7.2. **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 transfer to the disclosing Party or delete all of the disclosing Party's property or Confidential Information 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.

## 8. LIMITATION OF LIABILITY

- 8.1. 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.
- 8.2. 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 the total amount of AppXite's margin applied to the relevant product(s) during the 12 (twelve) months preceding the claim.

## 9. TERM

- 9.1. **Initial Term.** This Agreement shall commence as of Effective Date and, unless earlier terminated as provided herein, shall continue in effect for an initial term of 1 (one) year ("**Initial Term**").
- 9.2. **Renewal Term.** Thereafter, the term of the Agreement shall be automatically renewed annually on the anniversary of the Effective 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 Initial Term or any Renewal Term hereof.

## 10. TERMINATION

- 10.1. **Termination for Convenience.** Upon expiry of the Initial Term of this Agreement, Agreement may be terminated by either Party for any reason by giving a 30 (thirty) calendar days written notice of termination to the other Party.
- 10.2. **Termination for Cause.** This Agreement may be terminated as follows:
- a) if either Party breaches any provision of this Agreement and fails to remediate such breach within 45 (forty-five) calendar 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;
  - b) 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; or
  - c) if either Party is dissolved or liquidated, then the other party may terminate this Agreement effective immediately upon notice;
  - d) if required by the Applicable Law, then the other Party may terminate this Agreement effective immediately upon notice;
  - e) if there is a reasonable suspicion that Reseller and/or Customer has breached any of its obligation of confidentiality or protection of the intellectual property rights of the other Party, then the other Party may terminate this Agreement effective immediately upon notice.
- 10.3. **Customer Relationship.** If Reseller fails to fulfil its payment obligations to AppXite for more than 45 (forty-five) days, AppXite shall be entitled to approach the Customer and offer to transfer its subscription(s) for Product(s) to

another reseller appointed by AppXite. In such case, AppXite is allowed to use and transfer customer data to any of its resellers.

**10.4. Effect of termination.** Upon termination or expiry of the Initial Term or any Renewal Term, the following provisions shall apply:

- a) all rights and authorizations granted to the Reseller under this Agreement shall immediately cease, unless required to maintain existing Product subscriptions;
- b) Reseller shall forthwith cease to market Products, and shall promptly return all copies of the Documentation to AppXite or else destroy those copies of Documentation and/or marketing materials, unless required to maintain existing Product subscriptions;
- c) Reseller shall immediately pay any unpaid Fees to AppXite. In no event shall any expiration or termination relieve Reseller of the obligation to pay any Fees for the period prior to the effective date of termination;
- d) AppXite hereby acknowledges and accepts that nothing in this Agreement shall prohibit or restrict the Customers to receive the respective Products for the then-current Product subscription term. Hence, all Customer subscriptions for Products shall survive termination, unless the Reseller is subject to insolvency or otherwise is incapable of providing the Products. For the avoidance of doubt, in consideration of the payment of Fees to AppXite, all terms and conditions of this Agreement will be valid for the duration of the Product subscription term;
- e) any provision of the Agreement which is expressed to continue in force after termination shall continue in full force and effect.

## 11. GENERAL TERMS

- 11.1. **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.
- 11.2. **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 versions of this Agreement to the Reseller. An amended agreement must be sent to Reseller 30 days prior to its entry into force. During that period, the Reseller shall be entitled to terminate the Agreement by providing 10 (ten) 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*".
- 11.3. **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.
- 11.4. **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.
- 11.5. **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.
- 11.6. **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.
- 11.7. **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.

- 11.8. **Notices.** All notices, requests, claims, demands, and other communications shall be provided in writing in the English language and shall be signed by a person duly authorized to provide such notice.
- 11.9. **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.
- 11.10. **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.

## 12. DETAILS AND SIGNATURES OF THE PARTIES

For and behalf of **AppXite**

For and on behalf of **Reseller**

Signature: .....

Signature: .....

Name: Nicolas Albana

Name:

Title: CEO

Title:

Date: .....

Date: .....