



Partner Agreement

## TABLE OF CONTENT

1. DEFINITIONS AND INTERPRETATIONS.....	3
2. APPXITE PLATFORM AND SERVICES .....	5
3. PARTNER PROGRAM .....	6
4. RESPONSIBILITIES AND UNDERTAKINGS .....	7
5. PRICING PLANS, PRICES, AND PAYMENT TERMS.....	7
6. WARRANTIES.....	8
7. SUSPENSION OF SERVICES .....	9
8. LIMITATION OF LIABILITY .....	10
9. INDEMNIFICATION.....	10
10. INTELLECTUAL PROPERTY RIGHTS .....	10
11. INFORMATION SECURITY.....	11
12. CONFIDENTIALITY .....	11
13. TERM .....	12
14. TERMINATION .....	12
15. GENERAL TERMS.....	13
ANNEX I MULTI-CHANNEL TERMS.....	15
ANNEX II DEVELOPMENT PRIORITIZATION MODEL.....	16
ANNEX III MICROSOFT PRODUCT RESALE TERMS .....	18

This AppXite Partner Agreement constitutes a legally binding agreement between SIA "AppXite", registration number: 40003843899, registered address at Matrožu street 15, Riga, LV-1048, Republic of Latvia, and you ("**Partner**" or "**You**"). Please read the terms and conditions of this Agreement carefully before accepting, or before using AppXite Platform and/or related products, benefits, and services or any part thereof, or any other product which AppXite makes available to You.

- If you place an order via [www.appxite.com](http://www.appxite.com), <https://solutions.appxite.com/> click "**Agree**", sign an Order Form, use or access the Platform or Service, or take any other affirmative action indicating your acceptance of the terms of this Agreement, whichever is earlier, you are bound by (i) all of the terms and conditions of this Agreement and (ii) by the following documents: a) Vendor Terms (as defined below) associated with the Products that are sold to You or by You hereunder; b) [AppXite Privacy Policy](#); (c) [Data Processing Agreement](#), and any other document incorporated by reference in any of the aforesaid documents.
- 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 a company, you warrant and represent that you have the authority to such company and its Affiliates to this Agreement. Therefore, the terms "Partner" or "You" or a related capitalized term herein shall refer to such company and its Affiliates.
- 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 commencement of such order.
- All the aforesaid documents, including their attachments (if any), are expressly incorporated herein by reference and are collectively referred to as the "**Agreement**". The Agreement and related documentation can be found in the [AppXite Legal Hub](#).
- Please note that AppXite may, from time to time, modify this Agreement by publishing the most current version on the [AppXite Legal Hub](#). New features, services, and components we add to the AppXite Platform are subject to this Agreement. 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. "**Account**" means the account created within the Platform in connection with this Agreement;
- 1.2. "**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;
- 1.3. "**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;
- 1.4. "**Confidential Information**" means all information furnished, whether orally, in writing, electronically, or in 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,
  - 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 the 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.
- 1.5. **"Customer"** means an entity authorized to use Product(s) for its internal business purposes and not for sale;
- 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 the collection of documents, policies, and articles that pertain to the Platform and/or Services. Documentation is available at [Knowledge Base](#). AppXite may update or modify the Documentation from time to time by updating the [Knowledge Base](#). 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), 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. **"Order Form"** means the document for ordering the Platform and/or Service(s) that contains information about fees, order description, and Subscription Term;
- 1.11. **"Partner Data"** means any Partner related data that are processed (e.g. collected, generated, stored, and displayed) by the Platform, including, but not limited to, order notifications, transaction/billing information and reports, activity logs, text, graphics, and other materials generated in any form or media;
- 1.12. **"Partner"** means an entity authorized to use the Platform according to this Agreement and to whom the Services are provided;
- 1.13. **"Platform"** means the cloud subscription and recurring billing management platform designed to enable Partners to manage its business operations and market Products according to the Documentation;
- 1.14. **"Product"** means any product or service that AppXite makes available on the Platform, including but not limited to: (i) software as service; (ii) managed services; (iii) support; or (iv) any other product integrated with the Platform;
- 1.15. **"Pricing Plan"** means the document that defines the pricing terms associated with your Platform and/or Service;
- 1.16. **"Party"** means AppXite or Partner as the context requires, "Parties" shall be construed accordingly;

- 1.17. **"Receiving Party"** means the Party that receives Confidential Information, directly or indirectly, from the Disclosing Party under this Agreement;
- 1.18. **"Subscription Date"** means the date in which the Partner has subscribed for the Platform and/or Service by either (i) accepting the terms of this Agreement; or (ii) accessing or using the Platform and/or Service;
- 1.19. **"Subscription Term"** means the subscription period for the Platform and/or Service specified in the Order Form;
- 1.20. **"Seller"** means an entity authorized by Partner to use the Platform to re-sell Products to Customers;
- 1.21. **"Services"** means those services outlined in the Order Form or otherwise agreed between Parties from time to time;
- 1.22. **"Subscription"** means the right to use the Platform and/or Service(s) for the duration of the Subscription Term;
- 1.23. **"Territory"** means worldwide, unless Vendor Terms state otherwise;
- 1.24. **"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;
- 1.25. **"Vendor"** means the (i) third party supplier of Products; (ii) Partner selling its own Products via Platform;
- 1.26. **"Website"** shall mean [www.appxite.com](http://www.appxite.com) and its respective sub-domains, and any other website owned and/or controlled by AppXite;
- 1.27. **"User Story"** means the description of a feature or functionality from an End-User perspective.

## 2. APPXITE PLATFORM AND SERVICES

- 2.1. **Use Rights.** Subject to Partner's Pricing Plan, AppXite grants Partner a non-exclusive, non-transferable, revocable, worldwide, limited right, for the Subscription Term, to use the Platform and Services solely for the Partner's internal business purposes and only in accordance with this Agreement, applicable Documentation, and any other instructions provided to Partner by AppXite from time to time. All rights not expressly granted to Partner in this Agreement are reserved by AppXite, its Affiliates, and suppliers.
- 2.2. **Third-Party Service Providers.** Partner acknowledges and agrees that Platform may provide access or be integrated with third-party services and products. AppXite will reflect such third-party services in the Documentation (hereinafter referred to as the **"Third-Party Services"**). AppXite disclaims any warranty or representation on the availability of such Third-Party Services. If Partner uses any of such Third-Party Services, Partner agrees to comply with the terms and conditions pertaining to such Third-Party Services.
- 2.3. **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 (i) 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.
- 2.4. **Services.** Subject to the terms of this Agreement, Partner may order Services from AppXite. The Services will be specified in the applicable Order Form and provided according to the Documentation.
- 2.5. **Affiliates.** Unless otherwise stated in the Order Form, this Agreement is entered into by Partner for itself and for the benefit of its Affiliates provided, however, that Partner remains responsible for compliance of such Affiliates with this Agreement.

- 2.6. **Trial/Sandbox Platform.** AppXite may provide Partner with a Sandbox/Trial Platform or Service at no charge ("**No-Charge Product**"). The use of such No-Charge Product is subject to this Agreement. AppXite may modify or terminate Partner's right to use the No-Charge Product at any time, for no reason, and without any liability. In addition, AppXite disclaims all obligations or liabilities with respect to No-Charge Product, including support, warranty (of any kind) and indemnity obligations.
- 2.7. **Platform Functionality.** The Platform is provided according to the Documentation and includes the features and components associated with the selected Pricing Plan.
- 2.8. **Future Functionality.** AppXite is entitled to incorporate new functionality into the Platform according to its then-current development roadmap. Platform functionality and new features incorporated therein by AppXite are 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 based on your Pricing Plan. Partner may submit its recommendations with respect to platform development to AppXite and based on the Partner's Pricing Plan request AppXite to develop additional functionality or build custom components ("**Additional Functionality**"). AppXite will consider such request in a good faith and provide Partner with estimated timeline for implementation. Additional Functionality will be developed according to the Annex II of the Agreement.

### 3. PARTNER PROGRAM

- 3.1. **Sales Models.** Depending on the Pricing Plan, the Platform shall be configured to support one or a combination of the following sales models:
- a) **Direct Model.** Partner may purchase Products via Platform directly from the available Vendors and re-sell such Products to Customers according to the Vendor Terms associated with the respective Product (if any).
  - b) **Indirect Model.** AppXite hereby grants Partner, for the Term, a non-exclusive, non-transferable, revocable license to resell, market, and promote the Products to Customers 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) **Vendor Direct.** Partner may add its own Product offers into its Platform and market such products to Customers.
  - d) **Multi-Tier Model (Direct).** Partner may purchase Products via Platform directly from the available Vendors and re-sell such Products to Customers and/or Sellers.
  - e) **Multi-Tier Model (Indirect).** AppXite hereby grants Partner, for the Term, a non-exclusive, non-transferable, revocable license to resell, market, and promote the Products to Customers and/or any downstream Seller within the Territory. Partner may market, promote, and re-sell Products to Customers and/or Sellers located 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).
  - a) **Multi-Tier Vendor.** A Partner may add its own Product offers into its Platform and market such products to Customers and/or Sellers.
- 3.2. **Product Distribution.** Partner may enable AppXite to distribute Partners Products to other Sellers and/or Customers by authorizing AppXite in writing or via Platform. As a result, Partner's Products will be available in the product catalogs of other sellers within AppXite's seller network. Authorizing AppXite to act as a distributor will be governed by *Annex I – Multi-Channel Terms*.

## 4. RESPONSIBILITIES AND UNDERTAKINGS

- 4.1. **System Compliance.** Partner shall be responsible for its computer hardware, software, and internet connection required to access the Platform and Services.
- 4.2. **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 unless otherwise authorized by AppXite in this Agreement; (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.
- 4.3. **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 relationships 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 sub-section 4.2 of the Agreement.
- 4.4. **Platform Account.** Partner agrees that it is solely responsible for all actions made through the Account and Platform accounts of your Sellers and Customers. In addition, Partner agrees that any End-User assigned with Partner Admin role by the Partner or having another administrative role having equivalent permissions with respect to the Account has the authority to bind the Partner to any Product order management activities (e.g. sending a quote, order placement, amendments, modifications or acknowledgements related to the Agreement or the Products).
- 4.5. **Data Validation.** AppXite shall take its best efforts to ensure that the Partner Data generated by the Platform is accurate and up to date. Notwithstanding the foregoing, Partner acknowledges and agrees that, at all times, Partner is responsible and accountable for verifying the accuracy and completeness of the Partner Data. AppXite shall not be responsible or liable for any damages resulting from inaccurate or incomplete Partner Data. Customer must promptly notify AppXite in case it becomes aware that any Partner Data is incorrect or incomplete by contacting [support@appxite.com](mailto:support@appxite.com).
- 4.6. **Timely assistance.** The Partner agrees that AppXite's ability to provide the Platform (or any specific functionality) is dependent upon timely assistance and information provided by the Partner. AppXite shall notify the Partner without undue delay if AppXite becomes aware that Partner's assistance and/or information is required to ensure the timely performance of its obligations under the Agreement. For the 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.
- 4.7. **Marketing Materials.** AppXite may, from time to time, provide Partner with the marketing or promotional material used to sell, promote, and deliver the Products, e.g. Product factsheet, user guide, training videos, etc. ("**Marketing Materials**"). AppXite hereby grants to Partner, and Partner hereby accepts, a non-exclusive, limited, worldwide, royalty-free, revocable, non-transferable, and non-sublicensable license, for the Subscription Term, to use, reproduce and distribute the Marketing Materials for the purpose of marketing and distributing the Product according to this Agreement.

## 5. PRICING PLANS, PRICES, AND PAYMENT TERMS

- 5.1. **Fees.** Platform fees and Service fees ("**Fees**") are outlined 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 60 (sixty) days prior written notice before new prices are in effect.



- 5.2. **Upgrades.** Partner is entitled to upgrade the Pricing Plan during the Subscription Term by notifying AppXite according to sub-section 15.8. The Fees associated with the upgraded Plan shall be in effect from the day in which the upgraded Pricing Plan is enacted.
- 5.3. **Downgrades.** Partner is entitled to downgrade the Pricing Plan by providing AppXite with 30 (thirty) days advance notice prior to the end of then-current Subscription Term or Renewal Term. Please note that downgrading your Pricing Plan may result in loss of functionality, content, or capacity of the Service as available to Partner under the current Pricing Plan. AppXite disclaims any liability resulting from such loss.
- 5.4. **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).
- 5.5. **Invoicing.** Unless stated otherwise, AppXite will invoice Partner on a monthly basis at the end of each billing cycle. With respect to the Products purchased from AppXite, the billing cycle and invoicing is aligned with each Vendor separately.
- 5.6. **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 a change of billing details, Partner shall provide new billing details to AppXite in a timely manner.
- 5.7. **Payment Terms.** All Fees are due within 30 (thirty) calendar days from the invoice day.
- 5.8. **Currency.** Unless otherwise stated in the Order Form, all fees are quoted and paid in EUR.
- 5.9. **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.
- 5.10. **Taxes.** All fees are exclusive of any taxes, levies, duties, or similar governmental assessments of any nature associated with the Platform or any Service. Each Party shall be responsible, as required under applicable law, for identifying and paying all taxes, levies, other governmental fees, and charges (and any fines, interest, and other additions thereto) that are imposed on that Party upon or with respect to the transactions and payments made under this Agreement, including any Sales Model set forth in sub-section 3.1. of the Partner Agreement. All payments made by the Partner under this Agreement shall be made free of any deduction or withholding, as may be required by the law. If any such deduction or withholding is required on any payment, Partner shall pay such additional amounts as are necessary so that the net amount received by AppXite is equal to the amount then due and payable under this Agreement.
- 5.11. **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.
- 5.12. **Late Interest.** AppXite reserves the right to charge interest at the rate of 1.5% per month on the past due amount from the first day the amount is past due until the amount is paid in full.
- 5.13. **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.

## 6. WARRANTIES

- 6.1. **Disclaimer of Warranties.** AppXite warrants that Platform and Services will be provided according to the *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 the use of the Platform and/or Services contrary to AppXite's instructions or applicable Documentation. Notwithstanding the foregoing, to the maximum extent



permitted by applicable law, Platform and Services shall be provided on "AS IS" and "AS AVAILABLE" basis. AppXite expressly disclaims all warranties of any kind with respect to the Platform and Services, whether express, implied, statutory, or otherwise, oral or written, including but not limited to the implied warranties of merchantability, quality, or fitness for a general or particular purpose, title, non-infringement, accuracy or warranties that the Platform and Services will be uninterrupted or error-free. Furthermore, AppXite disclaims all warranties with respect to any Product(s). Therefore, Partner agrees that use of Platform and Services, as well as re-sale and/or distribution of the Products, is at Partner's sole risk.

- 6.2. **Legal Disclaimer.** The information contained, without limitation, on the Website, Documentation, and Platform is provided for informational purposes only, and should not be construed as legal, tax, or management advice. Partner agrees that such information is used at Partner's own risk. Therefore, the Partner bears full responsibility to determine the applicability and accuracy of the information generated by the Platform and/or Service (including Partner Data).
- 6.3. **No Warranties and Representations.** Partner shall not make any warranties or representation, whether written or oral, on behalf of AppXite or any third-party with respect to Platform and/or Services.
- 6.4. **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.
- 6.5. **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.

## 7. SUSPENSION OF SERVICES

- 7.1. **Suspension.** AppXite is entitled to suspend access to the Platform and/or Services at its discretion if:
  - 7.1.1. AppXite reasonably suspects that Partner's use of Platform and/or Services infringe third-party intellectual property rights;
  - 7.1.2. A Partner breaches any "*Material Provision*" of the Agreement. For the purposes of this Agreement, the term Material Provision shall include breaches of any provision set forth in Section 5 – Prices and Payment Terms; Section 10 - Intellectual Property Rights; Section 12 - Confidentiality or Data Processing Agreement;
  - 7.1.3. AppXite reasonably believes that suspension of the Platform and/or Services is required to protect AppXite's or any third-party system;
  - 7.1.4. AppXite suspends the Platform and/or Services in accordance with the Applicable Law.
- 7.2. **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.
- 7.3. **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 the 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. Should the Platform and/or Services be suspended due to the sub-section 7.1.4., 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.

## 8. LIMITATION OF LIABILITY

- 8.1. **Exclusion of Liability.** 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.
- 8.2. **Liability Cap.** 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 by Partner during (i) 12 (twelve) months (in case of Platform related claim); or 3 (three) months (in case of Service-related claim) prior to the event giving rise to such liability. Under no circumstances, AppXite's entire liability shall exceed the maximum extent permitted by law.
- 8.3. The limitation of liability provided herein will apply in aggregate to any and all claims by Partner and its Affiliates and shall not be cumulative.

## 9. INDEMNIFICATION

- 9.1. **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.
- 9.2. **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) Partner's failure to obtain a legal basis for data processing by AppXite; (iv) a Partner's infringement of third-party intellectual property rights by adding and selling any own Product via Platform; (v) Partner's breach of any terms of Third-Party Providers; (vi) Partner's breach of Vendor Terms.
- 9.3. Indemnifying party shall have sole control of the defence, all related settlement negotiations, and complete information required for that Party to conduct and settle the negotiations and/or litigation.

## 10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. **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.
- 10.2. **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 reasonable information to the Partner in writing and/or making amendments to Documentation.
- 10.3. **Partner Reference.** Partner hereby agrees that AppXite may identify Partner as a recipient of services and use Partner's logo for advertising purposes.
- 10.4. **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.

## 11. INFORMATION SECURITY

- 11.1. Information Security Controls.** Each Party shall be responsible for establishing and maintaining the information security program that includes 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 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.
- 11.2. 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.
- 11.3. 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.
- 11.4. Data Breach Notification.** Each Party must immediately notify the other Party after becoming aware of any information security breach or suspected breach.
- 11.5. Account Security.** Partner is solely responsible for the security of its Platform credentials and all other access information associated with the Account. Without prejudice to the foregoing, Partner acknowledges and agrees not to hold AppXite liable for any loss that Partner may incur as a result of any third-party access to the Account, irrespective of Partners awareness and/or authorization. AppXite hereby disclaims all liability for any activity made through the Partner's Account, to the extent such actions are not made by AppXite and/or its suppliers.
- 11.6. Ownership of Data.** All Partner Data processed by AppXite shall remain to be the property of and under the control of Partner. The Partner grants AppXite a license to use the Partner Data for the purposes of fulfilling obligations under this Agreement.
- 11.7. 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.

## 12. CONFIDENTIALITY

- 12.1. 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.

- 12.2. **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 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.

## 13. TERM

- 13.1. **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.
- 13.2. **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.

## 14. TERMINATION

- 14.1. **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.
- 14.2. **Early Termination Fee.** If the Agreement is terminated by the Partner in accordance with the sub-section 14.1. 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, the fixed platform fee payable throughout the Subscription Term constitutes the minimum payable fee under this Agreement.
- 14.3. **Termination for Cause.** This Agreement may be terminated as follows:
- 14.3.1. Effective immediately, if Partner is in material breach of its obligations under this Agreement, including but not limited to: (i) Partner's engagement in illegal or deceptive trade practices; (ii) breach of *Acceptable Use Policy* (Sub-section 4.2.); (iii) applicable law (including anti-bribery laws and export controls) and data protection law;
  - 14.3.2. Effective immediately, If Partner fails to provide complete/correct company information (including but not limited to company name, company number, VAT or equivalent tax number, legal address) and fails to provide such information within 14 (fourteen) days following the AppXite's request;
  - 14.3.3. 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. Notwithstanding the foregoing, if any amount due to AppXite under this Agreement have not been received by AppXite within 14 (fourteen) days following the due date, AppXite shall be entitled to terminate the Agreement by providing immediate notice in writing to the Partner;
  - 14.3.4. 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;
  - 14.3.5. if either Party is dissolved or liquidated, then the other Party may terminate this Agreement effective immediately upon notice;

14.3.6. If required by the Applicable Law, then the other Party may terminate this Agreement effective immediately upon notice.

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

- 14.4.1. any Fees incurred but unpaid shall become immediately due and payable to the AppXite. Any prepaid fees are non-refundable;
- 14.4.2. 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;
- 14.4.3. all rights and authorizations granted to Partner under this Agreement shall immediately cease;
- 14.4.4. all Partner's products available in the Platform will be immediately suspended;
- 14.4.5. Unless agreed otherwise, AppXite is entitled to delete any Partner Data upon termination of this Agreement. Partner and its Sellers and/or Customers (if any) are responsible for exporting/removing any Partner Data prior to termination. AppXite shall not be responsible for any data loss or damages arising from the deletion of partner data following the termination of the Agreement;
- 14.4.6. Unless agreed otherwise, Product subscriptions purchased directly from AppXite shall be suspended or migrated to other partner at AppXite's sole discretion.

## 15. GENERAL TERMS

15.1. **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.

15.2. **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 and/or Documentation, from time to time and at its sole discretion, by sending a new version of this Agreement to the Partner or publishing the new versions on the Website. Partner's use of the Platform and Services after AppXite posts a new version of the Agreement or Documentation will constitute Partner's acceptance of the updated Agreement and/or Documentation. Within 15 (fifteen) days after the new Agreement is published, Partner may terminate the Agreement by providing written notice to AppXite. Changes to the Documentation do not entitle the Partner to terminate this Agreement according to this section.

15.3. **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.

15.4. **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. Partner acknowledges and agrees that the Products may be subject to economic sanctions and export controls, including but not limited to those of (i) the United States; (ii) the European Union or any member state thereof ("EU") and other respective governmental institutions thereof. Partner agrees not to engage in any transaction that would result in liability to AppXite under any sanctions or export control law or regulation.

15.5. **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.

15.6. **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.



- 15.7. **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 the 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.
- 15.8. **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. All notices to AppXite shall be mailed to the address below:
- SIA "AppXite"  
Attn: AppXite Legal  
Address: Matrožu street 15, Riga, Latvia, LV-1048.  
Email: [legal@appxite.com](mailto:legal@appxite.com).
- All notices shall be deemed given immediately upon delivery by electronic mail.
- 15.9. **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 laws of the Netherlands without reference to any conflict of laws principles under which different law might otherwise be applicable.
- 15.10. **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 arbitration under the Arbitration Rules of the Netherlands Arbitration Institute (NAI), which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be Amsterdam, the Netherlands. The language to be used in the arbitral proceedings shall be English.



## Annex I Multi-Channel Terms

The following sections shall apply in the event that Partner authorizes AppXite to distribute its Partner's own products integrated to the Platform:

- 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 by Partner (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 refers 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 resell 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 times 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) **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 30 (thirty) days' written notice before new prices are in effect.
- e) **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 the minimum price per Product subscription, as specified in the Price List.
- f) **Payment terms.** AppXite will pay to the Partner within 60 (sixty) days of the billing data being calculated. Billing data will be calculated at the end of each billing cycle, but no later than the 5<sup>th</sup> day of the following month. Partner is entitled to dispute payment Payments can be disputed by Partner for up to 30 (thirty) days following the payment.
- g) **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 the avoidance of doubt, should AppXite inform the Vendor of any overdue amount resulted from 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.

## Annex II Development Prioritization Model

The following sections shall to the Enterprise and Distributor Plan:

**1.1. Future Functionality.** Platform functionality and new features implemented by AppXite are not exclusive for Partner and therefore are generally available to other partners. Notwithstanding the foregoing, for the Subscription Term Partner may submit its recommendations with respect to platform development to AppXite and/or request AppXite to develop additional functionality or build custom components ("**Additional Functionality**"). AppXite will consider such request in a good faith and provide the Partner with an estimated timeline for implementation.

Additional Functionality will be developed in accordance with the following process:

- a) Partner submits a request for Additional Functionality specifying the business requirement and purpose;
- b) Based on the Partner's requirements, Parties agree and create one or more User Stories which describe the details of the implementation project;
- c) AppXite assigns a monetary value to such User Story (value is determined based on the time and material basis, i.e. number of development hours required to complete a User Story) and sends a quote to the Partner. Partner shall be provided an opportunity to review and accept a quote. Parties agree that quote can be sent and accepted by electronic mail;
- d) Parties assign a priority level for completing a User Story according to the sub-section 1.2. of this Annex. If no priority is assigned, AppXite will, at its own discretion determine the deadline for completion according to AppXite's then-current development roadmap.

**1.2. Development Prioritization.** Partner is entitled to assign a priority level to any User Story which has been accepted by AppXite. AppXite shall be reimbursed for the percentage of the monetary value of the User Story according to the following models:

### Model No.1. Development of non-exclusive items.

Non-exclusive items are deemed general improvements of the platform which are generally available to the other customers and partners of AppXite. Non-Exclusive items are of general nature and must not contain requirements that are specific to Partner, its Sellers, or Customers.

Sprints & Applicable Fee									
		1	2	3	4	5	6	7	8
Priority	1	50%	50%	25%					
	2				25%	12.5%			
	3						12.5%	6.25%	3.125%

#### Example

- Partner requests item "Ability to download an invoice in pdf format." to be assigned priority 1.
- Parties have accepted the relevant User Story(s) and starting from the next Sprint AppXite has a deadline of 4 weeks (2 sprints) to complete the item.
- The value of the item is (as an example) 5000 EUR.

#### Scenarios

- If AppXite succeeds to complete this item within 1-2 sprints, AppXite charges Partner for 50% of the User Story value, i.e. 2500 EUR.
- If AppXite fails to deliver within 2 next sprints, however, completes the item within the 3<sup>rd</sup> sprint, AppXite charges Partner for 25% of the User Story value, i.e. 1250 EUR.

## Model No.2. Development of Custom Items.

Custom items are deemed as the items which contain requirements that are specific to Partner, its Sellers, or Customers and not designed for any other party than Partner.

Sprints & Applicable Fee									
		1	2	3	4	5	6	7	8
Priority	1	100%	100%	50%	0%				
	2				50%	25%			
	3						25%	12.5%	6.25%

### 1.3. Prioritization is subject to the following conditions:

- Parties agree that the total value of User Stories prioritized within one month cannot exceed the 25% of the monthly platform fee paid to AppXite;
- Priority is assigned by notifying AppXite at least 1 week prior to the beginning of a new sprint;
- Prioritization commences from the next sprint;
- Added User Stories will not fall within the same priority deadline. Priorities and their respective deadlines are assigned to each User Story separately. Therefore, if a new User Story has been added in the middle of the sprint, prioritization will commence from the beginning of the next sprint;
- In the event that User Story contains elements that are both of general nature (Model No.1) and Partner specific (model No.2.) the fees with respect to these elements will be calculated according to both models.

#### Example

User Story with regards to "Ability to download and invoice in pdf format." is deemed to be a general improvement and thereby falls under Model No.1. However, if the Partner is willing to add specific categories within an invoice or alter the format of the invoice, prioritization of such specific development will be made according to Model No.2.

## Annex III Microsoft Product Resale Terms

These Microsoft Resale Terms ("**Terms**") shall govern the relationship between AppXite as distributor of Microsoft Products and Partner as Indirect Seller (or equivalent roles that allows Partner to purchase Microsoft Products from AppXite and resell such products to end-customer or other downstream sellers) under the Microsoft Terms and other then-current Microsoft programs governing the re-sale of Microsoft Products that are effective on the day Partner appoints AppXite as its Indirect Provider.

Partner Agreement provides the general terms and conditions applicable to the re-sale of Products, whereas these Terms must be construed as Microsoft-specific terms governing the re-sale of Microsoft Products.

### 1. DEFINITIONS AND INTERPRETATIONS

- 1.1. "**Microsoft Products**" means Microsoft products listed on the Platform;
- 1.2. "**Microsoft Terms**" means Microsoft Cloud Solution Provider program or equivalent program designed to govern the sales and support of Microsoft Products including the relevant agreements, guides, and schedules, as amended by Microsoft from time to time;
- 1.3. "**MCA**" means Microsoft Cloud Agreement that governs the delivery, maintenance, and support of Microsoft Products. MCA includes Microsoft Online Services Terms and all documents, policies, procedures, programs, requirements, and/or information related to the Microsoft Products. MCA is made between Microsoft and Customer according to the Microsoft Terms;
- 1.4. "**Indirect Seller**" means Partner that purchases Products from AppXite for resale to Customers or downstream sellers according to the Microsoft Terms;
- 1.5. "**Customer**" means individual or entity which has assented to the MCA and is thereby authorized to use Microsoft Products for its internal business purposes;
- 1.6. "**Pricelist**" means the set of prices for the Microsoft Product(s) provided by AppXite to Partner by sending the pricelist or otherwise making prices available on the Platform;
- 1.7. "**Microsoft**" means Microsoft Corporation and its affiliates and subsidiaries;
- 1.8. "**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 Seller according to the Microsoft Terms and grants to the Partner, a non-exclusive, non-transferable, revocable license to resell the Microsoft Products to Customers within the Territory according to the relevant Microsoft Terms.
- 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 Indirect Reseller (or equivalent status) to be eligible to resell Microsoft Products under the Microsoft Terms. At all times, Partner must comply with Microsoft terms associated with the re-sale of Microsoft 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 Microsoft Products to the respective Customer. If Microsoft updates the MCA, then the Customer must accept the new MCA at or before the 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 under the Microsoft requirements. Microsoft requires its indirect providers to provide the details of customers' 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). The Platform has incorporated Microsoft Partner Centre API to enable AppXite to gather this information directly from Customers and subsequently verify customer's acceptance of MCA prior to making a purchase. Notwithstanding the foregoing, should AppXite fail in collecting 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 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 Microsoft Products available to any person other than the Customer; (ii) modify or create derivative works based upon the Microsoft 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 Microsoft Products; (iv) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the software used to provide Microsoft Products, except and only to the extent such activity is expressly permitted by Applicable Law; or (v) access Microsoft Products in order to build a similar product or competitive product.

### 3. SALES ORGANIZATION AND COMPETENCY

- 3.1. **Sales Organization.** Partner shall maintain the sales organization required to effectively support the sale and deployment of the Microsoft Products.
- 3.2. **Customer Satisfaction.** 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.

### 4. OTHER TERMS

- 4.1. **Prices.** AppXite shall charge the Partner for the recurring fees ("**Fees**") in accordance with the Pricelist associated with the respective Microsoft Products available via Platform. Unless agreed otherwise, Fees are based on monthly periods that begin on the product subscription start date and each monthly anniversary thereof.
- 4.2. **Late Payment.** If Partner fails to fulfil its payment obligations to AppXite for more than 15 (fifteen) days, AppXite shall be entitled to migrate Customer subscription(s) for Product(s) to AppXite or another partner solely appointed by AppXite. The migration of Products shall not relieve Partner from any payment obligations and shall not excuse or delay the performance of Partners obligation to pay monies previously accrued and owing under this Order Form.
- 4.3. **Termination for Convenience.** Either party may terminate these Terms at any time without cause, by giving the other party not less than 30 (thirty) days' prior written notice.
- 4.4. **Effect of termination.** Upon termination or expiry of these Terms, the following provisions shall apply:
- a) all rights and authorizations granted to the Partner under these Terms shall immediately cease unless required to maintain existing Microsoft Product subscriptions;
  - b) Partner shall immediately pay any unpaid Fees to AppXite. In no event shall any expiration or termination relieve Partner of the obligation to pay any Fees for the period prior to the effective date of termination;

- c) Partner hereby acknowledges and accepts that nothing in these Terms shall prohibit or restrict the Customers to use the respective Microsoft Products for the then-current Microsoft Product subscription term, hence all Customer subscriptions for Microsoft Products shall survive termination unless the Partner is subject to insolvency or otherwise is incapable of providing the Products or fulfilling its payment obligations to AppXite. 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 Microsoft Product subscription term.