

SYSPRO App Store Publisher Agreement

Last Published: October 2017

Created by: SYSPRO Technical Authoring



Contents

1.	Introduction	3
2.	Registration for a Publisher Account.....	5
3.	Application Submission	6
4.	Application Evaluation	8
5.	Application Acceptance.....	9
6.	License Key.....	10
7.	Publication and Distribution of your Applications	11
8.	Support	13
9.	Grant of Licenses	15
10.	Trade Marks	17
11.	Availability of Applications and SYSPRO App Store.....	18
12.	Pricing and Payments	19
13.	Confidentiality	21
14.	Privacy and Information	23
15.	Syspro Customers.....	24
16.	Your Representations and Warranties	25
17.	Warranty Exclusions	27
18.	Exclusion and Limitation of Liability.....	28
19.	Indemnification	29
20.	Changes to the SYSPRO App Store or this Agreement.....	30
21.	Termination of this Agreement	31
22.	Force Majeure	33
23.	Relationship	34
24.	Cession and Assignment.....	35



25. Stipulation of a Benefit for a Third Party.....**36**

26. Dispute Resolution.....**37**

27. Notices**38**


28. Miscellaneous**39**

Introduction

- 1.1. The SYSPRO App Store is a website available to the public that allows parties that have developed software products (“**Applications**”), which require SYSPRO’s ERP and e.net software products (“**SYSPRO Software**”) to operate or which interface with SYSPRO Software or which operate in conjunction with SYSPRO Software, to distribute the Applications to customers who have a current license to use SYSPRO Software (“**SYSPRO Customers**”) pursuant to this Agreement.
- 1.2. Publishers can choose to distribute their Applications as follows:
 - 1.2.1. as “**Free Applications**” – SYSPRO Customers may download such Applications for free to be used by an unlimited number of Users in perpetuity;
 - 1.2.2. as “**Once-Off Fee Applications**” – SYSPRO Customers will pay a once-off fee in respect of the Application and will then be entitled to download the Application for use by either (i) that number of the SYSPRO Customers’ Users who are licensed to use SYSPRO Software if the Application has a licensing mechanism or (ii) an unlimited number of Users, in perpetuity; or
 - 1.2.3. as “**Full Fee Applications**” - SYSPRO Customers will be required to pay an initial license fee which will entitle SYSPRO Customers to download the Application for use by that number of the SYSPRO Customer’s Users who are licensed to use SYSPRO Software. In addition, SYSPRO Customers will pay an annual license fee in order to continue using the Application and therefore the Application will be embedded with a digital key developed by SYSPRO (“**License Key**”) to monitor the SYSPRO Customers’ continued use of the Application.

For purposes of this Agreement, “**User**” means the person, being an employee or a contractor of a SYSPRO Customer, who is authorized to access and use the Applications at any one time.

- 1.3. Acceptance of this SYSPRO App Store Publisher Agreement (“**Agreement**”) forms a legally binding contract between you and SYSPRO in relation to your registration for a publisher account (“**Publisher Account**”), submission of your Applications to SYSPRO, use of the materials and tools relating to the SYSPRO App Store that are offered by SYSPRO to publishers and the potential distribution of your Applications via the SYSPRO App Store. SYSPRO will only be deemed to have accepted this Agreement when it agrees to accept your registration of a Publisher Account.
- 1.4. You may not distribute your Applications via the SYSPRO App Store if you do not accept this Agreement.

- 
- 1.5. By accepting this Agreement and/or by submitting an Application and any related material to SYSPRO, you:
 - 1.5.1. represent that:
 - 1.5.1.1. you are over the age of majority under the laws of your jurisdiction;
 - 1.5.1.2. you are legally permitted to enter into this Agreement; and
 - 1.5.1.3. if you are entering into this Agreement on behalf of a company or other organization, you have the required authority to accept this Agreement on behalf of such entity, and the terms “you” and “your” in this Agreement will refer to such entity;
 - 1.5.2. agree to be bound by the terms and conditions contained in this Agreement then in effect on the date of acceptance of this Agreement or the date of submission of an Application to SYSPRO.




Registration for a Publisher Account

- 1.6. Before you can submit, publish or distribute an Application on or by way of the SYSPRO App Store, you:
 - 1.6.1. need to have a valid SupportZone registration;
 - 1.6.2. will be required to register for a Publisher Account.
- 1.7. You agree to provide truthful, accurate and complete information when registering for a Publisher Account and to keep that information updated.
- 1.8. Your registration information will be used to validate your Publisher Account and failure to provide complete or accurate information may result in your registration being denied or your Publisher Account being cancelled at any time.
- 1.9. Notwithstanding the foregoing, acceptance or rejection of your registration of a Publisher Account is at SYSPRO's sole discretion.
- 1.10. When you register, you will create a user name and password. You are solely responsible for maintaining the confidentiality and security of your Publisher Account and for all activities that occur on or through your Publisher Account and you agree to immediately notify SYSPRO, via the SYSPRO App Store, of any security breach of your Publisher Account. SYSPRO shall not be responsible for any losses arising out of the unauthorized use of your Publisher Account.
- 1.11. After you successfully register a Publisher Account, you may begin submitting your Applications for consideration by SYSPRO for distribution via the SYSPRO App Store.

Application Submission

- 1.12. You may submit your Application in object code form as a single file for consideration by SYSPRO for publication and distribution via the SYSPRO App Store once you decide that your Application is compliant with this Agreement and the guidelines that SYSPRO publishes from time to time regarding the requirements applicable to the publication and distribution of an Application via the SYSPRO App Store (“**Guidelines**”) and is ready for potential distribution to, and use by, SYSPRO Customers. You represent and warrant that your Application complies with the submission documentation, the Guidelines and requirements in effect at the time of submission.

- 1.13. When you submit your Application to SYSPRO, you must:
 - 1.13.1. provide SYSPRO with the unique name of your Application;
 - 1.13.2. state whether the Application will be distributed as a Free Application, Once-Off Fee Application or Full Fee Application;
 - 1.13.3. in respect of Once-Off Fee Applications, state whether you wish to embed a License Key in such Application;
 - 1.13.4. state the date on which you wish to publish the Application on the SYSPRO App Store, either being as soon as the Application has been approved by SYSPRO for publication or on a specific future date;
 - 1.13.5. provide SYSPRO with the hardware, software and system requirements for the Application;
 - 1.13.6. provide SYSPRO with the versions or components of SYSPRO Software the Application is compatible with and the components that the SYSPRO Customer must be licensed to use in order to use the Application;
 - 1.13.7. specify the parameters for potential distribution of the Application with reference to price and territory;
 - 1.13.8. provide SYSPRO with sufficient material to enable SYSPRO to describe the Application on the SYSPRO App Store;
 - 1.13.9. furnish SYSPRO with a text file that contains the license agreement that you wish to conclude with SYSPRO Customers (“**EULA**”) in respect of the Application;
 - 1.13.10. furnish SYSPRO with a guide, embedded in the Application, informing SYSPRO Customers how to install the Application onto their systems;



1.13.11. furnish SYSPRO with marketing information about the Application including, without being limited to, category keywords, screen shots, a link to a YouTube video or an icon for the Application,

as well as any other information that SYSPRO may request. You agree to co-operate with SYSPRO in this process and to truthfully answer questions and provide such information.

1.14. SYSPRO may from time to time request additional information, and may require you to timeously supply this additional information, for Applications that you have already submitted or that have already been published on the SYSPRO App Store. You acknowledge that your failure to timeously supply the additional information may delay the consideration of your Application for publication or may result in the suspension of the publication of your Application on the SYSPRO App Store.

1.15. You understand and agree that SYSPRO may determine in its sole discretion whether or not to publish your Application on the SYSPRO App Store and is not obliged to provide you with reasons for its decision.

1.16. You further understand and agree that if your Application is selected for distribution via the SYSPRO App Store, SYSPRO may, in its sole discretion, remove your Application at any time and for any reason (or no reason).

1.17. If you do not have the necessary rights to distribute an Application (or any portion thereof) globally and to permit others to do so, or if you are otherwise unable to control the jurisdictions in which customers may download and/or use that Application, then you must not make, or seek to make, that Application available through the SYSPRO App Store.

Application Evaluation

- 1.18. SYSPRO may test, or have tested, and evaluate Applications (at the time that you submit the Application for consideration or at any time after the Application has been published on the App Store) for their suitability as applications made available through the SYSPRO App Store, but has no obligation to do so. Such testing is for SYSPRO's internal use only and shall not be used as a representation by you or any third party as to the performance or quality of an Application.
- 1.19. Nothing in this Agreement shall limit SYSPRO's ability to test and evaluate Applications, in any manner whatsoever, to assess whether Applications comply with the Guidelines or contain any malicious software (including, without being limited to, viruses, worms, trojan horses or spyware), and SYSPRO reserves the right to test and evaluate each update, upgrade and version of an Application.
- 1.20. The outcome of any tests or evaluations of the Applications may result in the rejection of the Application or the removal of the Application from the App Store.



Application Acceptance


Once SYSPRO has accepted your Application, it will initiate the publication of that Application on the SYSPRO App Store within a commercially reasonable period in relation to the date that you stated you wanted the Application to be published on the SYSPRO App Store.

License Key

- 1.21. This clause is only applicable to Once-Off Fee Applications and Full Fee Applications.
- 1.22. You must elect whether your Once-Off Fee Applications will contain a License Key. If you choose not to include a License Key in your Once-Off Fee Applications, you understand that there will be no mechanism to control the use of such Application by a SYSPRO Customer.
- 1.23. You may only use the License Key developed by SYSPRO in respect of your Full Fee Applications and the Once-Off Fee Applications in respect of which you have elected to include a licensing mechanism, and you will be responsible for embedding the License Key in such Applications in accordance with SYSPRO's instructions.
- 1.24. You understand and agree that while SYSPRO will use commercially reasonable methods to develop the License Key, SYSPRO does not give you any warranties or representations regarding or relating to the License Key or its performance or functionality, that you will be solely responsible for embedding the License Key in your Applications and that SYSPRO will not be required to check that the License Key has been correctly embedded. You further agree that you will not have any claim, of whatever nature, against SYSPRO in the event that SYSPRO Customers or other third parties have access to or use your Applications (including after the expiry of temporary licenses or contrary to the conditions of a temporary license) without paying the requisite license fees for such Applications.

Publication and Distribution of your Applications

- 1.25. You agree to use the SYSPRO App Store only for the distribution of your Applications via the SYSPRO App Store and in accordance with this Agreement, the Guidelines, any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions.
- 1.26. You agree to SYSPRO Customers being issued with a temporary license in respect of your Full Fee Applications and your Once-Off Fee Applications which contain License Keys for an evaluation period of 30 (thirty) days before such SYSPRO Customers are required to pay the requisite license fees to purchase a license in respect of such Applications. You agree that, based on the information that you submit to SYSPRO in respect of your Applications, SYSPRO will (at its sole discretion) determine what restrictions, if any, will apply to a SYSPRO Customer's use of the Applications under the temporary license.
- 1.27. You agree to protect the privacy and legal rights of SYSPRO Customers. You agree to strictly comply with SYSPRO's privacy policy, as amended from time to time, which can be found at <http://www.syspro.com/Info/Privacy..> If SYSPRO Customers provide you with, or your Applications access or use, user names, passwords or other login information or personal data (including, without being limited to, information that can be used, together with other information or data, to identify a SYSPRO Customer or a User) (collectively "**SYSPRO Customer Data**"), you must make the SYSPRO Customers aware that the information will be available to you and/or your Applications, and you must provide legally adequate privacy notice and protection of SYSPRO Customer Data for those SYSPRO Customers. Furthermore, your Application may only use SYSPRO Customer Data for the limited purposes for which the SYSPRO Customer has given you permission to do so. If your Applications store SYSPRO Customer Data or sensitive information provided by SYSPRO Customers, they must do so securely and only for as long as it is needed. You must use best efforts to ensure the confidentiality of SYSPRO Customer Data via encryption or similar means and you must not use SYSPRO Customer Data in breach of SYSPRO's privacy policy, your own privacy notices, any applicable laws, rules and/or regulations.
- 1.28. You agree that you will not engage in any activity, including the development or distribution of Applications, that interferes with, disrupts, damages or accesses in an unauthorized manner the servers, networks or other properties or services of any third party including, but not limited to, SYSPRO Customers, SYSPRO or any other third party publishers that publish on the SYSPRO App Store.
- 1.29. You agree that you are solely responsible for (and that SYSPRO has no responsibility to you or to any third party for) any Applications that you distribute via the SYSPRO App Store and therefore the consequences of your actions (including any loss or damage which SYSPRO may suffer) by doing so.

- 
- 1.30. You agree that you are solely responsible for (and that SYSPRO has no responsibility to you or to any third party for) any breach of your obligations under this Agreement, any applicable third party contract or terms of service, any applicable EULA or any applicable law or regulation, and for the consequences (including any loss or damage which SYSPRO or any third party may suffer) of any such breach.
 - 1.31. You agree that you are solely responsible for developing Applications that are safe, free of defects in design and operation and comply with applicable laws and regulations. You will be solely responsible for any documentation and warranty obligations for SYSPRO Customers. The fact that SYSPRO may have reviewed, tested, approved or selected your Application will not relieve you of these obligations and will not subject SYSPRO to any responsibility or liability for your Applications.
 - 1.32. You agree that you are responsible for (i) submitting your Application in a form that enables SYSPRO to upload the Application onto the SYSPRO App Store; (ii) providing any required Application information and disclosures to SYSPRO Customers; and (iii) accurately disclosing the hardware, software and system requirements, the components of SYSPRO Software that are required for the use of the Application as well as the relevant information referred to in clause 3.2 above necessary for the Application to function on the SYSPRO Customer's information technology system.
 - 1.33. SYSPRO may (but is not obliged to) provide you with access to online reporting tools showing download data and estimated revenue regarding distribution of your Applications. You acknowledge and agree that any online reporting tools are provided as a courtesy, are for informational purposes only and may not represent exact data due to varying factors.
 - 1.34. SYSPRO Customers can provide feedback on and rate or review your Applications via the SYSPRO App Store and third parties will be able to view such feedback, reviews and/or ratings. You acknowledge and agree that SYSPRO has no responsibility to evaluate such feedback, reviews and/or ratings and that SYSPRO shall have no liability for such feedback, reviews and/or ratings or the manner in which such feedback, reviews and/or ratings are used and/or displayed.
 - 1.35. You agree and undertake that you shall not in any manner whatsoever represent, or through your acts or omissions allow third parties to believe, that your Applications have been developed by or in conjunction with, or have been endorsed by, SYSPRO.

Support

- 1.36. SYSPRO will provide SYSPRO Customers with support in downloading Applications made available through the SYSPRO App Store, but will not be responsible for any support obligations with respect to these Applications. You will provide all reasonable support to SYSPRO to allow SYSPRO to provide this support, including notification of any Application issues which may result in the failure of a download or any changes to compatibility requirements.
- 1.37. You will be solely responsible for, and you agree to provide, reasonable technical and product support to SYSPRO Customers with respect to the product features, installations and use of your Applications by means of, amongst others, a guide that must be embedded in your Applications which SYSPRO Customers would have access to once they have downloaded your Applications.

- 1.38. **Once-Off Fee Applications**

You agree and undertake to use commercially reasonable methods to rectify any errors that a SYSPRO Customer reports within a period of 90 (ninety) days from the date on which such SYSPRO Customer purchased a license in respect of the Application.

- 1.39. **Full Fee Applications**

- 1.39.1. You agree and undertake that for the period during which such Applications are published on the SYSPRO App Store, you will actively develop and enhance such Applications and you will use commercially reasonable methods to rectify any errors reported by SYSPRO Customers who are licensed to use such Applications or any errors that you become aware of.

- 1.39.2. In the event that you fail to use commercially reasonable methods to rectify errors or in the event that you fail to continue developing and enhancing the Application, SYSPRO reserves the right, in addition to any other right that it has under this Agreement, to treat the Application as a Once-Off Fee Application and to stop charging SYSPRO Customers annual license fees. SYSPRO will give you written notice of its decision in this regard.

- 1.40. **Updates, Upgrades and Error Fixes**

- 1.40.1. You must provide SYSPRO and SYSPRO Customers, by means of the SYSPRO App Store, with any updates, upgrades or error fixes that you make commercially available in respect of your Applications.

1.40.2. **In respect of your Once-Off Fee Applications:**


- 1.40.2.1. SYSPRO Customers who have existing licenses for such Applications will be allowed to download the updates that introduce minor changes to your Once-Off Fee Applications or the error fixes at no additional fee;
- 1.40.2.2. any updates or upgrades that introduce substantial changes to or new functionality into your Once-Off Fee Applications must be published as a new Once-Off Fee Application and therefore SYSPRO Customers will be required to acquire a new license, and therefore pay the fee associated therewith, in respect of the new Once-Off Fee Application that you publish which contains such changes and/or new functionality.
- 1.40.3. SYSPRO Customers who have existing licenses for your Full Fee Applications and are up to date with their payment of fees in respect of such Applications will be allowed to download all updates, upgrades and error fixes that you make available in respect of your Full Fee Applications.
- 1.40.4. SYSPRO will be entitled, but not obliged, to evaluate the updates, upgrades and error fixes that you wish to publish on the SYSPRO App Store and same will be subject to all of the provisions that apply to the publication of your Applications on the SYSPRO App Store.

1.41. **Errors**

- 1.41.1. SYSPRO Customers will be allowed to report any errors in respect of the Applications by logging a ticket against such Applications on the SYSPRO App Store.
- 1.41.2. SYSPRO will notify you of the tickets that have been logged against your Applications, however you must regularly check the SYSPRO App Store to ensure that all of the tickets logged against your Applications come to your attention.
- 1.41.3. Subject to clauses 8.3 and 8.4 above, you are responsible for assisting the SYSPRO Customers who have logged tickets against your Applications to resolve any errors that they are experiencing relating to your Applications at your standard support fee rate. In the event that you need to communicate directly with a SYSPRO Customer who has reported an error in order to rectify the error, SYSPRO will furnish you with the contact details of such SYSPRO Customer.
- 1.41.4. Once the error has been resolved, the ticket relating to that error will be closed.

Grant of Licenses

- 1.42. SYSPRO does not claim ownership of your Applications and your submission of the Applications to SYSPRO for publication and distribution via the SYSPRO App Store does not transfer ownership rights in the Applications to SYSPRO. However, by submitting the Applications for publication and distribution via the SYSPRO App Store, you grant to SYSPRO a non-exclusive, worldwide, irrevocable during the term of this Agreement, royalty free right and license to:
 - 1.42.1. use, reproduce and have reproduced Applications that you submit for the purposes of evaluating and testing the Applications and to permit third parties to do so;
 - 1.42.2. upload your Applications onto the SYSPRO App Store;
 - 1.42.3. use, reproduce, have reproduced, display, market, promote, import, distribute, sell and offer to sell your Applications through the SYSPRO App Store to SYSPRO Customers;
 - 1.42.4. use, attach, include, reproduce and display parts of the Application in connection with the marketing of your Applications and the SYSPRO App Store;
 - 1.42.5. control a SYSPRO Customer's continued use of your Full Fee Applications in relation to the SYSPRO Customer's payments of annual license fees in respect of such Applications.
- 1.43. In addition to clause 9.1 above, by submitting your Applications for publication and distribution via the SYSPRO App Store, you grant to SYSPRO a non-exclusive, worldwide, irrevocable, perpetual, royalty free right and license to publish and make available to those SYSPRO Customers who had downloaded or purchased a license in respect of your Applications the last version of your Applications that were published on the SYSPRO App Store notwithstanding the suspension of such Application, the withdrawal of such Application or the termination of this Agreement.
- 1.44. Except to the extent that this prohibition is precluded by law or to the extent that may be envisaged by this Agreement, SYSPRO may not modify any Application without your express written permission, and may not reverse engineer, disassemble or decompile any Application.
- 1.45. You may provide a EULA to SYSPRO Customers in respect of your Applications, which must be embedded in the Applications. If you provide your own EULA, your EULA must, at a minimum:
 - 1.45.1. provide for the issue of a temporary license to SYSPRO Customers in respect of your Full Fee Applications and those of your Once-Off Fee Applications that contain a License Key;
 - 1.45.2. permit the SYSPRO Customer to re-download the Application without payment of any additional fees to you, provided that, in respect of Full Fee Applications, the SYSPRO Customer has paid its annual license fee;

- 
- 1.45.3. provide SYSPRO Customers with notice of any limitations on the countries in which the Application may be used;
 - 1.45.4. exclude SYSPRO from any liability whatsoever in relation to the Application, including, without being limited to, in relation to the sale, distribution or use thereof, or the performance or non-performance of the Application, or the Application or any part thereof infringing a third party's intellectual property rights, and make SYSPRO a third party beneficiary to the EULA in respect of this provision;
 - 1.45.5. provide that in the event of a conflict between your EULA and the EULA contained in the SYSPRO App Store and App Store Applications Agreement that governs a SYSPRO Customer's use of the SYSPRO App Store ("**App Store Agreement**"), the provisions of the App Store Agreement shall prevail.

Any provision of the EULA inconsistent with the provisions of this Agreement shall not have any force or effect in respect of the Applications that you make available to SYSPRO Customers through the SYSPRO App Store.

- 1.46. If you do not provide a EULA with your Applications, then you hereby grant SYSPRO Customers who acquire licenses in respect of your Applications a non-exclusive, worldwide, perpetual right and license to use your Applications in accordance with the EULA that forms part of the App Store Agreement, as may be amended from time to time by SYSPRO.
- 1.47. SYSPRO is not responsible for any breach of any terms between you and a SYSPRO Customer pertaining to the SYSPRO App Store, your EULA or your Applications. You acknowledge and agree that SYSPRO is not under any obligation to enforce in any manner the provisions of the EULA or the App Store Agreement.
- 1.48. Notwithstanding any other provision of this Agreement, you acknowledge and agree that:
 - 1.48.1. SYSPRO is also a software developer and licensee of applications that operate in conjunction with or interface with SYSPRO Software, and that SYSPRO may currently or in the future develop, use, market, promote, distribute and/or license products and/or services that are similar to and/or competitive with your Applications, and that no provision of this Agreement prohibits SYSPRO from doing so; and
 - 1.48.2. Applications published and distributed by SYSPRO or other Publishers via the SYSPRO App Store may be similar to or compete with your Applications, either now or some time in the future, and that nothing in this Agreement shall restrict or prevent SYSPRO from publishing and/or distributing such Applications via the SYSPRO App Store.

Trade Marks

- 1.49. Each party will own all right, title and interest including, without limitation, all intellectual property rights, relating to its trade names, trade marks, service marks, logos, domain names and other distinctive brand features (“**Trade Marks**”). Except to the limited extent expressly provided in this Agreement, neither party grants, nor will the other party acquire, any right, title or interest (including, without being limited to, any implied license) in or to any Trade Marks of the other party.

- 1.50. Subject to the terms and conditions of this Agreement, you grant to SYSPRO a worldwide, non-exclusive, irrevocable, perpetual, royalty free right and license to use, attach, include, reproduce and display your Trade Marks in connection with any of your Applications and the marketing and promotion of your Applications and the SYSPRO App Store. SYSPRO may include your Trade Marks and Applications in presentations, marketing materials and press releases. Any license you grant to SYSPRO includes consultants, suppliers and contractors providing services for or on behalf of SYSPRO in relation to or in association with the SYSPRO App Store. Without limiting the foregoing, SYSPRO will not (i) modify your Trade Marks, except as expressly approved in writing by you in advance; (ii) combine your Trade Marks with any other marks or create any composite marks; or (iii) do anything that would compromise your rights in and to your Trade Marks.


- 1.51. Nothing in this Agreement gives you a right to use any of SYSPRO’s Trade Marks, except you are allowed to use such Trade Marks that may be provided to you by SYSPRO in connection with your publication and distribution of Applications via the SYSPRO App Store when you are providing SYSPRO Customers with links to the SYSPRO App Store and/or access to your Applications found there. You agree that all of your uses of SYSPRO’s Trade Marks shall inure to the benefit of SYSPRO. At SYSPRO’s request, you shall supply SYSPRO with specimens displaying your uses and/or intended uses of SYSPRO’s Trade Marks. Without limiting the foregoing, you will not (i) modify SYSPRO’s Trade Marks, except as expressly approved in writing by SYSPRO in advance; (ii) combine SYSPRO’s Trade Marks with any other marks or create any composite marks; or (iii) do anything that would compromise SYSPRO’s rights in and to SYSPRO’s Trade Marks.

Availability of Applications and SYSPRO App Store

- 1.52. Prior to any SYSPRO Customer downloading your Free Application or purchasing a license in respect of your Once-Off Fee Application or Full Fee Application, you may suspend the availability of that Application by indicating your decision to do so in writing to SYSPRO. SYSPRO shall then arrange for the removal of such Application from the SYSPRO App Store within a commercially reasonable period from receipt of your notification.
- 1.53. After a SYSPRO Customer has downloaded your Free Application or purchased a license in respect of your Once-Off Fee Application or Full Fee Application, you may not suspend the availability of such Application save as expressly provided for in this Agreement. If your Application is suspended, SYSPRO shall still be entitled to make the last version of such Application that was published on the SYSPRO App Store available to those SYSPRO Customers who had downloaded or purchased a license in respect of such Application prior to the suspension and nothing herein will affect a SYSPRO Customer's right to continue to use an Application that it has rightfully acquired through the SYSPRO App Store.
- 1.54. SYSPRO may, at any time, in its sole discretion and for any reason whatsoever, including, without being limited to, a breach of this Agreement, excessive charge backs or reported errors associated with one of your Applications, your failure to meet the support obligations set out in this Agreement, or a third party claim in relation to an Application, or for no reason, with or without advance notice to you, cease to make available any Application through the SYSPRO App Store at all or in part, including only in certain jurisdictions, and nothing in this Agreement shall constitute SYSPRO's commitment to make available, or to continue to make available, your Applications through the SYSPRO App Store.
- 1.55. You further acknowledge and agree that SYSPRO reserves the right, but has no obligation, to prevent a SYSPRO Customer from continuing to use an Application if the SYSPRO Customer has failed to pay the license fees for that Application or such payment has been refunded or charged back, or if the SYSPRO Customer has engaged in fraud or has breached any provision of the App Store Agreement (including the EULA that forms part of the App Store Agreement).
- 1.56. SYSPRO reserves the right, in its sole discretion, to change, improve and correct the SYSPRO App Store. The SYSPRO App Store may not be available during maintenance breaks and other times. SYSPRO may also decide to discontinue the SYSPRO App Store or any part thereof in its sole discretion. In such case you will be provided with prior notification.

Pricing and Payments


- 1.57. For purposes of this Agreement “**Application Revenue**” means the license fee paid for your Applications by SYSPRO Customers less refunds, charge backs, bad debt, all applicable taxes levied on such sales or based on revenue, regardless of what that tax is called.
- 1.58. You may set the once-off license fee and the initial license fee in respect of your Once-Off Fee Applications and Full Fee Applications provided that SYSPRO may from time to time determine the maximum fee that can be charged by you in respect of your Applications. You may also determine when such fees will increase, provided that you may not increase such fees more than 2 (two) times during a calendar year and provided further that the increased fee does not exceed the aforesaid maximum fee determined from time to time by SYSPRO. In respect of Full Fee Applications, the annual license fees payable by the SYSPRO Customers will be a percentage of the initial license fee, which percentage will be determined by SYSPRO from time to time.
- 1.59. As consideration for the publication and distribution of your Applications via the SYSPRO App Store, you agree to pay SYSPRO:
 - 1.59.1. 30% (thirty percent) of the Application Revenue attributable to the once-off or initial license fees paid by SYSPRO Customers in respect of the licenses of your Applications that are purchased by SYSPRO Customers via the SYSPRO App Store;
 - 1.59.2. 30% (thirty percent) of the Application Revenue attributable to annual license fees paid by SYSPRO Customers in respect of the licenses of your Full Fee Applications that are purchased by SYSPRO Customers via the SYSPRO App Store.
- 1.60. Application Revenue attributable to purchases of licenses in respect of your Applications is determined using the amounts actually collected and received by SYSPRO from SYSPRO Customers. You acknowledge that there can be a time delay between when licenses in respect of your Applications are sold and when SYSPRO receives the funds attributable to such sales from the SYSPRO Customers.
- 1.61. At the end of each quarter (and for purposes of this clause the first quarter will run from November to January of the following year, the second quarter will run from February to April, the third quarter will run from May to July and the fourth quarter will run from August to October) SYSPRO will furnish you with a report reflecting the licenses purchased by SYSPRO Customers in respect of your Applications during that quarter and the license fees that SYSPRO has received payment of from SYSPRO Customers in respect of your Once-Off Fee Applications and your Full Fee Applications during that quarter. The report will be delivered to you at the email address you provided during registration or as updated by you after registration. (It is your responsibility to ensure that this email address is current and correct).

- 
- 1.62. Within 14 (fourteen) days from receipt of such report, you must issue an invoice to SYSPRO for the Application Revenue, less the fee payable to SYSPRO as contemplated in clause 12.3 above. You are solely responsible for ensuring that any invoice that you issue to SYSPRO complies with the laws of your country, and you certify that such invoice will show exactly the same details as those reflected in SYSPRO's report (referred to in clause 12.5 above) and reflect the same amount that is payable to you in the currency reflected in SYSPRO's report. Within 30 (thirty) days of receipt of a correct invoice from you, SYSPRO will effect payment to you, into the bank account that you nominated during registration or as updated by you after registration, electronically in US dollars, or such other currency as determined by SYSPRO, which payment may be reflected differently to you based on local currency differences, exchange rates, your bank fees and other factors beyond SYSPRO's control.
- 1.63. Each party is responsible for all taxes (including, but not limited to, taxes based upon its income) or levies imposed on it under applicable laws, regulations and tax treaties as a result of any contract, any transaction and any payments hereunder. In the event that a withholding tax or similar tax is payable, SYSPRO or any other party involved with the payment arrangements for the sale of licenses in respect of your Applications will be entitled to deduct the withholding tax or similar tax from the payment relating to your Applications as required under applicable laws, regulations and tax treaties. Upon formal written request from you, SYSPRO will furnish evidence of the taxes withheld by SYSPRO or any other party involved with the payment arrangements in order to enable you to obtain any credits available to you. It will be your responsibility to furnish the applicable tax authorities with whatever information or documents are required in order to benefit from a reduced withholding tax rate of a double taxation agreement. You indemnify and hold SYSPRO and any other party involved with the payment arrangements for your Applications harmless against all claims by any tax authority for any underpayment of withholding tax or similar tax, including penalties and interest.
- 1.64. Any VAT, sales tax, service tax, business tax, turnover tax or any similar tax levied on you in the country where you are registered for tax purposes is solely your responsibility. SYSPRO is not liable to you or anyone else to pay any of the aforementioned taxes in addition to the revenue that SYSPRO remits to you.
- 1.65. You may not invoice SYSPRO Customers directly for the licenses that they purchase in respect of your Applications via the SYSPRO App Store.

Confidentiality

- 1.66. For purposes of this Agreement, “**Confidential Information**” will include, without being limited to:
- 1.66.1. in relation to SYSPRO, information of a confidential nature relating to the SYSPRO App Store, the Applications published by SYSPRO on the SYSPRO App Store (“**SYSPRO Applications**”), the SYSPRO Software and all information relating to and in respect of SYSPRO Customers (including, without being limited to, SYSPRO Customer Data);
 - 1.66.2. in relation to your Applications, information of a confidential nature relating to your Applications.
- 1.67. Both parties undertake not, during the term of this Agreement or at any time thereafter, whether directly or indirectly and whether for its own benefit or that of another party, to use, divulge, disclose, disseminate, communicate, copy or distribute to any person, other than as expressly permitted by this Agreement, the other party’s Confidential Information.
- 1.68. Both parties undertake that they will only make the other party’s Confidential Information available to those of its employees, officers, agents, sub-contractors or consultants (“**Personnel**”) who are actively involved in the execution of that party’s obligations under this Agreement and then only on a “need to know” basis and provided that such Personnel are bound by similar confidentiality and non-disclosure obligations as those contained herein. Each party acknowledges that it will be liable jointly and severally with its Personnel to the other party for any breach by its Personnel of the provisions of this clause.
- 1.69. The above obligations shall not apply to any information which:
- 1.69.1. is lawfully in the public domain at the time of disclosure;
 - 1.69.2. subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 1.69.3. subsequently becomes available to a party from a source other than the other party, which source is lawfully entitled without restriction on disclosure to disclose such information; or
 - 1.69.4. is disclosed pursuant to a requirement or request by operation of law, regulation or court order.

The party that contends that the provisions of this clause 13.4 apply to any information will bear the onus of proving that this is the case.

- 
- 1.70. In the event that a party is required to disclose any part of the other party's Confidential Information, as contemplated in clause 13.4.4 above, that party shall advise the other party in writing prior to disclosure, take such steps to limit the disclosure to the minimum extent required to satisfy such requirement and to the extent that such party lawfully and reasonably can, afford the other party a reasonable opportunity to intervene in the proceedings, comply with the other party's reasonable requests as to the manner and terms of any such disclosure and notify the other party of the recipient of and the form and extent of any such disclosure immediately after it is made.
- 1.71. The provisions and restrictions contained in this clause shall continue in force notwithstanding the termination of this Agreement.



Privacy and Information

In order to continually improve the SYSPRO App Store, SYSPRO may collect certain usage statistics from the SYSPRO App Store, including but not limited to, information about how Applications and the overall SYSPRO App Store are being used. Data collected, including your personal information obtained through use of the SYSPRO App Store, is maintained in accordance with SYSPRO's Privacy Policy.




Syspro Customers

You undertake not, and you shall not attempt to, encourage or entice or incite or persuade or induce or furnish any information or advice to any SYSPRO Customer or use any other means which are directly or indirectly designed, or in the ordinary course of events calculated, to result in such SYSPRO Customer terminating its license in respect of the SYSPRO Software.

Your Representations and Warranties

You represent, warrant and undertake to and in favor of SYSPRO the following in connection with each of your Applications:

- 1.72. you have full authority and/or all necessary rights, licenses and permissions to submit your Application to SYSPRO and to make it available for use by SYSPRO Customers and that you will be solely responsible for the acquisition and payment of any and all third party consents, permissions, licenses, authorizations and rights to the extent applicable and required in connection with the distribution of your Application via the SYSPRO App Store;
- 1.73. you have the right and authority to enter into this Agreement and to grant to SYSPRO the rights contemplated by this Agreement and that doing so will not breach the terms of any other agreement to which you are a party or of which you are otherwise aware;
- 1.74. any information contained in any user documentation or marketing materials is true, accurate, current and complete;
- 1.75. the Applications shall not contain, or be derived in any manner (in whole or in part) from any software including, without limitation, open source software, that requires the disclosure or distribution of the source code of the Applications, or any portion thereof, by SYSPRO by means of the SYSPRO App Store or that requires that any third party proprietary software contained within an Application be disclosed or distributed in source code form, licensed for the purpose of making modifications or derivative works, reproduced and/or redistributed at no or minimal charge, permitted to be reverse engineered or otherwise distributed on terms that impede the ability to distribute and license such third party software as the licensor of such third party software sees fit;
- 1.76. each Application complies with all applicable laws, and without limiting the foregoing, is not illegal to use, does not infringe the rights (including the intellectual property rights) of any third parties and does not otherwise breach any provisions of this Agreement;
- 1.77. you have complied with all applicable laws and regulations (including obtaining all necessary permits, licenses, authorizations, approvals and declarations) in relation to the development of the Applications and their distribution via the SYSPRO App Store;
- 1.78. your Applications shall not use the Microfocus Application Server License that is embedded in SYSPRO Software without requiring the SYSPRO Customer to log into the SYSPRO Software before being able to use your Applications;
- 1.79. you shall comply with all applicable consumer and marketing laws and regulations;
- 1.80. you shall supply to SYSPRO Customers warranties for Applications and associated services in accordance with all applicable laws and regulations;

- 
- 1.81. you shall not submit any Applications in respect of which SYSPRO and/or its service providers would be required to obtain any government related export, import, use, supply and/or transfer permits;
 - 1.82. the Applications are designed for operation and use with SYSPRO Software;
 - 1.83. you will co-operate with SYSPRO in investigating and resolving any security or operational issues relating to use of your Applications, including, without being limited to, any improper disclosure of SYSPRO Customer Data;
 - 1.84. you have taken all reasonable steps and actions consistent with prevailing industry standards to ensure that no malicious software or harmful material is, or to the best of your knowledge will be, included, coded or introduced into any Application and you will promptly notify SYSPRO if any malicious software or harmful material is discovered in or associated with your Application, and promptly cease all use or distribution of such harmful Application;
 - 1.85. you will not submit any Application that compromises or seeks to compromise platform security or the associated user interfaces, or other security of (i) SYSPRO Customer's information technology systems; or (ii) the SYSPRO App Store; or (iii) SYSPRO Software;
 - 1.86. the Applications do not:
 - 1.86.1. impair or otherwise adversely affect the operation of a SYSPRO Customer's information technology system or network;
 - 1.86.2. prevent or hinder user access to any other program or data on the SYSPRO Customer's information technology system; or
 - 1.86.3. impair the operation of any other program or the reliability of any data on a SYSPRO Customer's information technology system.

Warranty Exclusions

- 1.87. You expressly acknowledge and agree that your use of the SYSPRO App Store and any associated software or services (including, without being limited to, use of SYSPRO's license key) is at your sole risk and that the SYSPRO App Store is provided "as is" and "as available" with all faults and without warranty of any kind.
- 1.88. Your use of the SYSPRO App Store and any material downloaded or otherwise obtained through the use of the SYSPRO App Store is at your own discretion and risk and you are solely responsible for any damage to your computer system or other device or loss of data that results from such use.
- 1.89. You acknowledge the risk that SYSPRO customers who access your applications through the SYSPRO App Store may develop applications that infringe or misappropriate your intellectual property rights in your applications. Nothing in this agreement restricts you from pursuing claims against such SYSPRO customers. However, in that event, you agree that SYSPRO's provision of the SYSPRO App Store does not constitute contributory infringement or aiding or abetting of any such infringement or misappropriation.
- 1.90. Syspro further expressly disclaims all warranties and conditions of any kind, whether express or implied, including, but not limited to, the implied warranties and conditions of merchantability, performance, results, fitness for a particular purpose, accuracy, timeliness and non-infringement of third party rights, or arising by statute or otherwise in law or from a course of dealing or usage of a trade, in respect of or relating to the SYSPRO App Store and the publication and/or distribution of your applications by way of the SYSPRO App Store.
- 1.91. Some jurisdictions do not allow some of the exclusions referred to above, so certain of the above exclusions and limitations may not apply to you.

Exclusion and Limitation of Liability

- 1.92. To the extent not prohibited by law, you expressly acknowledge and agree that SYSPRO will not be liable to you under any circumstances (including, without being limited to, arising out of or related to this agreement, the SYSPRO App Store or in connection with the transactions contemplated by this agreement) for any direct, indirect, incidental, special, consequential, punitive or exemplary damages that may be incurred by you, including any loss of data, loss of profits, business interruption or any other commercial damages or losses, whether or not SYSPRO or any of its representatives have been advised of or should have been aware of the possibility of any such losses arising.
- 1.93. Without limiting the foregoing, SYSPRO will not be responsible for any costs, expenses, damages, losses (including, without limitation, lost business opportunities or lost profits) or other liabilities you may incur as a result of developing your application or your publication and distribution of the application via the SYSPRO App Store, including, without limitation, the fact that your application may not be selected for distribution via the SYSPRO App Store, is removed from the SYSPRO App Store, or if SYSPRO discontinues the SYSPRO App Store.
- 1.94. Notwithstanding the aforesaid, in no event shall SYSPRO be liable for any damages that exceed, in the aggregate, for all claims arising from or related to this agreement or the SYSPRO App Store, the sum of us\$650-00 (six hundred and fifty us dollars).
- 1.95. Some jurisdictions do not allow some of the exclusions or limitations referred to above, so certain of the exclusions and/or limitations may not apply to you.

Indemnification


- 1.96. To the maximum extent permitted by law, you agree to defend, indemnify and hold harmless SYSPRO and its directors, officers, employees and agents from and against any and/or third party claims, actions, suits or proceedings, as well as any and all liabilities, assessments, losses, damages, costs and expenses (including the reasonable legal fees that we actually incur) resulting from or arising out of:
 - 1.96.1. Your breach of this agreement;
 - 1.96.2. Applications you submit for publication and distribution via the SYSPRO App Store;
 - 1.96.3. Any representations or misrepresentations that you make, including, without being limited to, representations or misrepresentations made by you relating to the applications or any matter associated therewith;
 - 1.96.4. Your infringement or breach or misappropriation of any copyright, trade mark, trade secret, patent or other intellectual property right or defamation of any person or breach of their rights of publicity or privacy; and/or
 - 1.96.5. Misuse of the SYSPRO App Store by a third party where such misuse was made possible by your failure to take reasonable measures to protect your user name and password against misuse.

Changes to the SYSPRO App Store or this Agreement

- 1.97. As this Agreement has no specified term, SYSPRO reserves the right, at its discretion, to modify or change the terms of this Agreement from time to time. In the event of any such modifications or changes being material in nature, SYSPRO will provide you with written notice, to the most recent address or email address provided by you, and SYSPRO may provide notice to you of other revisions by posting the revised version of the Agreement on the SYSPRO App Store.
- 1.98. Changes to this Agreement to reflect business practices or legal requirements, or changes in legal requirements, shall become effective as of the date that SYSPRO provides notice of such changes to you. All other changes to this Agreement shall become effective 30 (thirty) days after the date that SYSPRO provides notice of such changes to you.
- 1.99. In order to continue your publication and distribution of Applications via the SYSPRO App Store, you must accept and agree to the new terms of the Agreement. If you do not agree to the new terms, your activities on the SYSPRO App Store will be suspended or terminated.
- 1.100. SYSPRO may also update the general requirements, Guidelines, rules and policies around publication and/or distribution of Applications via the SYSPRO App Store at any time. You will be responsible for reviewing and becoming familiar with any such modifications (including, but not limited to, new terms, updates, revisions, supplements, Guidelines and any additional rules, policies, terms and conditions (“**Additional Terms**”)) communicated to you by SYSPRO. All Additional Terms are hereby incorporated into this Agreement by this reference and your continued use of the SYSPRO App Store will indicate your acceptance of any Additional Terms. You must discontinue your use of the SYSPRO App Store if you do not accept the Additional Terms.
- 1.101. Nothing in this clause will affect SYSPRO’s rights under clause 11 above.

Termination of this Agreement

- 1.102. This Agreement will remain in effect until terminated.
- 1.103. Either party may terminate this Agreement at any time and for any reason (or no reason) by giving at least 60 (sixty) days prior written notice to the other party.
- 1.104. In addition, either party may terminate this Agreement immediately in the event of a material breach of this Agreement by the other party which is not remedied within 14 (fourteen) days after receipt of written notice of the breach.
- 1.105. Without detracting from, and in addition to, the above, SYSPRO may terminate this Agreement immediately:
 - 1.105.1. if SYSPRO is prevented by law or regulation from operating the SYSPRO App Store or in SYSPRO's opinion SYSPRO is or may become subject to liability as a result of operating the SYSPRO App Store, using your Trade Marks or Applications, or this Agreement being in place;
 - 1.105.2. you are acquired by or become SYSPRO's competitor;
 - 1.105.3. you breach your confidentiality obligations under this Agreement or infringe or misappropriate SYSPRO's or a third party's intellectual property rights;
 - 1.105.4. you breach the provisions of clauses 7.3, 15 and/or 16 above.
- 1.106. If this Agreement is terminated, for whatever reason, or you request that SYSPRO remove your Application from the SYSPRO App Store, you agree that SYSPRO may retain a copy of the latest version of the affected Application that you published on the SYSPRO App Store and, unless the Application was removed from the SYSPRO App Store because of an allegation or judgment of intellectual property infringement, you grant to SYSPRO a perpetual, limited license to reproduce and provide such Application to SYSPRO Customers who previously downloaded the Application and need to re-download the Application as a result of storage management, backup and restore, technical or other reasons. Furthermore, in respect of Full Fee Applications, you are obliged to continue supporting, maintaining and updating such Applications in accordance with the EULA applicable to such Full Fee Applications.
- 1.107. The obligations in clauses 1.3 to 1.5, 7.1 to 7.51.29, 9, 10, 12.3 to 12.9, 13, 15 to 18, this clause 21.6, 22 to 28 inclusive will survive any termination or expiration of this Agreement. The parties agree that SYSPRO will discontinue the use of your Application and your Trade Marks for marketing (as permitted under clause 10) as soon as reasonably practicable after termination of this Agreement.

- 
- 1.108. SYSPRO will not be liable for compensation, indemnity or damages of any sort as a result of terminating this Agreement in accordance with its terms, and termination of this Agreement will be without prejudice to any other rights or remedy SYSPRO may have, now or in the future.
- 1.109. Notwithstanding the above, SYSPRO reserves the right to take steps SYSPRO believes are reasonably necessary or appropriate to enforce and/or verify your compliance with any part of this Agreement. You agree that SYSPRO has the right, without liability to you, to disclose any registration data and/or account information to law enforcement authorities, Government officials and/or a third party, as SYSPRO believes is reasonably necessary or appropriate to enforce or verify your compliance with any part of this Agreement (including, but not limited to, SYSPRO's right to co-operate with any legal process relating to your use of the SYSPRO App Store and/or a third party claim that your use of the SYSPRO App Store and/or any of your Applications is unlawful and/or infringes such third party's rights).



Force Majeure

If SYSPRO is prevented or restricted directly or indirectly from carrying out all or any of its obligations under this Agreement from any cause beyond its reasonable control, it will be relieved of its obligations hereunder during the period that such event and its consequences continue and it shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damages, either general, special or consequential which you may suffer due to or resulting from such delay or failure.



Relationship

This Agreement does not constitute you or SYSPRO as agent, employee or partner of the other for any purposes whatsoever and neither SYSPRO nor you will be entitled to act on behalf of or to represent the other unless duly authorized thereto in writing.



Cession and Assignment

- 1.110. You shall not cede, assign, transfer, make over, sub-license, grant or in any way deal with any of your rights or your obligations under this Agreement to any third party without the express prior written consent of SYSPRO.

- 1.111. You agree that all or any of the rights and/or obligations of SYSPRO under this Agreement may at any time during the currency of this Agreement be ceded, assigned, transferred, made over and/or granted to a third party.



Stipulation of a Benefit for a Third Party

- 1.112. You acknowledge and agree that SYSPRO is a third party beneficiary of the EULA for each of your Applications.

- 1.113. You also agree that, upon your acceptance of this Agreement, SYSPRO will have the right, but not the obligation, (and will be deemed to have accepted the right) to enforce the EULA, insofar as the provisions thereof relate or apply to SYSPRO, against a SYSPRO Customer as a third party beneficiary thereof.

Dispute Resolution


- 1.114. In the event of any dispute or difference arising between the parties hereto relating to or arising out of this Agreement, including the implementation, execution, interpretation, rectification, termination or cancellation of this Agreement, the said dispute or difference shall on written demand by any party be submitted to arbitration in the Republic of South Africa in accordance with the rules of the Arbitration Foundation of Southern Africa (“AFSA”), which arbitration shall be administered by AFSA.
- 1.115. Nothing herein contained shall be deemed to prevent or prohibit a party from applying to the appropriate court for urgent relief or for judgment in relation to a liquidated claim.
- 1.116. Any arbitration in terms of this clause shall be conducted with only the parties and their legal representatives being present and the parties shall treat as confidential details of the dispute submitted to arbitration and the conduct of the arbitration proceedings.
- 1.117. The decision of the arbitrator, save in the event of manifest error, shall be final and binding on the parties and may be made an order of court at the instance of any of the parties.
- 1.118. The provisions of this clause constitute an irrevocable consent by the parties to any proceedings in terms hereof and no party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions, which are severable from the rest of this Agreement and shall remain in effect despite the termination of or invalidity for any reason of this Agreement.
- 1.119. The parties agree that the written demand by a party to the dispute in terms of clause 26.1 above that the dispute or difference be submitted to arbitration is to be deemed to be a legal process for the purpose of interrupting extinctive prescription.
- 1.120. All legal charges, disbursements and fees, including costs on an attorney and own client scale and costs of Counsel on brief, incurred by a party in successfully enforcing or defending any of the provisions of this Agreement shall be recoverable from the other party.
- 1.121. In the event that you do not carry on business or own assets in the Republic of South Africa, you hereby consent to an award issued by AFSA being made an order of court by a court that has jurisdiction over your person or assets.

Notices

- 1.122. Any notices relating to this Agreement will be in writing.
- 1.123. Notices will be deemed to be given by SYSPRO when sent to you at the email address you furnished at registration or subsequently updated, or as an email message to your Publishers Account or by posting on the SYSPRO App Store. You consent to receive notices by email and via posting on the SYSPRO App Store and agree that any such notices that SYSPRO sends you electronically as aforesaid will satisfy any legal communication requirements.
- 1.124. You may change your email address by updating your registration data that you provided during registration.
- 1.125. You may provide notices under this Agreement to SYSPRO via email at App.Store.Site.Admin@syspro.com or by post to SYSPRO (Pty) Ltd, P O Box 77, Rivonia, Republic of South Africa, 2128 or by hand delivery to Block A, Sunninghill Place, 9 Simba Road, Sunninghill, Republic of South Africa, marked for the attention of the Financial Director.
- 1.126. All written communications sent by pre-paid registered post shall be deemed to have been received within 10 (ten) days after the date of posting, unless the contrary is proven. If delivered by hand during business hours, the written communication shall be deemed to have been received on the day of delivery. If transmitted by facsimile or email or posted on the SYSPRO App Store during business hours, the written communication shall be deemed to have been received on the same business day as transmission or posting, unless the contrary is proven.
- 1.127. Notwithstanding the above, a written notice or communication actually received by a party from the other party shall be adequate written notice or communication to such party notwithstanding that it was not sent to or delivered at its chosen physical, postal or email address.

Miscellaneous

- 1.128. The laws of the Republic of South Africa shall govern the validity, interpretation, implementation and performance of this Agreement. You expressly agree that, subject to clause 25 above, exclusive jurisdiction for any claim or dispute with SYSPRO or relating in any way to your use of the SYSPRO App Store resides in the Courts of the Republic of South Africa.
- 1.129. This Agreement constitutes the entire agreement between you and SYSPRO and governs your use of the SYSPRO App Store, superseding any prior agreements between you and SYSPRO.
- 1.130. To the extent permissible by law, no party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.
- 1.131. No extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement shall be binding unless recorded in a written document signed by the parties.
- 1.132. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement shall prevent any party from exercising its rights under this Agreement, nor shall it preclude such party thereafter from exercising its rights strictly in accordance with this Agreement.
- 1.133. The technology that SYSPRO makes available via the SYSPRO App Store, and any derivatives thereof, may be subject to export law and regulations of the jurisdiction in which you and/or SYSPRO conduct business and you undertake to comply with such export law and regulations.
- 1.134. Each party represents that it is not named on any Government's denied party list. You agree that you will not use the SYSPRO App Store for any purposes prohibited by any law or in breach of any export law or regulation that you or SYSPRO may be subject to and you indemnify SYSPRO accordingly.
- 1.135. You have not received or been offered any illegal or improper bribe, kickback, payment, gift or thing of value from any of SYSPRO's employees or agents in connection with this Agreement. If you learn of any breach of the above restriction, you will use reasonable efforts to promptly notify SYSPRO's legal department.
- 1.136. Any invalid, illegal or unenforceable provision hereof shall be severed from the Agreement as if not contained herein and the parties will be bound by the remaining provisions hereof.
- 1.137. Headings are for reference purposes only and in no way define, limit or describe the scope or extent of the paragraph to which they relate.
- 1.138. The use of any expression in this Agreement covering a process available under South African law, such as winding up, shall, if any of the parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.

- 
- 1.139. The rule that this Agreement be interpreted against the drafter thereof shall not apply in the interpretation of this Agreement.
- 1.140. The expiration or termination of this Agreement shall not affect any of the provisions of this Agreement as expressly provide that they will operate after such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.



www.syspro.com

Copyright © SYSPRO. All rights reserved.
All brand and product names are trademarks or
registered trademarks of their respective holders.