

Synergy Software Rental Agreement



1. Definitions

LICENCE FEE shall mean the monthly fee for the software agreed to in the original written quotation.

LICENSOR shall mean Synergy Business Solutions Limited.

LICENSEE shall mean the company to which the license of use is granted under the Terms of Software License agreement and original written quotation.

SOFTWARE shall mean the software applications provided by the LICENSOR to the LICENSEE under the terms herein.

2. License Fee

In consideration of the licenses granted by agreement to the 'Terms of Software License', LICENSEE shall pay the monthly or annual License Fee or other consideration for the Software applicable. The monthly and/or annual License Fee for each level of software varies depending on the pricing that is stated on the applicable quote or order form when placing an order. The License Fee shall provide a license to operate the software defined in the original quote / order and the automated updates and upgrades thereof during the term of the licensing agreement. All amounts payable hereunder by LICENSEE shall be payable to the LICENSORS nominated bank account without deductions for taxes, assessments, fees, or charges of any kind. Payments shall be made to LICENSOR by recurring automatic payment in advance on the first of every month on the agreed and scheduled basis, and shall continue until cancelled. In the event that LICENSEE fails to make a scheduled

license payment when due, LICENSEE acknowledges that LICENSOR shall have the right to disable all or some of the functionality of the Software until the payment amount for the Software is received in full by LICENSOR from LICENSEE. LICENSOR reserves the right to change the on-going monthly fee from time to time, upon providing 30 days' notice to LICENSEE. Upon receiving notice of any such monthly fee increase, LICENSEE can either accept the revised fee and continue the license to use the Software, or can choose to terminate the license and stop using the Software.

3. Term and Termination

The LICENSEE may terminate this Agreement after a minimum duration of 12 months, by providing at least 4 weeks written notice to the LICENSOR. If LICENSEE cancels the Agreement, LICENSEE must pay all service and usage charges incurred prior to cancellation. If LICENSEE terminates before the end of their monthly billing cycle or before the initial 12 month period, then LICENSEE will be charged pro rata for the period and current billing cycle. Applicable taxes, assessments and other fees and charges are additional. LICENSOR may terminate this agreement for non-payment of the License Fee or violation of the terms of this Agreement and relating Terms of Business and Terms of Software License or for failure by the LICENSEE to pay any outstanding amount for goods or services provided by the LICENSOR by the relevant payment due date. Termination of this agreement will require the SOFTWARE

be deactivated and/or removed from the LICENSEE's computer system(s).

4. Rejoining

LICENSOR shall have the sole discretion on whether or not to allow a LICENSEE whose Monthly Licensing Agreement is terminated, whether terminated by LICENSEE or LICENSOR, to later re-join.

5. Licensee Responsibilities

LICENSEE must provide and maintain accurate and complete information in connection with their Synergy account and confirm any changes to their business ownership, management, billing and contact details with the LICENSOR. LICENSEE is solely responsible for transactions and activity within their licensed Synergy software application(s). LICENSOR reserves the right to discontinue providing LICENSEE with any aspect of the Software at any time, and to refuse or expunge any licensed software at any time, should LICENSEE violate any of the provisions in this Agreement. The LICENSEE must continue to install updates and upgrades released for the SOFTWARE during the term of the rental.

6. Support & Maintenance Plan

Synergy software rentals include a Support & Maintenance Plan. The licensee must agree to the terms of the Support & Maintenance Plan as provided on page 2 of this document in order to implement any Synergy software rental. The Support & Maintenance Plan remains in place for the entire duration of the software rental.

This Software Rental Agreement Section only applies to sites proceeding with a Synergy order on a Rental basis. Software provided under this Monthly Licensing Agreement is subject to our current Terms of Business and Terms of Software License. These may change from time to time and are available on our website www.synergy.net.nz

DECLARATION: I have read and accept the "Terms of Synergy Monthly Licensing Agreement" & "Terms of Support & Maintenance Plan" as detailed in this document. I confirm that the information I have given in this document is true and correct and that I am empowered to make this declaration as an authorised officer of the Licensee.

Company

Position

Name

Date

Signature

1. Introduction

This Support and Maintenance Plan (herein SMP) agreement pertains to the Synergy software package and its associated modules, provided by Synergy Business Solutions / SAM Computer Systems (herein the Licensor) to the Client / Licensee. This Agreement replaces all previous versions and subscribes the supply of two services:

- Software Phone and E-mail Support
- Software Updates and Upgrades

2. Software Phone and E-mail Support Services

2.1 In return for the fee charged, the Licensor undertakes to:
Provide the Client with access to Synergy Helpdesk, during the Licensor's standard business hours.

2.2 Additional Support

This contract provides support within reasonable boundaries of no more than 3 hours in any given month by phone or e-mail during the Licensor's standard hours of business. Support beyond the reasonable allowance will be charged at the Licensor's prevailing rate. Time not used in one period cannot be carried over to the next.

2.2 After Hours Calls (Chargeable)

This SMP Agreement includes access to the After-Hours PumpLink Emergency Phone. The after-hours phone is for emergency use only, whereby there is an issue with your PumpLink system preventing you from adequately operating your Synergy PumpLink program to sell fuel to your customers.

Calls to the after-hours phone will be charged at Synergy's prevailing rate for outside hours calls at the time of call. Calls to the after-hours phone are limited to Synergy's 'extended-hours of business'. This may vary from time to time, but at the time of this agreement is between the hours of 6.30am – 9pm weekdays and 8am – 8pm weekends and public holidays.

The afterhours number is **027 286 0940**, we will inform you in advance if this number changes. It is provided through a mobile phone; as such normal charges from your telecommunications provider for calls to a mobile phone will apply and is subject to the limitations of a standard mobile phone such as cell-phone reception. Every effort will be made to keep the phone within areas where mobile phone reception is of a sufficient standard to provide the appropriate support.

3. Software Updates and Upgrades

3.1 The Licensor undertakes to:

Provide software updates, upgrades and bug fixes released during the life of the agreement. Updates will be provided through the Synergy back office program's internal 'Check for Updates' functionality. Where an internet connection is not available, the Client must find alternate means of update/upgrade installations.

4. Exclusions

The following are explicitly not covered by this agreement:

- 4.1 Support for hardware and/or networks
- 4.2 Support for issues caused by third party software (such as programs created by a third party to integrate with your Synergy program) or third party applications which may corrupt system library files required by Synergy applications.
- 4.3 Customisation, changes to, or development of customised software and/or stationery (*forms, labels, invoices, statements etc.*)
- 4.4 Support for issues caused by end user operation whereby the cause of fault has been previously identified with the Client and the end user has failed to follow the given instruction to avoid such faults.
- 4.5 Bookkeeping and training services
- 4.6 Installation and/or configuration

5. Support Charges and Payment

5.1 Payment of the monthly Software Rental fee must be made by automatic payment directly to the bank account specified by the Licensor in advance at the first of each month.

5.2 Support provided in excess of the reasonable allowance within the terms of this agreement will be charged at the Licensor's support labour rates available on request. This rate may change from time to time at the Licensor's discretion.

5.3 For any such charges, all payments are due no later than 20th of the month following invoice.

5.4 The Client's account will be placed on hold and no support can be given if an account is overdue. Accounts "on hold" will require payment for the full amount due before any product, service or support can be provided.

5.5 Accounts remaining overdue for a period greater than one month may result in restricted access to licensed Synergy applications or full revocation of the software license(s).

5.6 The Licensor will not be held liable for any costs or losses incurred by the

Client for the implementation of the given actions.

6. Cancellation by the Client

6.1 If the software is provided on a rental basis this agreement is enacted for the entire duration of the Software Rental and can only be cancelled upon the termination of the associated software rental.

6.2 If the software is provided on a purchase basis; the minimum term shall be 12 months unless otherwise specified on the software order or quotation.

6.3 For systems featuring the PumpLink add-on; this agreement must remain in place until such time as the PumpLink software is removed from the licensee's system.

6.4 Any cancellation must be applied for in writing to the Licensor no less than 4 weeks prior to the requested termination date.

7. Cancellation by the Licensor

The Licensor may cancel the agreement at any time when the Client fails to pay either the agreed monthly payment for this contract or any other sum owed to the Licensor when all reasonable effort has been taken by the Licensor to advise the Client of any default in payment. In this instance, cancellation will occur immediately as and when the Licensor provides written notice to the Client.

8. SMP Renewal

This SMP agreement will renew automatically after the minimum term and continue thereafter on a month by month basis.

9. Alteration of the Agreement

After completion of the minimum term, the agreement and/or monthly fees charged may be altered by the Licensor in order to maintain consistent relativity to the cost of the services provided. Any such alteration will be subject to one month's notice to the Client to the Client's nominated email address.

10. Acceptance

Acceptance of SMP Agreement, terms and conditions including payment terms is provided on page 1 of this document. This agreement is subject to the Licensor's current Terms and Conditions. These may vary from time to time and are available on the website www.synergy.net.nz/terms-conditions