

BROKEN ARROW PUBLIC SCHOOLS

Educating Today  Leading Tomorrow

Contract Committee Review Request
MUST BE COMPLETED IN FULL

Date: 2/26/25

Contract/Agreement Vendor:

Name of Vendor & Contact Person

Taylor Fenior

Vendor Email Address

Describe Contract (Technology, program, consultant-prof Development, etc.)

Please use Summary below to fully explain the contract purchase, any titles, and details for the Board of Education to review.

Reason/Audience to benefit

BOE Date

Amount of agreement

Person Submitting Contract/Agreement for Review:

PLEASE SEND THROUGH APPROPRIATE APPROVAL ROUTING BEFORE SENDING TO BOARD CLERK

Principal &/or Director or Administrator:

Does this Contract/Agreement utilize technology? YES/NO
If yes, Technology Admin:

Leadership Team Member:

Funding Source:
Fund/Project OCAS Coding

Consent

Action

Accept and Approve the NEW agreement between Broken Arrow Public Schools and Syn-tech System, INC who will provide service for our fuel management system. This system uses a cloud-based system that monitors our fuel consumption and regulates which vehicles receive the correct fuel. The system also safeguards use of the fuel system by unauthorized users. The cost will be \$1,908, for the dates of service January 1st, 2026 through June 30th, 2026 and will be paid using Transportation Funds.

Summary

This area must be complete with full explanation of contract

The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:00a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Janet Brown. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.

MEMORANDUM

To: Mr. Chuck Perry

From: Grant Moore

Date: February 26, 2025

Re: Syn-tech/Fuel Master

SUBJECT

Accept and Approve the NEW agreement between Broken Arrow Public Schools and Syn-tech System, INC who will provide service for our fuel management system. This system uses a cloud-based system that monitors our fuel consumption and regulates which vehicles receive the correct fuel. The system also safeguards use of the fuel system by unauthorized users. The cost will be \$1,908, for the dates of service January 1st, 2026 through June 30th, 2026 and will be paid using Transportation Funds.

ENCLOSURES/ATTACHMENTS

Contract agreement

SUMMARY

This past fall we upgraded our fueling system to account for the addition of a second transportation terminal to a cloud-based software. As a part of this upgrade the addition of a service agreement was needed. This agreement will be in place for the dates of service, January 1st, 2026 through June 30th, 2026.

FUNDING

General Fund

RECOMMENDATION

Approve



Syntech Systems, Inc.
 Toll Free 800.888.9136 | Phone 850.878.2558
 100 Four Points Way, Tallahassee, FL 32305
MYFUELMASTER.COM

**Broken Arrow Public Schools
 FuelMaster FMLive Service Renewal**

Effective 01/01/2026 – 06/30/2026

Dear Valued Customer,

We have enjoyed serving you during the first year of your new FuelMaster System. We value your investment in your fuel security and management platform and are committed to providing quality customer service. After the initial warranty and FMLive service for your FuelMaster system conclude, Syntech will provide the following service:

FMLive Service at Every Level	Standard
Cloud Hosting with Cellular Connectivity	X
Free Software and Firmware Updates	X
Software ONLY Phone Support (8am – 8pm EST Mon. – Fri., Excluding Federal Holidays)	X
Software AND Hardware Phone Support with Diagnostics (8am – 8pm EST Mon. – Fri., Excluding Federal Holidays)	X
Free Repair Parts (Excluding Acts of God, Vandalism, User Abuse)	X
10% Discount on Replacement Parts	
Unlimited 24/7 Phone Support and Diagnostics Without Restriction	
Free Certified Technician Site visits as required	
Free Surge/Lightning Kits	
Acts of God coverage	
Six Month Extension Cost (1 FMU)	\$1,908

The parties of Syn-tech Systems, INC. and **Broken Arrow Public Schools** deem this agreement to be executed by their duly authorized representatives on the Agreement date.

SYN-TECH SYSTEMS, INCORPORATED:

(Signature)

(Date)



02/27/2025

(Name)

Sara D. Fletcher

(Title)

Marketing Operations Manager

CUSTOMER:

(Signature)

(Date)

(Name)

(Title)

TERMS AND CONDITIONS

SYN-TECH SYSTEMS, INC.

1. **APPLICABILITY.** These Terms and Conditions of Sale (the “**Terms and Conditions**”) apply to the purchase of products, the license of software and the provisions of ancillary services related thereto (collectively the “**Products**”) by Buyer from Seller, pursuant to a quotation, purchase order or other order acknowledgement and related attachments (herein collectively the “**Purchase Order**”). Buyer accepts these Terms and Conditions by signing and returning Seller’s quotation, by sending a purchase order in response to the quotation, or by Buyer’s instructions to Seller to ship the Products (or any portion thereof). No terms, conditions or warranties other than those identified in the quotation or purchase order (and which do not conflict with these Terms and Conditions) and no agreement or understanding, oral or written, in any way purporting to modify these Term and Conditions whether contained in Buyer’s purchase order or shipping release forms, or elsewhere, shall be binding on Seller unless hereafter made in writing and signed by Seller’s authorized representative. Buyer is hereby notified of Seller’s express rejection of any terms inconsistent with these Terms and Conditions or to any other terms proposed by Buyer not included herein or the Purchase Order. All references in this document to “**Seller**” shall include Syn-tech Systems, Inc. and / or any parent, subsidiary or affiliate of Syn-tech Systems, Inc. (including any division of the foregoing) whether or not performing any or all of the scope hereunder or specifically identified herein. All references to “**Buyer**” shall include all parent(s), subsidiaries and affiliates of the entity placing the order. Buyer and Seller may be referred to individually as a “**Party**” and collectively as “**Parties**”. As used herein, “**Agreement**” means these Terms and Conditions and the applicable Purchase Order (to the extent that the Purchase Order does not conflict with these Terms and Conditions).

2. **CONFLICT OF TERMS.** All sales to Buyer are subject to these Terms and Conditions, which shall prevail over any inconsistent terms of Buyer’s Purchase Order or other documents. No modification or alteration of these Terms and Conditions shall result by Seller’s shipment of goods following receipt of Buyer’s Purchase Order, or other documents containing additional, conflicting or inconsistent terms. There are no terms, conditions, understandings, or agreements other than those stated herein, and all prior proposals and negotiations are merged herein. These Terms and Conditions are binding on the Parties, their successors, and permitted assigns.

3. **PRICE.** Prices in any quotation from Seller are subject to change upon notice sent to Buyer at any time before the Purchase Order has been accepted by Seller. Prices for Products covered by this Agreement may be adjusted by Seller (herein a “**Price Adjustment**”), upon notice to Buyer (herein an “**Adjustment Notice**”) at any time prior to shipment, to reflect any increase in Seller’s cost of raw materials (e.g., steel, aluminum) or any surcharge or other cost increase incurred by Seller after issuance of the applicable Purchase Order. Upon an Adjustment Notice, Buyer shall, within thirty (30) days following the Adjustment Notice, either accept the price adjustment or reject the price adjustment. Upon rejection of the Price Adjustment, either Party to this Agreement may terminate this Agreement; provide however that Buyer will pay to Seller all amounts due through the date of termination. All stated prices are exclusive of any taxes, fees, duties, and levies, however designated or imposed, including but not limited to value-added and withholding taxes that are levied or based upon the amounts paid under this Agreement (collectively, “**Taxes**”). Any Taxes related to the Products purchased pursuant to this Agreement are the responsibility of Buyer (excluding taxes based on Seller’s net

income), unless Buyer presents an exemption certificate acceptable to Seller and the applicable taxing authorities. If possible, Seller will bill Taxes as a separate item on the invoice presented to Buyer. If any exemption certificate presented by Buyer is held to be invalid, then Buyer will pay Seller the amount of the Tax and any penalties and interest related thereto.

4. **INVOICE; PAYMENT.** Seller shall be entitled to invoice Buyer upon the earlier to occur of (i) shipment of the Products or (ii) completion of services relating thereto (as applicable). Without in any way limiting the terms of the immediately preceding sentence, payment of license fees and of services relating to FMLive (and whether such are one-time (non-recurring) fees or annually recurring fees) shall be paid upon the shipment of the Products (FMUs). Unless otherwise set forth in the Purchase Order, Buyer will pay all invoiced amounts within thirty (30) days following the date of Seller's invoice. Unpaid amounts will accrue interest at a rate equal to the lesser of one and one-half percent (1.5%) per month and the maximum rate permitted by applicable law, from due date until paid, plus Seller's reasonable attorney fees, costs and expenses of collection. Seller reserves all other rights granted to a seller under the Uniform Commercial Code ("UCC") for Buyer's failure to pay for the Products or any other breach by Buyer of these Terms and Conditions. In addition to all other remedies available to Seller (which Seller does not waive by the exercise of any rights hereunder), Seller may suspend the delivery of any Products if Buyer fails to pay any amounts when due and the failure continues for five (5) days following Buyer's receipt of notice thereof. Buyer may not withhold payment of any amounts due and payable as a set-off of any claim or dispute with Seller, regardless of whether relating to Seller's breach, bankruptcy, or otherwise.

5. **DELIVERY.** All delivery dates are approximate. Seller will use commercially reasonable efforts to fill orders according to the delivery dates acknowledged by Seller. Delivery may be made in installments. Default or delay by Seller in shipping or delivering the whole or any part or installment of the goods or services under this contract shall not affect any other portion thereof. In no event shall Seller be liable for any claims for labor or for any special, indirect, incidental, or consequential damages including, but not limited to, demurrage charges, cost of shipment, downtime, lost profits (whether direct or indirect), lost sales, or any other damages resulting from delay in delivery.

6. **SHIPMENT AND RISK OF LOSS.** Unless otherwise agreed in writing, Seller may, in its sole discretion, select the shipping method, the carrier and the applicable freight charges. Title to the Products and risk of loss to the Products shall pass to the Buyer at the point of shipment from Seller's facility, whether freight prepaid or freight collect to destination, regardless of which party selects the carrier and arranges the freight charges or particulars of shipment. Risk of loss for damage or delay in transit shall be borne by Buyer. Buyer shall file and pursue any claims directly with the carrier related to loss, damage or delay in transit, and Buyer shall not assert such claims against Seller or deduct from amounts owing to Seller.

7. **WARRANTY; ADDITIONAL MAINTENANCE SERVICES.** Seller provides a manufacturer's warranty covering Seller's products and services for either fifteen (15) months from the date of shipment or for twelve (12) months from the date of installation, whichever period ends first (the "**Covered Period**"). At the conclusion of the Covered Period, the parties may agree to implement a maintenance plan at a grade determined by Buyer.

8. **LICENSE GRANTS.**

By Seller. Subject to the terms and conditions of this Agreement and the End User License Agreement (herein the “EULA”) which must be accepted by Buyer prior to access to the Seller’s Software Applications and prior to use of the Products, and during the term only, Seller will grant to Buyer and Buyer accepts from Seller, a non-exclusive, non-transferable, non-assignable, worldwide right and license to access and use: (a) the Software Application(s), along with all associated database and other applications that are used to support the functionality of such Software Applications; (b) the server(s) on which Seller has installed the Software Applications for Buyer’s use (herein the “Host Server”) and (c) the intellectual property, including software and applications that are included as part of the equipment comprising the Products (herein the “Equipment Software”) (the equipment, the Equipment Software, the Host Server and the Software Applications, being herein collectively referred to as the “System”); (c) any then-current published guides for the Software (“Documentation”); and (d) all equipment and connections maintained by Seller or its hosting subcontractor solely to allow Buyer to access the System and the Documentation (collectively with the System and the Documentation, the “Service”) in order to enable Buyer to upload, manage, process, and distribute certain information and data related to Buyer’s fuel utilization, inventories and fleet management data.

By Buyer. Subject to the terms and conditions of this Agreement, Buyer hereby grants to Seller, and Seller hereby accepts from Buyer, a non-transferable, royalty-free license, during the term of this Agreement to reproduce, translate, encode, publish, use, modify, display, perform and distribute the Customer Data (defined below) for the purpose of providing the Service to Buyer and fulfilling Seller’s obligations under this Agreement.

9. **RESTRICTIONS.**

a. Buyer may use and reproduce the Documentation for its own internal use only provided that all titles, trademarks, trade names, copyright, restricted rights, and other proprietary notices of Seller are retained.

b. Buyer shall use the System only for its intended purpose. Buyer shall not directly or indirectly, nor permit any party to, do any of the following: (i) copy, modify, create derivative works of, publish, sublicense, sell, market or distribute the System; (ii) reverse engineer, decompile, disassemble or otherwise attempt to gain access to the source code form of the System; (iii) use the System or associated documentation in violation of export control laws and regulations; (iv) remove any proprietary notices from the System, the Documentation or any other Seller materials furnished or made available hereunder; (v) access the System in order to (x) build a competitive product or service, or (y) copy any features, functions or graphics of the System; (vi) make the System available to anyone other than user authorized by Seller; (vii) sell, resell, rent or lease the System, including,

without limitation, use the System on a service bureau or time sharing basis or otherwise for the benefit of a third party; (viii) use the System to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (ix) use the System to store or transmit malicious code; (x) interfere with or disrupt the integrity or performance of the System or any data contained therein; (xi) attempt to gain unauthorized access to the System or their related data, systems or networks; (xii) publish or disclose to third parties any evaluation of the System without Seller's prior written consent; (xiii) publish or disclose to third parties any data or information on Buyer's results from using the System, without Seller's prior written consent; or (ix) perform vulnerability, load or any other test of the System without Seller's prior written consent.

10. NO LICENSE.

(a) If software is provided by Seller under the Agreement, Buyer agrees that the software may only be used in accordance with the terms and conditions of these Terms and Conditions and the EULA which must be agreed to by Buyer in order to access Seller's software products and in order to use the Products. Except as otherwise provided herein and in the EULA, the sale of the Products will not confer upon Buyer any license, express or implied, under any patents, trademarks, trade names, or other proprietary rights owned or controlled by Seller, its subsidiaries, affiliates, or suppliers; it being specifically understood and agreed that all the rights are reserved to Seller, its subsidiaries, affiliates, or suppliers. Without limiting the foregoing, Buyer will not, without Seller's prior written consent, use any trademark or trade name of Seller in connection with any the Products, other than with respect to the resale of the Products pre-marked or packaged by or on behalf of Seller.

(b) Buyer agrees not to directly or indirectly decompile, disassemble, reverse engineer or otherwise derive the source code for the System or any applicable software. If Buyer is a U.S. Government agency, Buyer acknowledges that the software licensed under the Agreement is a commercial item that has been developed at private expense and not under a Government contract. The Government's rights' relating to the software are limited to those rights applicable to Buyer's as set forth herein and is binding on Government users in accordance with Federal Acquisition Regulation 48 C.F.R. Section 12.212 for non-defense agencies and/or Defense FAR Supplement 48 C.F.R. Section 227.7202-1 for defense agencies.

11. FM LIVE SERVICES. Subject to the terms and conditions of this Agreement and the EULA, Buyer does hereby agree to license the software associated with the Products and including FM Live software (herein the "**Software Applications**") and to acquire cloud based hosting as such are described in the Purchase Order and shall pay the fees as set forth in the Purchase Order (herein collectively the "**Software Fees**").

12. OWNERSHIP.

a. OWNERSHIP OF SYSTEM. As between the parties, Seller shall retain all title, copyright and IP Rights in the System, Documentation, and improvements thereto. Buyer does not acquire any right, express or implied, in the System or Documentation other than those specified in this Agreement or the EULA agreed upon by Buyer. For purposes of this Agreement, "**IP Rights**" means all

forms of intellectual property rights and protections throughout the world, including, but not limited to, any (a) patents (including any patent applications, together with all reissuances, continuations, continuations-in-part, revisions, extensions and reexaminations thereof); (b) copyrights; (c) Internet domain names, trademarks, service marks, and trade dress, together with all goodwill associated therewith; (d) trade secrets; (e) rights in databases and designs (ornamental or otherwise); (f) moral rights, rights of privacy, rights of publicity and similar rights; and (g) any other proprietary rights and protections, whether currently existing or hereafter developed or acquired, whether published or unpublished, arising under statutory law, common law, or by contract, and whether or not perfected, including all applications, disclosures and registrations with respect thereto.

b. **PRODUCT IMPROVEMENT AND RESEARCH.** Notwithstanding anything to the contrary contained in this Agreement, Buyer hereby grants Seller a royalty-free, perpetual, irrevocable right and license to copy, distribute, modify, use, and analyze any Customer Data submitted via the Service for the purpose of improving the System, analyzing usage of the System, developing related products and services or enhancements to the System; provided, however, that all Customer Data shall be treated as Confidential Information as set forth herein.

c. **RETURN OF CUSTOMER DATA.** Upon termination of this Agreement and at the Buyer's request, Seller shall promptly return active Customer Data in Seller's possession to Buyer.

d. **SOFTWARE OR HARDWARE MODIFICATIONS.** Seller shall retain all IP Rights in and to any modifications, enhancements or derivative works to the Software Applications or the Products that contain or use any object code or source code of the Software Application (each a "**Software Modification**"), subject to the license rights granted to Buyer under the EULA. Buyer shall not modify in any way or reverse engineer any Software Application or any software, equipment or other hardware provided by Seller as part of the Products or licensed under the EULA.

f. **USE OF CUSTOMER MARKS.** The parties agree that Seller may use Buyer's logo and/or trade name ("**Customer Marks**") in the user interface of the Software Applications for referential purposes to accurately identify Buyer during the course of the term of this Agreement (the "**Permitted Use**"). Buyer hereby grants to Seller a non-exclusive, non-transferable, revocable, royalty-free license to use Buyer's Marks for the Permitted Use. Seller hereby acknowledges and agrees that all rights, title and interest in and to the Buyer's Customer Marks are and shall remain the exclusive property of Buyer and that any use thereof and goodwill associated therewith shall inure solely to the benefit of Buyer.

g. Subject to the terms and conditions of this Agreement, Buyer does hereby agree to license the Software Applications pursuant to the EULA to be agreed upon by Buyer prior to uploading or downloading of such Software Applications and to acquire cloud based hosting as such is set forth in the Purchase Order.

13. **CUSTOMER DATA; OWNERSHIP OF CUSTOMER DATA; INDEMNIFICATION BY CUSTOMER.** In Seller's implementation of the Products, Seller may have access to Customer Data (as herein after defined) to be used in conjunction with the Products. Seller acknowledges and agrees that, as between the parties (but subject to the Licenses granted herein and in the EULA), Buyer owns all right, title, and interest in and to the Customer Data, including all IP Rights in and to such Customer Data,

irrespective of whether such Customer Data is stored via the Service or in any database created using the Service. As used herein, the term “Customer Data” means and refers to all of the data and other information provided by the Buyer to Seller or which is used within the System. Buyer shall indemnify, defend and hold harmless Seller from and against any and all claims, suits, actions, or other proceedings for any personal injury or any other loss or damage (including reasonable attorney’s fees) brought by third parties against Seller to the extent: (a) based on or arising from any claim that the Customer Data, or the use thereof in accordance with this Agreement, infringes or constitutes a wrongful use of any third party’s IP Rights, or any right of publicity or privacy, or is fraudulent, deceptive, libelous or defamatory; or (b) caused by, relating to or arising out of the unlawful activity, deceptive or unfair trade practices, gross negligence or willful misconduct of Buyer in connection with the subject matter of this Agreement.

14. REPRESENTATIONS AND WARRANTIES.

a. SELLER WARRANTIES. Seller represents and warrants to Buyer that:

- i. Seller has the corporate power and authority to enter into this Agreement;
- ii. Seller is the owner of or licensee of all rights necessary and appropriate to grant the rights hereunder;
- iii. Seller will not violate any agreements with any third party as a result of performing its obligations under this Agreement; and
- iv. the Documentation shall be sufficient to allow a user qualified in the subject matter of the application to use the System.

b. BUYER WARRANTIES. Buyer represents and warrants to Seller that:

- i. Buyer has the corporate power and authority to enter into this Agreement;
- ii. Buyer is the owner of or licensee of all rights in the Customer Data as necessary and appropriate to grant the rights hereunder;
- iii. Buyer shall not use the Service in any manner that is deceptive, unlawful, or otherwise in violation of any law;
- iv. Buyer will not violate any agreements with any third party as a result of performing its obligations under this Agreement; and
- v. There are neither pending nor threatened, nor to the best of Buyer’s knowledge, contemplated, any suits, proceedings, actions, or claims which would materially affect or limit the rights granted to Seller under this Agreement.

15. LIMITATION OF LIABILITY. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOSS OF DATA, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOST SAVINGS, OR ANY INCIDENTAL, SPECIAL, OR OTHER ECONOMIC CONSEQUENTIAL DAMAGES, EVEN IF EITHER PARTY IS INFORMED OF THEIR POSSIBILITY (SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY). NOTWITHSTANDING THE ABOVE, BUYER SHALL BE AND REMAIN LIAIBLE FOR ANY AND ALL

AMOUNTS DUE AND OWING UNDER THIS AGREEMENT FOR EQUIPMENT PURCHASED AND SERVICES PROVIDED OR RENDERED. IN ADDITION TO ANY OTHER LIMITATION OF LIABILITY CONTAINED HEREIN, SELLER'S MAXIMUM LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT PAID TO SELLER BY BUYER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING SUCH CLAIM.

16. DISCLAIMER. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE SERVICE, AND SELLER DISCLAIMS ALL EXPRESS WARRANTIES AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT UNDER THE UCC. SELLER DOES NOT WARRANT THAT THE OPERATION OF THE SERVICE WILL MEET BUYER'S SPECIFIC REQUIREMENTS.

17. CHANGES. In the event that the price of the Products to be purchased under this Agreement (as set forth in a proposal to Buyer or as set forth in the Purchase Order) was based upon receipt of discounts received due to the volume of units of Product (herein "Units") to be acquired by Buyer under this Agreement and, if the number of Units actually acquired by Buyer during the time period contemplated by the Purchase Order is less than the number of Units used to attain the such discounts, then, in such event, Buyer shall pay to Seller the amount of the discount received by Buyer for the Products actually delivered by Seller and all pricing for future Products or Units shall be based upon non-discounted pricing.

18. CELLULAR SERVICES. In the event that the Purchase Order provides for cellular services, the terms and conditions set forth in the Cellular Addendum attached hereto as Exhibit A, shall apply to and be a part of this Agreement.

19. TERM AND TERMINATION. This Agreement shall be effective upon the Purchase Order acceptance and shall continue until the later to occur of (i) the time period set forth in the Purchase Order or (ii) completion of the requirements of the Purchase Order.

With respect to the provision by Seller of licensed software or ongoing services which are set forth in the Purchase Order, Seller will give Buyer notice (the "Notice") no less than thirty (30) days prior to the expiration of the term of Buyer's use stating the renewal period (herein the "Renewal Term") and the price of the software license and/or services during such Renewal Term. Unless Buyer gives notice to Seller, within thirty (30) days following the Notice, that Buyer desires to terminate Buyer's license and/or future services, such license or services shall continue as set forth in the Notice. During each Renewal Term, Buyer shall pay the fees required herein as such may be increased and disclosed in the Renewal Notice.

This Agreement may be terminated as follows:

a. For Breach. Either party will have the right to terminate this Agreement for breach of any material term or condition of this Agreement and failure to cure such breach within thirty (30) days after written notice.

- b. **For Insolvency.** Either party may terminate this agreement upon written notice if: (a) the other party becomes insolvent, or voluntary or involuntary proceedings are instituted by or against such other party under any federal, state, or foreign bankruptcy or insolvency laws, and, in the case of involuntary proceedings commenced against such party, such proceedings are not terminated within sixty (60) days; (b) if the other party makes an assignment for the benefit of creditors; if the other party ceases to operate as a going concern; or (c) if a receiver is appointed for such other party.
- c. **For Convenience.** Either party may terminate this Agreement for convenience upon Thirty (30) days written notice to the other party. In the event of a termination for convenience by either party, Buyer shall pay any amount due to the date of termination and Buyers shall receive a refund a prepaid software license fees. All other amounts paid to Seller shall be retained by Seller.

In addition to any other obligations of the parties set forth herein, upon expiration or termination of this Agreement each party shall promptly return or destroy the Confidential Information (as defined herein below) of the other party.

20. **CONFIDENTIAL INFORMATION.**

a. **DEFINITION.** As used in this Agreement, the term “**Confidential Information**” shall mean any and all information prepared or delivered to the receiving party by the disclosing party or its representatives (including information or data received by the disclosing party from a third party and as to which the disclosing party has confidentiality obligations), that (a) is marked or designated by the disclosing party as “confidential” or “proprietary;” (b) is disclosed orally or visually provided that such information is identified at the time of such disclosure as proprietary or confidential, and that within thirty (30) days thereafter a written summary of such oral and visual disclosure bearing the aforesaid type of label or legend, is provided to the receiving party; or (c) is known to the receiving party, or should be known to a reasonable person given the facts and circumstances of the disclosure, as being treated as confidential or proprietary by the disclosing party. Seller’s Confidential Information includes the amount of the consideration paid by Buyer to Seller pursuant to this Agreement. For the avoidance of doubt all Customer Data shall, at all times, constitute the Confidential Information of Buyer, except for such Customer Data that Buyer chooses to make generally available to Third Party Users via the Service (“**Shared Data**”). For the avoidance of doubt, the Parties acknowledge and agree that Seller shall have no liability with respect to such Third Party Users’ access to or use of Shared Data and Buyer shall be solely responsible for the actions of all Third Party Users with respect to their use of the Service or any Shared Data.

b. **OBLIGATIONS.** Each Party acknowledges that it may have access to Confidential Information of the other Party. Each Party agrees to keep the Confidential Information of the other Party confidential and to take all reasonable precautions, at least to the same degree of care and precautions the recipient would take to protect the confidential nature of its own information, not to disclose, copy, distribute or otherwise disseminate the Confidential Information to any third parties. The receiving party may disclose the Confidential Information only to those employees, agents and subcontractors who have a

legitimate business reason to have such access for purposes of performing its obligations under this Agreement, and are subject to the requirement to abide by a non-disclosure agreement substantially similar to this Agreement's non-disclosure obligations.

c. **EXCLUSIONS.** Except for Customer Data, the obligations of this Section shall not apply to information (a) which is published or available to the public other than by breach of this Agreement; (b) otherwise rightfully received by the non-disclosing party from a third party without obligations of confidentiality; (c) independently developed by the non-disclosing party's employees having no access to the disclosed information; (d) known to the non-disclosing party before receiving the Confidential Information from the disclosing party under this or any prior agreement of the parties; (e) disclosed by the disclosing party to a third party without restrictions; (f) is disclosed under operation of law; or (g) is disclosed by recipient with discloser's prior written approval.

d. **INJUNCTIVE RELIEF.** Each Party acknowledges and agrees that the other Party would be irreparably harmed if any Confidential Information of the disclosing party were to be disclosed to third parties, or if any use were to be made of such Confidential Information other than that permitted under this Agreement, and further agrees that the disclosing party shall have the right to seek injunctive relief upon any violation or threatened violation of the terms of this Section, in addition to all other rights and remedies available at law or in equity, without having to post a bond or other security.

e. **RETURN OF CONFIDENTIAL INFORMATION.** Except as otherwise set forth or contemplated in Section 3.3 above, upon the termination, cancellation or expiration of this Agreement for any reason and upon the request of Customer, all Confidential Information, together with any copies that may be authorized herein, shall be returned to Customer or, if requested by Customer, certified destroyed by Syntech.

21. **FORCE MAJEURE.** Except for the payment of money, neither Party shall be liable for any delays in the performance of any of its obligations hereunder due to causes beyond its reasonable control, including, but not limited to, performance issues, lack of materials or services, quarantine or isolation mandates or other issues resulting directly or indirectly from the COVID-19 (aka "coronavirus") pandemic or any future pandemic, acts of God or public enemy, war, terrorism, riot, embargoes, acts of civil or military authorities (including, but not limited to delays in permitting or other required approvals), fire, floods, earthquakes, strikes, or inability to obtain any material or services government requirement, acts or omissions of carriers, or other causes beyond the reasonable control of such party (each such event is a "Force Majeure Event") provided that such Party gives prompt written notice thereof to the other Party. The time for performance will be extended for a period equal to the duration of the Force Majeure Event. Notwithstanding the above, if Seller cannot perform its obligations under this Agreement due to a Force Majeure event, then Buyer will not be liable for fees or payment of money which relate to the obligations not yet performed as a result of the Force Majeure Event.

22. **COMPLIANCE.** Each party will comply with all applicable laws, regulations, and ordinances, and Buyer will comply with the export and import laws and regulations in effect as of the date of shipment of the Products of any country involved in the transactions contemplated by the Agreement.

23. **GOVERNING LAW; VENUE; DISPUTE RESOLUTION.** All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Florida. Any legal suit, action or proceeding arising out of or relating to this Agreement will be instituted in the federal or State courts located in the City of Tallahassee, Florida. Each party irrevocably submits to the exclusive jurisdiction of the courts in any the suit, action or proceeding.

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of arbitration shall be Tallahassee, Florida.

Notwithstanding the above, nothing in this Agreement shall be deemed as preventing a party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the parties and the subject matter of the dispute as necessary to protect that party's name, proprietary information, trade secrets, know-how, or any other intellectual property or proprietary rights.

24. **TAXES.** The compensation, fees and costs (the "**Compensation**") set forth in the Purchase Order does not include taxes; if Seller is required to pay or remit sales, use, or other taxes based on the Compensation or based upon the Products provided pursuant to this Agreement then such taxes shall be billed to and paid by Buyer; provided however, that this Section shall not apply to taxes based on Seller's income or revenues.

25. **FAILURE OF PAYMENT.** If Buyer fails to make payment in full or in part when due or refuses to pay any applicable price increases or surcharges, Seller shall have the right to: (i) immediately suspend performance and cancel the unfinished portion of any outstanding orders, (ii) declare all unpaid amounts for the Products delivered (or services performed) immediately due and payable, and (iii) withhold further deliveries. Seller shall have the right to enforce payment of the full purchase price, including any price increase or surcharge, for Products (or services) already delivered or in process. Buyer shall reimburse Seller for all costs of collection, including reasonable attorney's fees, incurred as a result of Buyer's failure to make payments when due.

26. **ASSIGNMENT.** Neither party may assign its rights under this Agreement without the prior written consent of the other party. Any assignment permitted hereunder will be subject to the written consent of the assignee to all of the terms and provisions of this Agreement. Any attempted assignment in derogation of this section will be null and void. Notwithstanding the foregoing, Seller may, without consent, assign its rights under this Agreement to any person or entity in connection with a merger, acquisition, divestiture, or sale of all or substantially all of its assets.

27. **NO THIRD PARTY RIGHTS.** This Agreement is for the sole and exclusive benefit of the Parties hereto and their permitted successors and assigns. Nothing expressed or referred to in this Agreement will be construed to give any other person any legal or equitable right, remedy or claim under or with respect this Agreement.

28. **INDEPENDENT PARTIES.** Seller and Buyer are independent parties and nothing in this Agreement shall make either party an agent, partner, joint venturer, or legal representative of the other.

29. **HEADINGS.** The section headings contained in these Terms and Conditions are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

30. **SEVERABILITY.** If any provision or part of a provision of this Agreement is declared invalid, illegal, or unenforceable under applicable law, the affected provision will be considered omitted or modified to conform to applicable law. The validity, legality, and enforceability of all other remaining provisions or parts of provisions will remain in full force and effect.

EXHIBIT A
CELLUAR ADDENDUM

TERMS AND CONDITIONS RELATING TO CELLULAR PLANS AND USAGE

A. If Buyer has been provided a Cellular Plan, this Addendum shall be applicable and Buyer shall pay the fees and costs associated with Cellular Plan.

B. **Terms and Conditions of Cellular Plan and Usage.**

1. **Service Plans.** If Buyer has procured a cellular plan (herein a “**Service Plan**”) from Seller pursuant to Part I of this Agreement, the following shall apply:

2. **Definitions**

“**Machine-to-Machine**” shall mean the transmission of data using cellular communication between wireless devices and computer servers or other machines, or between wireless devices, with limited or no manual intervention or supervision.

“**Wireless Equipment**” shall mean any cellular communications device manufactured by Seller or a third party, and sold to the Buyer by Seller or one of its agents to be used exclusively for Machine-to-Machine data transmission.

“**Machine-to-Machine Line**” shall mean the wireless service for machine-to-machine transmission for a single piece of wireless equipment.

“**Wireless Service Provider**” shall mean any provider of wireless services (including any Underlying Carrier) that Seller partners with to provide cellular data service to the Buyer for the purpose of Machine-to-Machine data transmission.

3. **Wireless Equipment.**

Buyer has or will purchase the Wireless Equipment from Seller and the Service Plan shall be used exclusively for Machine-to-Machine transmission of data from and to such Wireless Equipment as purchased from Seller.

4. **Buyer Obligation**

Buyer shall ensure, and does hereby represent, and warrant to Seller that all of Buyer's employees or agents who have access to the Wireless Equipment for use of the Service Plan, are aware of this Agreement and its terms and conditions, and that each such employee or agent of Buyer shall strictly comply with Buyer's obligations under this Agreement and its terms and conditions. If Buyer becomes aware of any violation of its obligations under this Agreement or the terms and conditions hereof, Buyer shall

immediately notify Seller and shall immediately suspend access to the Service Plan by any employee or agent of Buyer who has violated or who Buyer believes may violate any provisions of this Agreement or its terms and conditions.

5. Service Level and Dependencies

Buyer acknowledges and agrees that Buyer's use of and access to the Service Plan is dependent upon the Wireless Service Provider continuing to provide and support its network, and Buyer does hereby waive any and all claims against Seller or the Wireless Service Provider resulting from discontinuation or failure by the Wireless Service Provider to support its network. Buyer acknowledges that the Service Plan may be interrupted in the event of an interruption of the Wireless Service Provider network, and Buyer waives any and all claims against Seller and the Wireless Service Provider resulting from the same. Buyer further acknowledges that the Service Plan is available only within the applicable plan coverage areas, within operating range of wireless systems, and with equipment authorized by the Wireless Service Provider to operate on its network. In no way reducing the effectiveness of the waiver set forth above, any failure of Seller or its Wireless Service Provider to perform hereunder shall be excused if caused by failure of a third-party wireless or telecommunications provider serving a particular area, power failure, national emergency, interference by any governmental agency, acts of God, strikes, other labor disturbance, severe weather conditions, fire, terrorism, riots, war, earthquakes, or any other causes beyond Seller or its Wireless Service Provider's reasonable control. Notwithstanding the above, Seller will undertake reasonable efforts to ensure that migration of Wireless Service Providers to 4G and 5G networks (and away from 3G networks) will be supported by the Equipment and Software Applications.

6. Relationships

BUYER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT BUYER IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN THE WIRELESS SERVICE PROVIDER (INCLUDING ANY UNDERLYING

CARRIER) AND SELLER. IN ADDITION, BUYER ACKNOWLEDGES AND AGREES THAT THE WIRELESS SERVICE PROVIDER (INCLUDING ANY UNDERLYING CARRIER) AND THEIR AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO BUYER AND BUYER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR.

7. Waivers. Buyer acknowledges and agrees that Buyer is responsible for all maintenance and security with respect to the Wireless Equipment and Buyer's own network, server and other systems. Buyer does hereby waive any and all claims against Seller or any Wireless Service Provider (including any Underlying Carrier) for and with respect to any unauthorized use of Buyers network, service, other systems or data under the Service Plan.

8. Authorized Usage

Buyer agrees to use the Service Plan solely in connection with the operation of Wireless Equipment sold by Seller, or its authorized agent, to Buyer and applied to Machine-to-Machine communication systems with such devices installed within the Wireless Service Provider coverage area. Buyer may not use the Service Plan for any other use not specifically authorized herein. Unless specifically authorized

by Seller in writing or by a separate contract, Buyer may not sell, rent, lease, distribute, broadcast, sublicense, or otherwise assign this Agreement or any rights to the Service Plan to any third party(ies).

9. Equipment Modification

Buyer acknowledges that Seller provides certified Wireless Equipment to operate in accordance with the Wireless Service Provider's requirements for use on its network. Buyer agrees that it will in no way alter the Wireless Equipment, and that doing so may result in termination of the Service Plan by Seller.

10. No Illegal Use and Reservation of Rights

Buyer may not use the Service Plan for any illegal, unauthorized or fraudulent purpose. Buyer acknowledges that the sale of the Service Plan to the Buyer does not transfer to the Buyer title to or ownership of any intellectual property rights of Seller or its suppliers.

11. Export Regulations

Buyer acknowledges that the export, import, and use of certain hardware, software, and technological data provided under this Agreement is regulated by the United States and other governments and agrees to comply with all applicable laws and regulations, including the U.S. Export Administration Act. Buyer agrees to comply with all export and re-export restrictions and regulations of the Department of Commerce and other United States agencies and authorities, and not to transfer, or encourage, assist or authorize the transfer of the Service or Wireless Equipment to a prohibited country or otherwise in violation of any such restrictions or regulations.

12. Termination

Seller may, at Seller's option, terminate or suspend any and all of Buyer's rights under this Agreement and discontinue the Service Plan, upon thirty (30) days written notice to Buyer if (i) Buyer fails to comply with any term of this Agreement, or fails to make payment of any amounts due hereunder (including, without limitation, data overage charges), (ii) Buyer uses in excess of Buyer's allotted and allowable data allowance during a periodic billing term (as such allowance is provided in Part I of this Agreement), (iii) if Seller's relationship with the Wireless Service Provider expires, terminates, or modifies its terms with Seller in such a way that Seller must change the way it provides the Service Plan under this Agreement, as determined by Seller in Seller's sole discretion, (iv) Buyer files for or is involved in any bankruptcy proceedings, whether voluntary or involuntary, or (v) Buyer fails to comply with the law or requests of governmental entities. In case of termination, Seller may terminate providing the Service Plan to Buyer, Buyer must cease all use of the Service Plan, and Buyer shall ensure that the Wireless Equipment does not register or attempt to register on the Wireless Service Provider's network. Should Buyer fail to ensure that the Wireless Equipment does not register on the Wireless Service Provider's network, then, in such event, Buyer shall be responsible for any and all costs and fees required to be paid by the Wireless Service Provider. Seller's failure to insist upon or enforce strict compliance with this Agreement does not constitute a waiver of any of its rights hereunder or at law or in equity.

Either Buyer or Seller may terminate the Service Plan for convenience at any time upon ninety (90) days prior written notice to the other party. Upon termination by either Party, for convenience, Seller

shall refund to Buyer a prorated amount of any prepaid Software Fees prepaid by Buyer. Seller shall be entitled to retain (or Buyer shall pay) any and all other payments made or which are due pursuant to this Agreement.

13. Fees

Buyer acknowledges that Seller charges fees and costs for the use of the Service Plan. Seller reserves the right to discontinue providing the Service Plan at any time or to otherwise change the terms and conditions applicable to the Service Plan at any time, but only if Seller experiences an increase in fees charged to Seller by the applicable Service Provider and only to that amount incurred, including, but not limited to, with respect to (a) limiting the amount of data that may be utilized and/or transferred under the Service Plan, and (b) changing the amount and terms applicable for cellular data service charges. Buyer also acknowledges that the Service Plan has enforced limits on the amount of data utilized or transferred monthly, which, if exceeded, will result in additional fees to be paid by the Buyer, but only to the extent of the amount that Seller incurs additional expenses and fees by the applicable Service Provider. The initial fees and costs (herein referred to as the **Fees**) to be paid by Buyer under this Agreement are set forth in Part I of this Agreement. The Fees may be modified or increased by Seller at any time upon ninety (90) days prior written notice given to Buyer.

14. Taxes

Buyer will be responsible, as required under applicable law, for identifying and paying all taxes and other governmental fees and charges (and any penalties, interest, and other additions thereto) that are imposed on it upon or with respect to the transactions and payments under this Agreement.

15. Disputed Charges

In the event of disputed charges, Buyer must, as soon as practicable following identification of such dispute, but not to exceed 60 days from the due date of the bill, provide written notice to Seller, which shall include the date of the bill, disputed amounts, the reason for the dispute, and any supporting documentation. Both parties will use their good faith efforts to reconcile any disputed charges within 60 days of the date of notification.

16. Disclaimer of Warranties

THIS SECTION ONLY APPLIES TO THE CELLULAR SERVICE PROVIDED TO BUYER. BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE SERVICE PLAN IS AT BUYER'S SOLE RISK. SELLER EXPRESSLY DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER HEREBY DISCLAIMS, TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, ANY AND ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SERVICE PLAN, WHETHER EXPRESS, IMPLIED OR STATUTORY, OTHER THAN THOSE EXPRESSLY PROVIDED HEREIN. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SELLER OR AN AUTHORIZED REPRESENTATIVE OF SELLER SHALL CREATE A WARRANTY. BUYER ACKNOWLEDGES AND AGREES THAT THE SERVICE PLAN IS PROVIDED TO BUYER ON AN "AS IS" BASIS "WITH ALL FAULTS" AND "AS AVAILABLE." THE ACCURACY, TIMELINESS, COMPLETENESS, SUITABILITY, OR AVAILABILITY OF ALL OR ANY ASPECT OF THE SERVICE PLAN IS NOT GUARANTEED, AND IS SUBJECT TO OUTAGES, TERMINATION, AVAILABILITY, RESTRICTIONS, AND/OR INTERFERENCE. NEITHER SELLER NOR THE

WIRELESS SERVICE PROVIDER SHALL BE LIABLE FOR ANY UNAUTHORIZED USE OF THE SERVICE PLAN NOR ANY CONSEQUENCE THEREOF.

17. Limitation of Liability

TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOSS OF INCOME, LOSS OF BUSINESS, DIMINUTION OF GOODWILL, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO THE OTHER PARTY'S ENGAGEMENT TO PERFORM, USE OR INABILITY TO USE THE SERVICE PLAN, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY. BOTH PARTIES ACKNOWLEDGE THAT THE OTHER HAS ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SET FORTH HEREIN AND THAT THE SAME IS AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. IN ANY CASE, SELLER'S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO, AND SHALL NOT EXCEED, THE PRORATED ANNUAL AMOUNT PAID FOR THE SERVICE PLAN FOR THE PERIOD DURING WHICH SUCH DAMAGE OCCURRED.