

TERMS AND CONDITIONS

Hardware, software, cloud services and support

Smithtek Pty Ltd

Effective date	23 September 2026
Business address	Unit 2/13 Mackinnon Street, Rockingham WA 6168
Contact	info@smithtek.com.au | (08) 6118 9176

These Terms and Conditions apply to the supply and use of Smithtek hardware, software, cloud services, communications services, support and related products. They should be read together with any quotation, order confirmation, service plan, project scope, Privacy Policy and Data Use Policy that applies to your purchase or service.

Important

Nothing in these Terms excludes, restricts or modifies any right or remedy that cannot lawfully be excluded, including rights under the Australian Consumer Law where it applies.

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1. Introduction and acceptance

These Terms and Conditions (Terms) govern the purchase, use and supply of products and services by Smithtek Pty Ltd (Smithtek, we, us or our). By placing an order, accepting a quotation, creating or using an account, activating a subscription, or using a Smithtek product or service, you agree to these Terms.

If a written quotation, statement of work, service plan or other agreement expressly states that a provision overrides these Terms, that specific provision will prevail to the extent of any inconsistency. Otherwise, these Terms apply.

All prices are in Australian dollars (AUD) unless stated otherwise. GST and freight are treated as stated in the applicable quotation, invoice or online checkout.

2. Company information

- Business name: Smithtek Pty Ltd
- Address: Unit 2/13 Mackinnon Street, Rockingham WA 6168, Australia
- Phone: (08) 6118 9176
- Email: info@smithtek.com.au
- Website: www.smithtek.com.au

Our current business and support hours are published on our website or may be confirmed by contacting us. Site visits, demonstrations and training at Smithtek premises are by appointment unless otherwise agreed.

3. Products and services

Smithtek designs, manufactures, supplies and supports electronic hardware, software and connected systems used for remote monitoring, telemetry, automation and control. Products and services may include:

- Mako PLC products and associated accessories;
- Solaris PLC/RTU products and associated telemetry equipment;
- PassPort Gateway products and remote communications functionality;
- 3DM.space cloud monitoring and control services;
- legacy Smithtek.Cloud services where still supplied;
- PassPort Manager and other remote support or device-management services;
- Node-RED, MQTT, Modbus and other supported integration functionality; and
- installation, commissioning, configuration, training and technical support where included in the relevant order or project scope.

Product specifications, supported protocols, communications options, included accessories and service inclusions may vary by model, plan and project. The current quotation, product documentation or service plan forms part of the description of what Smithtek has agreed to supply.

4. Quotes, orders and pricing

A quotation is an invitation to order and is valid for the period stated in the quotation. If no validity period is stated, Smithtek may withdraw or revise the quotation before an order is accepted.

An order is accepted when Smithtek confirms acceptance in writing, issues an order confirmation, commences manufacture or supply, or otherwise confirms that the order has been accepted. Smithtek may decline an order before acceptance, including where a product is unavailable, pricing contains an obvious error, or the requested configuration cannot reasonably be supplied.

Custom engineering, configuration, programming, commissioning, installation or integration work may be quoted separately. Changes requested after acceptance may affect price, lead time or scope and will be confirmed before the additional work is undertaken where reasonably practicable.

Smithtek may change published prices from time to time. A price change will not affect an already accepted order unless the customer agrees to a variation or the change is required by law, tax or a third-party charge expressly passed through under the agreed order.

5. Payment terms

Payment terms are as stated on the quotation, invoice, subscription plan or order confirmation. Unless Smithtek has approved credit terms in writing, Smithtek may require payment before manufacture, dispatch, activation, installation or renewal.

If an amount is overdue, Smithtek may issue a reminder and, after reasonable notice, suspend further supply or access to paid services until the overdue amount is paid. Smithtek will not suspend a service where doing so would be unlawful or inconsistent with rights that cannot be excluded.

The customer is responsible for any bank, merchant, foreign exchange or transaction charges imposed by its own provider. Smithtek is responsible for charges imposed directly on Smithtek unless otherwise disclosed and agreed.

6. Delivery, title and risk

Dispatch and delivery times are estimates unless Smithtek expressly agrees to a guaranteed delivery date in writing. Delays may occur due to component availability, freight providers, customs, weather, network disruptions or other matters outside Smithtek's reasonable control.

Smithtek generally processes hardware dispatches on its scheduled shipping days. Same-day processing is not guaranteed and may depend on order time, stock availability, payment clearance and freight collection times.

Risk in physical goods passes to the customer on delivery to the nominated delivery address, or as otherwise required by law. Title to goods passes when Smithtek has received payment in full for those goods, to the extent permitted by law.

Customers should inspect deliveries promptly and notify Smithtek as soon as reasonably practicable if goods are missing, visibly damaged in transit or materially different from the order. This does not limit any rights under the Australian Consumer Law.

7. Installation, commissioning and suitability

Unless installation or commissioning is expressly included in the order, the customer is responsible for installation, wiring, mounting, power supply, networking, field equipment and integration of Smithtek products into the customer's system.

Installation and electrical work must be carried out by appropriately qualified persons where required by law and in accordance with applicable standards, manufacturer instructions and site requirements.

The customer is responsible for confirming that the selected product, communications method, power arrangement, enclosure, environmental rating, sensor range and control method are suitable for the intended application unless Smithtek has expressly accepted responsibility for that design in writing.

Where Smithtek provides application advice based on information supplied by the customer, the customer must provide complete and accurate site, process, electrical and communications information. Changes to those conditions may affect system performance and may require reconfiguration or additional equipment.

8. Cloud services and subscriptions

Some Smithtek services require an active subscription. Subscription fees, included devices, storage, data limits, users, features and renewal periods are set out in the applicable service plan, quotation or invoice.

Subscriptions are billed in advance unless otherwise stated. Failure to pay a renewal or other subscription amount when due may result in suspension of the affected service after reasonable notice.

Unless a different cancellation arrangement is stated in the applicable plan, a customer wishing to prevent renewal should give at least 30 days' notice before the next renewal date. Cancellation takes effect at the end of the paid subscription period unless otherwise agreed or required by law.

If Smithtek proposes a material change to subscription pricing or core service terms for a future renewal period, Smithtek will provide reasonable advance notice. If the customer does not accept the change, the customer may elect not to renew, subject to any agreed minimum term.

On termination or expiry, access to cloud dashboards, historical information, alarms, remote control and other subscription features may cease. Customers should export data they wish to retain before service expiry where export functionality is available. Data retention and deletion are further described in the Smithtek Data Use Policy.

9. Service availability and SLA

Smithtek uses commercially reasonable efforts to keep its cloud and remote-management services available. However, continuous or uninterrupted availability cannot be guaranteed because these services depend on networks, internet connectivity, telecommunications carriers, power, third-party cloud infrastructure and other systems that may be outside Smithtek's control.

A specific service level or uptime commitment applies only where it is expressly stated in the relevant service plan, quotation or written agreement. Where a legacy Smithtek.Cloud service is supplied under a stated 99.7% availability SLA, the SLA is subject to the exclusions and dependencies described in these Terms and any applicable service plan.

Planned and emergency maintenance

Smithtek may perform maintenance, updates, security work and software patches. Where reasonably practicable, planned maintenance likely to cause a material interruption will be communicated in advance through an appropriate channel. Emergency maintenance may be performed without advance notice where necessary to protect systems, data, customers or service integrity.

SLA exclusions

Unless a service plan states otherwise, availability calculations and service commitments do not include outages or degradation caused by:

- mobile, satellite, internet or telecommunications providers;
- customer power, wiring, network, firewall or field equipment;
- customer configuration, misuse or unauthorised modification;
- equipment outside Smithtek's control;
- planned or emergency maintenance;
- force majeure events; or
- suspension permitted under these Terms.

10. Accounts, security and acceptable use

Customers must keep account credentials, access tokens, device credentials and passwords secure and must not knowingly allow unauthorised persons to access Smithtek services.

Customers must not use Smithtek products or services to:

- gain unauthorised access to systems, networks, devices or data;
- introduce malware, malicious code or deliberately disruptive traffic;
- interfere with or attempt to bypass authentication, security, rate limits or service protections;
- carry out unlawful activities or infringe intellectual property, privacy or other rights;
- misrepresent identity or authority to access or control equipment; or
- use the services in a way that creates an unreasonable security or operational risk to Smithtek, other customers or third parties.

Smithtek may take proportionate steps to protect the service, including blocking malicious traffic, disabling compromised credentials or temporarily suspending affected access. Where practicable and appropriate, Smithtek will notify the customer and provide an opportunity to remedy the issue.

11. Data, privacy and confidentiality

Operational data generated or supplied by the customer or the customer's equipment is handled in accordance with the Smithtek Data Use Policy. As between the customer and Smithtek, the customer retains its rights and interests in its Operational Data, subject to the permissions required for Smithtek to provide the service.

Personal information is handled in accordance with the Smithtek Privacy Policy and applicable privacy laws.

Each party must take reasonable steps to protect confidential information received from the other party and must only use it for the purpose for which it was provided, except where disclosure is authorised, required to provide the service, or required by law.

Smithtek does not sell customer-specific Operational Data to third parties for their independent commercial or marketing purposes without the customer's express authorisation.

12. Support and training

Smithtek provides support through the channels and during the hours published by Smithtek or agreed in the relevant support plan.

For standard weekday support enquiries, Smithtek aims to respond within one business day and will often respond sooner. Response time is not the same as resolution time and may depend on the complexity of the issue, availability of site information, third-party providers, remote connectivity and whether hardware inspection is required.

Weekend and after-hours support is not included unless expressly agreed or offered by Smithtek. Emergency or project-specific support may be subject to separate charges.

Training, commissioning sessions and specialist support may require advance booking. Smithtek recommends at least seven days' notice for scheduled training where practicable.

13. Returns and change-of-mind policy

In addition to any rights that apply under the Australian Consumer Law, Smithtek may accept a change-of-mind return within 30 days after delivery where the product is unused or in resalable condition, complete with its original packaging and accessories, and the return has been authorised by Smithtek.

To request a return, contact info@smithtek.com.au and provide the order number, product details and reason for return. Smithtek may issue a Return Merchandise Authorisation (RMA) number or return instructions. Unauthorised returns may be delayed or refused where permitted by law.

For an approved change-of-mind return, original freight and handling charges are not refundable and the customer is responsible for return freight. Smithtek may apply a reasonable restocking or inspection charge where disclosed before the return is accepted and where permitted by law.

Customers should use a trackable and appropriately insured return method. Smithtek is not responsible for loss or damage occurring before returned goods are delivered to Smithtek, except to the extent required by law.

Approved refunds will normally be processed within five business days after Smithtek receives and inspects the returned goods. The time taken for funds to appear may also depend on the customer's bank or payment provider.

This change-of-mind policy does not limit rights or remedies for faulty, damaged, unsafe, misdescribed or otherwise non-compliant goods or services under the Australian Consumer Law.

14. Australian Consumer Law and warranty

Consumer guarantees

Nothing in these Terms excludes, restricts or modifies any guarantee, right or remedy that cannot lawfully be excluded, including rights under the Australian Consumer Law. Consumer guarantees may apply independently of, and for longer than, Smithtek's voluntary warranty period.

Smithtek voluntary hardware warranty

Smithtek warrants to the original purchaser that Smithtek-branded hardware will be free from defects in materials and workmanship under normal use for one (1) year from the original invoice date, unless a different written warranty period applies to the product.

If a product covered by this voluntary warranty has a defect during the warranty period, Smithtek may, subject to applicable law, repair the product, replace it with an equivalent product, or provide another remedy reasonably appropriate to the failure. Smithtek may use new or refurbished parts where permitted by law.

This voluntary warranty does not cover damage or failure caused by:

- misuse, abuse, negligence, accident or use outside published specifications;

- incorrect installation, wiring, power supply, polarity, environmental exposure or inadequate enclosure protection;
- unauthorised modification, repair, programming or alteration;
- normal wear and tear or cosmetic damage that does not affect functionality;
- failure to perform reasonable maintenance;
- events outside reasonable control, including fire, flood, lightning, theft or other external events; or
- third-party equipment, communications services or integrations, except to the extent Smithtek is responsible under applicable law.

To make a warranty claim, contact Smithtek through www.smithtek.com.au/support or info@smithtek.com.au and provide proof of purchase, the product model or serial number where available, and a description of the issue. Smithtek may request reasonable diagnostic information before authorising return of the product.

Australian Consumer Law notice

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

15. Intellectual property and software licence

Smithtek retains all right, title and interest in its hardware designs, firmware, software, source code, documentation, drawings, logos, branding, templates, dashboards, libraries and other intellectual property, except for material expressly identified as belonging to the customer or a third party.

Where Smithtek software, firmware or cloud functionality is supplied, Smithtek grants the customer a limited, non-exclusive, non-transferable licence to use that software for the customer's internal operations with the relevant Smithtek product or service, for the period of the applicable licence or subscription.

Except where permitted by law or an applicable open-source licence, the customer must not copy, reverse engineer, decompile, distribute, sublicense, resell or commercially exploit Smithtek software or proprietary materials without Smithtek's written consent.

Third-party software and open-source components may be subject to their own licence terms, which apply in addition to these Terms.

16. Third-party services and communications

Smithtek products and services may rely on or integrate with third-party systems such as mobile networks, satellite services, internet providers, cloud hosting, email, SMS, mapping, APIs, sensors, field equipment and other software or communications services.

Smithtek is not responsible for the independent acts, outages, coverage limitations, pricing changes or service changes of third-party providers, except to the extent Smithtek has expressly assumed responsibility or is liable under applicable law.

Coverage, latency, signal strength and communications performance can vary by location, terrain, antenna installation, network availability, weather, congestion, interference and third-party infrastructure. Stated radio or wireless ranges are indicative and depend on site conditions unless a site-specific performance commitment has been agreed in writing.

17. Remote monitoring and control safety

Remote monitoring and control systems can affect physical equipment and operations. The customer remains responsible for the safe design and operation of the underlying process, plant and equipment.

Unless Smithtek expressly agrees otherwise in writing, Smithtek cloud, telemetry and communications services are not intended to be the sole safety, emergency shutdown or life-critical protection system for a site or process.

Customers must maintain appropriate local interlocks, fail-safe controls, emergency procedures, manual overrides and independent protections appropriate to the application. Customers should not rely solely on a remote

dashboard, alarm, mobile notification or communications link where loss or delay of communications could create a safety, environmental or material operational risk.

Remote commands may be delayed, duplicated, blocked or not delivered because of communications or system conditions. Customers should design control logic so that loss of communications results in a safe and appropriate state for the relevant application.

18. Customer responsibilities

The customer is responsible for:

- using Smithtek products and services in accordance with documentation, instructions and applicable law;
- ensuring users are appropriately trained and authorised;
- providing accurate site, equipment, electrical, process and network information where Smithtek relies on that information;
- maintaining suitable power, communications, antennas, sensors, field wiring, network equipment and environmental protection;
- protecting account credentials and controlling user access;
- backing up configuration or data where the relevant service permits export and the customer requires its own copy;
- promptly notifying Smithtek of suspected faults, security incidents or unauthorised access; and
- obtaining any permissions, licences, approvals or consents required for installation, radio use, communications, data collection or remote control at the customer's site.

19. Suspension and termination

Smithtek may suspend or restrict access to a service where reasonably necessary to address overdue payment, a serious security risk, unlawful activity, misuse, a material breach of these Terms, or a threat to Smithtek systems or other customers.

Where the issue is capable of remedy and immediate suspension is not reasonably necessary for security or legal reasons, Smithtek will generally give notice and a reasonable opportunity to remedy the issue before suspension or termination.

Smithtek may immediately suspend compromised credentials, malicious traffic or access associated with hacking, fraud or other serious unlawful activity, and may report suspected unlawful activity where required or appropriate.

A customer may terminate a service in accordance with the applicable subscription, quotation or project agreement. Termination does not affect fees already due, rights accrued before termination, or provisions that are intended to continue after termination, including confidentiality, intellectual property, data handling and liability provisions.

20. Liability and indemnity

Nothing in these Terms excludes, restricts or modifies liability, rights or remedies that cannot lawfully be excluded or limited.

To the maximum extent permitted by law, Smithtek is not responsible for loss or damage caused solely by customer misuse, unauthorised modification, incorrect installation by others, failure of third-party infrastructure outside Smithtek's control, or use of a product outside its stated specifications.

To the maximum extent permitted by law, neither party will be liable to the other for indirect or consequential loss that is not a reasonably foreseeable result of the relevant breach, except where such liability cannot lawfully be excluded or where a separate written agreement expressly provides otherwise.

The customer indemnifies Smithtek against third-party claims to the extent they are caused by the customer's unlawful use of the products or services, unauthorised modification, infringement of third-party rights, or negligent act or omission. This indemnity does not apply to the extent the claim was caused or contributed to by Smithtek's negligence, breach of contract or unlawful conduct.

21. Force majeure

Neither party is responsible for delay or failure to perform an obligation to the extent the delay or failure is caused by an event beyond that party's reasonable control and could not reasonably have been avoided by appropriate precautions.

Examples may include severe weather, bushfire, flood, natural disaster, war, civil unrest, industrial action, pandemic, widespread utility or telecommunications failure, transport disruption, government action, supply-chain interruption or significant cyber incident affecting third-party infrastructure.

The affected party must take reasonable steps to minimise the impact and resume performance as soon as reasonably practicable. Force majeure does not excuse payment of amounts already due for products or services already supplied.

22. Dispute resolution

If a dispute arises, the parties should first attempt to resolve it in good faith through direct discussion between authorised representatives.

If the dispute is not resolved within a reasonable period, either party may propose mediation in Western Australia before commencing court proceedings, except where urgent interlocutory or injunctive relief is required or where a party has a non-excludable right to pursue another remedy.

Nothing in this section prevents a consumer or small business from exercising rights available under applicable law or contacting an appropriate consumer protection body or tribunal.

23. Changes to these Terms

Smithtek may update these Terms to reflect changes in products, services, technology, legal requirements or business practices. The current version will be published on the Smithtek website with an updated effective date.

Where a change materially affects an active paid subscription or materially reduces a customer's rights during a current fixed term, Smithtek will provide reasonable notice and will not apply the change retrospectively unless required by law or agreed with the customer.

Continued use after a change takes effect constitutes acceptance of the updated Terms only to the extent permitted by law. Where a customer does not accept a material change applying to a future renewal, the customer may elect not to renew the affected service.

24. Governing law and contact details

These Terms are governed by the laws of Western Australia, Australia. The parties submit to the courts and tribunals having jurisdiction in Western Australia, subject to any rights that cannot lawfully be excluded or restricted.

Questions about these Terms, orders, returns, subscriptions or support can be directed to:

- Smithtek Pty Ltd
- Unit 2/13 Mackinnon Street, Rockingham WA 6168, Australia
- Phone: (08) 6118 9176
- Email: info@smithtek.com.au
- Website: www.smithtek.com.au

Related documents

These Terms should be read together with the Smithtek Privacy Policy and Smithtek Data Use Policy, together with any product-specific warranty, quotation, service plan, project scope or support agreement supplied to the customer.