

# TERMS & CONDITIONS

## SECTION ONE – GENERAL TERMS

SMARTECH SYSTEMS OCEANIA PTY LTD (ABN 22 072 349 949) of Unit 1 Block Q Regents Park Estate, Princes Road East, Regents Park NSW (we, us or our as the context may require) operates an online store that is assessable from websites operated by us or on our behalf including, without limitation, the website and webpages at [www.smartech-aust.com](http://www.smartech-aust.com) (Website).

**The Parties.** This agreement (this Agreement) is made between us and the person (you or your as the context may require) who purchases or orders any goods from us using our Website.

You agree with us as follows:

**Application.** If you order any goods or services or request to purchase any goods or services from us by means of our Website, then you agree that the terms and conditions set out in this Agreement shall apply to any goods or services we supply to you pursuant to your order or request.

**The Checkout Process.** You agree and acknowledge that you may complete the checkout process on our Website by, without limitation, navigating to the checkout page of our Website, placing a tick in the box next to the words “I have read and agree to accept and be bound by the TERMS & CONDITIONS on which I purchase goods or services from SMARTECH BUSINESS SYSTEMS” and by clicking on the “CONFIRM ORDER & PAY” button on the checkout page of our Website. By completing the checkout process on our Website, you irrevocably accept and agree to be bound by the terms and conditions set out in this Agreement without alteration or erasure.

**Buying Items in Your Shopping Cart.** When you select goods on our Website, those goods are added to a list of items you have selected for purchase from our Website that we refer to as your shopping cart (Shopping Cart). If you complete the checkout process on our Website with Items in your Shopping Cart, you agree to purchase those Items from us in accordance with and subject to the terms and conditions set out in this Agreement.

**The Sections of This Agreement.** This Agreement comprises and expressly incorporates the terms and conditions set out in this Section One (General Terms), the terms and conditions set out in Section Two below (Sale Terms), the terms and conditions set out in Section Three below (Credit Terms) and the

information in your Shopping Cart at the time that you complete the checkout process.

**Entire Agreement and Variation.** If you have already agreed to be bound by the terms and conditions of a credit application or order schedule with us, the terms and conditions of that credit application or order schedule continue unchanged. This Agreement records the entire agreement between you and us and supersedes and prevails over anything else (other than an existing credit application or order schedule):

- (a) relating to the terms and conditions on which we may grant credit to you for goods or services you purchase through our Website;
- (b) relating to the terms and conditions on which we sell or supply goods or services to you through our Website; or
- (c) that has been communicated between you and us, is contained in any materials we provide to you or is referred to in any order or any other document containing terms or conditions that you give us from time to time relating to goods or services you purchase through our Website.

This Agreement may only be changed by prior written agreement with us. If you have entered into this Agreement as trustee of a trust, whether or not that fact is disclosed to us, the terms and conditions of this Agreement are binding on you both personally and in your capacity as trustee.

Interpretation. In this Agreement: words importing the singular include the plural and vice versa; a word derived from a defined word has a corresponding meaning; underlined words are headings that are inserted for convenience only and must not be used when interpreting this Agreement; including and includes are not words of limitation; a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and a reference to a thing includes each part of that thing.

## **SECTION TWO – SALES TERMS**

You agree with us as follows:

**Applicability of Sales Terms.** These Sale Terms apply to each order you place with us by means of our Website and to each sale or delivery of Goods by us to you. Each order or request by you for Goods from us is deemed to be an offer to purchase those Goods on the terms and conditions of this Agreement including these Sales Terms.

**Definitions.** In this Agreement, unless the context requires otherwise: Default Event has the meaning given to that expression in the Credit Terms; Items means the Goods listed in your Shopping Cart when you complete the checkout process; Goods means all goods other than Software; GST has the meaning given to that expression in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended or replaced from time to time; Intellectual Property means all forms of intellectual property throughout the world, whether or not it is registered or registrable, including copyright, patent, design, trade mark and confidential information including know-how and trade secrets; Licence means a licence granted by Australia Post in respect of a Postage Meter; Party means a party to this Agreement; Personnel means, in relation to a person, that person's directors, employees, officers, contractors and agents (if any); Postage Meter means a machine approved by Australia Post that prints an indicia onto a mail piece indicating the postage value; PPS Act means the Personal Properties Securities Act 2009 (Cth) as amended from time to time; Price means the aggregate of the amounts so described, indicated on our Website by means of a '\$' or other such means or listed on the checkout page of our Website when you complete the checkout process for the Items in your Shopping Cart; Privacy Policy means the policy relating to our collection, use and disclosure of personal information published from time to time on our Website; Security Interest means a purchase money security interest under the PPS Act, any other mortgage, pledge, lien or charge and any other interest that secures the payment of money or performance of an obligation and Software means any codes, programs, routines or other set of statements, instructions or systems of instruction in any material form or contained in any media that bring about a certain result in any computer or computing device.

**Orders.** You may place an order for goods or services from us by completing the checkout process on our Website. You warrant and acknowledge that before you place an order or enter into this Agreement you must obtain and read a copy of these Sales Terms from us and you are solely responsible for determining that any goods or services you order from us are suitable for your needs. We may refuse to accept any order from you at our sole discretion.

**Special Requirements.** Some goods you may purchase from us, including Postage Meters, have special requirements. You must obtain a Licence to operate any Postage Meter and you warrant that you shall operate the Postage Meter in accordance with the terms and conditions of that Licence. You must pay all postage costs for your Postage Meters. You acknowledge that other goods may have special requirements that we may notify to you from time to time and you must comply with those requirements.

**Software.** Any Software supplied by Smartech Systems Oceania Pty Ltd including any third party Software and any documentation, data or content accompanying the Software is licensed, not sold, to you by us and may be used only in accordance with the terms and conditions in this Agreement and in a separate Software licence agreement with us, if any. You acknowledge and agree that you may only use any Software we supply that is part of or contained in any Items solely in connection with the proper operation of those Items for so long that you lawfully possess those Items and you must not reproduce, copy, decompile, reverse engineer or interfere with the proper operation of that Software unless expressly permitted by Australian law.

**Cancellations.** If, without our prior written agreement, you attempt to cancel your order or refuse to accept delivery of any goods you have ordered from us you must pay us all reasonable costs we incur. You agree that a reasonable and genuine pre-estimate of the costs we will incur due to cancellation of your order is 100% of the Price corresponding to any Postage Meters that have been Licensed to you, 50% of the Price corresponding to any Postage Meters ordered or configured by us on your behalf, but not yet Licensed to you, and 20% of the Price for any Items other than Postage Meters.

**Credit and Payments.** We do not provide credit to you unless you are a business. However, you may pay for Items you purchase from us by using credit or debit card facilities offered by third parties (including Visa, MasterCard, American Express or through a PayPal account each of which must be issued to you in Australia) that are accessible from our Website by means of software or a payment facility provided by a third party financial institution of our choosing. As soon as you complete the checkout process we will request authorisation through our financial institution to charge the Price corresponding to the Items you have ordered against the financial institution account linked to your method of payment. Your use of a credit or debit card is subject to the terms and conditions of its use (including in relation to credit limits, daily spending limits and account verification or security requirements). We will not process your order if your credit or debit card provider declines authorisation for any reason whatsoever. Generally, we do not record your credit or debit card details and pass those details directly to our financial institution, however, you irrevocably consent to our collection, use and disclosure of any Personal Information relating to you (including financial information) for the purposes of obtaining authorisation from a financial institution, to obtain payment for any purchase of Products you have made from us or to recover any Items or money owing to us. For the sake of certainty, you must pay us the full Price for Items immediately upon delivery of those Items to you. If you are a business, we may provide

commercial credit to you in accordance with and subject to the terms and conditions set out in the Credit Terms.

**Time for Payment.** If we have granted you commercial credit, you must pay us, in full and with clear funds, the Price for the Items within the time we have agreed with you. If no time has been agreed with you, you must pay the Price in full within thirty (30) days after we deliver the Items to you. You must, on demand, pay us for those additional fees and charges you incur under this Agreement. You must pay us, on demand, reasonable interest, calculated daily, plus administrative costs that we reasonably determine from time to time in respect of any late payments.

**Delivery, Risk and Defects.** We may delay delivering Items until we receive authorisation to charge the financial institution account linked to your method of payment. We will endeavour to deliver the Items to you within the time stated on our Website (if any) however, to the fullest extent permitted by law, we are not liable to you for any damages or losses you suffer or incur if the Items are not delivered on that date. You must ensure that our delivery personnel are provided with safe and unrestricted access at the agreed delivery location on the delivery date we notify to you and you must pay us any reasonable costs we incur to store or redeliver the Items if we are unable to deliver the Items because you have not complied fully with these Sale Terms. You must pay us fees and charges in addition to the Price for any special delivery requirements you have. All risk in the Items shall pass to you upon delivery and you must carry insurance for those Items until you have paid the Price to us in full. You acknowledge that two (2) days is a reasonable time in which you are able to inspect goods we deliver to you. You must examine the Items on delivery and notify us in writing within two (2) days after delivery of any incomplete delivery or defects in that Items. You unconditionally accept delivery of the Items: immediately if you use the Items or do anything inconsistent with our ownership of the Items; or within two (2) days of delivery unless you have notified us of a defect in that time.

**Returns (Wrong Goods Delivered).** You agree to return to us by post any goods that you have not ordered from us that we have sent to you by mistake and we will pay you for any reasonable return postage costs you incur.

**Returns (Defective Items).** You may return to us any Items that are defective or have a major failure. You must tell us in writing of the defects in Items you return to us either before or at the time of returning those Items to us. We will provide you with a return authorisation so we can track your returned Items. You agree to obtain a return authorisation from us before returning any

goods to us. We will refund to you the full Price for any defective Items and reasonable return postage costs of defective Items. We may, acting reasonably and without limiting, restricting or modifying your rights under the Australian Consumer Law, refuse to refund the Price and return postage costs of any Items that you return that are not defective. We may, to the extent permitted by law, refuse to accept the return of goods that are not defective and you agree to pay us immediately, on our request, all reasonable direct and indirect costs (including all delivery, handling, administrative and restocking costs) we incur arising from the return of any goods that are not defective.

**Trade-ins.** If any trade-in goods are listed in the Order Schedule, the Price is conditional upon us obtaining possession, and becoming the legal and equitable owner, of those trade-in goods, free from any Security Interest or encumbrance whatsoever, otherwise you agree that the Price shall increase by an amount equal to the value of those trade-in goods listed in the Order Schedule.

**Security Agreement.** You agree and acknowledge that this Agreement creates a Security Interest for our benefit in all Items that we deliver to you and that Security Interest is granted by you to secure the punctual payment of all amounts owing by you under these Sale Terms and the performance of all your other obligations under this Agreement. You agree that the Security Interest created by this Agreement attaches or otherwise takes effect immediately upon delivery of any of the Items to you and extends not only to the Items but also to any and all proceeds arising from any dealings with the Items. You consent for us to register a financing statement or financing change statement or other statement from time to time to perfect our Security Interest. You agree that sections 96, 125, 132(4) and 135 of the PPS Act shall not apply and sections 95 and 130 of the PPS Act shall not apply to the extent that we are required to give a notice to you. You irrevocably authorise and grant our Personnel a licence to enter premises where the Items is kept and take back the Items using reasonable force if you do not pay us any amount in full when that amount is due. If this Agreement ends, the provisions set out in these Sale Terms under the heading "Security Agreement" will survive and continue to the extent that we may exercise our rights to recover the Items or any money due to us.

**Warranties, Guarantees and Repairs.** 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. Other than those statutory guarantees that apply to the goods or services that we supply to you, which are not excluded,

modified or restricted by this Agreement, and other than the warranties expressly set out in these Sale Terms, to the fullest extent permitted by law, we do not give any guarantee or warranty or make any representation of any kind, express or implied, with respect to the supply of goods or services under or in connection with this Agreement. You must use the Items in accordance with any operating manuals, instructions or notices from us, do not carry out any work on the Items that does not comply with our operating manuals or instructions and promptly notify us of any defects in the Items. To notify us of any defects during the warranty period, you can call us on (02) 9738 4000 or send us an email at [service.au@smartech-aust.com](mailto:service.au@smartech-aust.com). Goods presented for repair may be replaced by refurbished goods of the same type rather than being repaired. Refurbished parts may be used to repair the goods. If any goods are capable of retaining user-generated data, repair of the goods may result in loss of the data. Any services, including repair and maintenance services, you order from us are subject to the terms and conditions set out in the Service Terms published on our Website.

**Limitations on our Liability to you.** Nothing in this Agreement restricts, modifies or excludes any rights you have, or obligations that we have, that cannot be lawfully restricted, modified or excluded. To the fullest extent permitted by law, our liability in connection with this Agreement is, in the case of goods, limited at our option to replacing the relevant goods, supplying equivalent goods, repairing the goods or paying to have the goods repaired and, in the case of services, limited at our option to either supplying the services again or paying the cost of having the services supplied again. You agree and acknowledge that our liability for anything in relation to the Items, their use, or their installation, including damage or economic loss to anyone, is limited as much as it lawfully can be. Other than in respect of goods that have a safety defect (as defined under the Australian Consumer Law) and subject to statutory rights that you have under the Australian Consumer Law or other laws, which are not excluded, modified or restricted by this provision, we are not liable to you or any other person, whether in contract, tort (including negligence), under any statute (to the extent permitted by that statute) or otherwise for, or in respect of, any direct, indirect or consequential loss or damage (including loss of profits, loss of revenue, loss of anticipated savings, pure economic loss, loss of opportunity or expectation loss) or any special, punitive or exemplary loss or damage incurred or suffered by you and arising out of any breach or other act or omission in connection with this Agreement, nor for any amounts payable under obligations of indemnity or restitution or other entitlements you may have to compensation.

**GST.** Unless otherwise expressly stated, prices on our Website are inclusive of any applicable amount of GST. The total amount of GST payable for the Items you order from us will be displayed on our Website during the checkout process.

**Default and Termination.** If a Default Event occurs or is subsisting or you do not comply fully with these Sales Terms, then we may exercise each of the rights set out in the Credit Terms.

**Indemnity.** You immediately indemnify us and our Personnel and shall keep us and our Personnel indemnified against any claims, losses, damages, judgments, liabilities, costs (including legal costs on a solicitor/client basis), debt collection fees, expenses, charges and disbursements we or our Personnel may directly or indirectly suffer or incur arising out of or in connection with: your failure or refusal to pay all amounts owing by you under this Agreement to us when due; any breach by you of any term, condition or warranty under this Agreement; or any unlawful or negligent act or omission by you or your Personnel.

**General.** We own or licence and reserve all Intellectual Property rights in the Items, any Software and any materials we notify or provide to you from time to time. If we make available our Intellectual Property or the Intellectual Property of another person to you, all proprietary rights to that Intellectual Property shall remain our property or the property of its rightful owner. If any provision of this Agreement is or becomes wholly or partly illegal, invalid or unenforceable then that provision is severed from this Agreement to the extent of the illegality, invalidity or unenforceability and the remaining provisions shall remain in full force and effect and not be affected and operate as if the severed provision had not been included. We may, but you must not, assign or transfer all or any part of any rights or obligations under this Agreement without our prior consent. A right created by this Agreement cannot be waived except in writing signed by the Party entitled to that right. Delay by a Party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a Party of a right operate as a subsequent waiver of the same right or of any other right of that Party. Each Party must promptly execute all documents and do all things necessary or desirable to give full effect to the arrangements contained in this Agreement. To the extent allowed by law, the laws applicable in New South Wales govern this Agreement and the Parties irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales, the Federal Court of Australia and any courts competent to hear appeals from those courts. This Agreement shall be binding upon the Parties and their respective successors, assigns, subsidiaries and affiliates. This Agreement may be executed in any number of counterparts. All counterparts taken together constitute the one instrument.



## SECTION THREE – CREDIT TERMS

This section contains, among other things, important information about how we may obtain, use and disclose certain information (including personal, credit, sensitive and financial information) that relates to you or other persons. You agree with us as follows:

**Applicability.** These Credit Terms do not apply to you if you are a consumer or if you are paying for the Items you have ordered by means of credit card or debit card facilities. Subject to the foregoing, these Credit Terms apply to each order you place with us by means of our Website and to each sale, delivery or provision of any goods or services by us to you by means of our Website where we have not received payment in full and in clear funds for those goods or services. Each request by you for goods or services from us on commercial credit is deemed to be an offer to purchase those goods or services from us on and subject to the terms and conditions of these Credit Terms. For the sake of certainty, these Credit Terms do not apply if you have entered into a prior credit agreement with us or have paid us in full and in clear funds on or prior to the delivery of any goods, or the supply of any services, from us.

**Dictionary.** In this Agreement: CRB means a 'credit reporting body' as that expression is used in the Privacy Act; Personal Information means in relation to an individual that individual's personal, credit, sensitive and financial information and, in relation to a corporation, means credit or financial information relating to that corporation and the personal, credit, sensitive or financial information relating to the corporation's directors or officers; Privacy Act means the Privacy Act 1988 (Cth); and Privacy Policy means our current privacy policy that we publish on our Website (that we may at our sole discretion amend from time to time).

**Acknowledgements.** You acknowledge that by setting up an account on our Website, by completing a warranty registration on our Website, by completing the checkout process on our Website or by generally entering information into the fields that appear on pages of our Website you are supplying information to us which may be personal information subject to the Privacy Act and you warrant and represent that you have obtained the genuine written consent of any of all relevant persons including, if you are a corporation, your directors, officers and any other relevant persons, to provide their corresponding Personal Information to us. You acknowledge that we require relevant Personal Information from you and others in order to determine whether or not to grant credit and if you fail or refuse to provide accurate, complete, sufficient or timely

Personal Information to us in the manner we request then your application for credit may not be able to proceed or may be invalid or may be cancelled or suspended by us at any time or from time to time.

**Consents.** You give your irrevocable genuine consent for us and our representatives or agents to do any of the following at any time or times (now or in the future, within or outside of Australia):

- (a) seek, obtain and use your Personal Information and any Personal Information you provide us, or a report from a CRB about you that contains your Personal Information, or both, to assess your request for commercial credit;
- (b) if we agree to provide you with credit, to use all of the Personal Information you provide us or we obtain about you in order to enable us to do all things necessary or desirable to administer your account with us, manage the credit provided and to collect any overdue payments from you including, without limitation, by doing each of the things set out in these Credit Terms below;
- (c) provide any Personal Information you have provided us or that we have obtained about you, or an opinion about you to a CRB or to other businesses that provide information about credit worthiness to third parties and allow that CRB or those other businesses to create and maintain a file about you;
- (d) seek from and use or give to another credit provider information about your account, credit worthiness, credit standing, credit history, credit capacity or our opinion about you or, if you are a corporation, about your directors, officers or agents; or
- (e) seek from, obtain and use or give to any consultant, agent, accountant, lawyer or other advisor acting in connection with any credit or finance provided or proposed to be provided to you by us or by any of our subsidiaries or related bodies corporate any Personal Information, consumer credit information or commercial credit information relating to you or, if you are a corporation, relating to your directors or officers.

**General Obligations.** You acknowledge and agree that in order to enable us to:

- (a) administer your account and carry on our business;
- (b) restructure or transfer our business or assets;
- (c) provide you with information that may be relevant to your business; or
- (d) contact you or improve the services provided by us,

we may use any Personal Information you provide us or we obtain about you or, if you are a corporation, any Personal Information about your directors or officers, and disclose or provide that Personal Information to third parties and you agree and irrevocably consent for us to disclose that Personal Information and any information in your Shopping Cart, in your account profile and in any communication (in any material form) you may provide us from time to time to:

- (e) any of our related bodies corporate or SMARTECH BUSINESS SYSTEMS;
- (f) any of our employees, agents, contractors, advisors or other service providers;
- (g) overseas recipients if those recipients are the persons referred to in paragraph (e) or (f) above and you hereby acknowledge that granting this consent will result in sub clause 8.1 of Australian Privacy Principle 8 no longer applying to the disclosure of that Personal Information;
- (h) any entity involved in any restructure or transfer of our assets; or
- (i) any of our other advisers, consultants, agents, accountants, lawyers or their associates.

**Access to Personal Information.** You may ask to access the Personal Information we keep relating to you or request information regarding your account with us by contacting (02) 9738-4000 during our ordinary business hours.

Event of Default. A Default Event occurs if:

- (a) you fail to pay any amount when it falls due or fail to comply with any subsequent notice by us requiring payment to be made;
- (b) you fail to meet any undertaking (written or oral) given by you to us in respect of any amount you owe us that is overdue;
- (c) you fail to provide accurate, complete, sufficient or timely information to us in the manner we request;
- (d) you are a corporation and action is taken by you or another person on the basis that you are insolvent or unable to pay your debts when they are due, including any application for the appointment of a liquidator, receiver, manager or administrator;
- (e) you are an individual and you become bankrupt, die or become incapable of managing your own affairs by reason of mental illness or other condition;
- (f) you are a partnership and the partnership is dissolved or an application is made to a court for dissolution of the partnership;
- (g) the holder of any security given at the time over any of your assets becomes entitled to exercise any powers arising on default pursuant to that security or otherwise take action to enforce the security;
- (h) any warranty given or representation made by you in relation to this Agreement is false; or
- (i) we have, at our sole discretion, determined that there has been a change in the credit risk associated with this Agreement from that which we assessed before or at the time this Agreement was entered into.

In the event that a Default Event has occurred or is subsisting or you fail to comply fully with this Agreement then we may do any one or more of the following: cancel or suspend the credit we provide you; require you to

immediately pay to us the amounts you owe us and to pay us in advance for any further supply; stop supplying anything you have ordered from us; require that any goods or services that have not been paid for be immediately returned to us at your expense; enter your premises and seize or repossess any goods for which payment is overdue; and immediately terminate this Agreement. You must, at your cost, fully comply with each and every one of the above actions that we may take. In addition to the preceding rights, we may terminate this Agreement without cause after ten (10) days' written notice to you.

**Relevant laws and policies.** You acknowledge and agree that the provisions in these Credit Terms are subject to the operation of the Privacy Act, our Privacy Policy (as amended or replaced from time to time) and other relevant laws.

**Marketing goods or services.** You hereby consent to us collecting, using or disclosing any Personal Information you provide to us or we obtain about you or, if you are a corporation, any Personal Information about your directors or officers, to enable us and others to market goods or services to you and if you do not want that Personal Information to be used for this purpose you will contact us on (02) 9738 4000.