

1. Interpretation  
In these Terms and Conditions:
    - 1.1 "Customer" means the person or entity named on the quotation, order confirmation or invoice annexed hereto or the Applicant on the credit application annexed hereto, as may be applicable, or any other person or entity that purchases or offers to purchase the Products from Elite Appliances Hobart Pty Ltd (hereinafter known as "EAH").
    - 1.2 "GST" means Goods and Services Tax as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
    - 1.3 "Products" means the goods and/or services acquired by the Customer to which these Terms and Conditions apply.
  2. Agreement
    - 2.1 An agreement is made between EAH and the Customer for the purchase of the Products as specified in an order ("Agreement") if and when EAH issues an order confirmation to the Customer in respect of that order.
    - 2.2 The Agreement comprises the order, the order confirmation, these Terms and Conditions and additional terms as specified.
    - 2.3 These Terms and Conditions shall be deemed to be incorporated into any agreement between the EAH and the Customer.
    - 2.4 Any terms and conditions contained in any order, offer, acceptance or other document of the Customer and all representations, statements, terms and conditions and warranties (whether implied by statute or otherwise) not embodied herein are expressly excluded to the fullest extent permitted by law.
    - 2.5 The Agreement cannot be cancelled by the Customer except with the consent in writing of EAH and on terms which will indemnify EAH against all losses.
  3. Price
    - 3.1 The price payable by the Customer to EAH for the Products is the price specified in the order confirmation.
    - 3.2 Unless expressly stated otherwise, all prices, quotes or estimates provided by EAH do not include any sales tax, GST or any other value added tax.
    - 3.3 Unless an invoice expressly states to include any sales tax, GST or any other value added tax, the Customer shall simultaneously pay to EAH the amount of such tax in addition to the price.
  4. Payment
    - 4.1 Subject to clauses 4.2, 4.3 and 4.4, 30% of the price is payable as a security payment upon submission of the order by the customer.
    - 4.2 Products deemed "Special Order" will require 50% of the price to be paid as a security payment upon submission of order by the customer.
    - 4.3 All orders for EAH display and clearance stock must be paid in full at the time of order.
    - 4.4 Payment of the balance in full is required upon the earlier of:
      - (a) delivery of the Products; or
      - (b) 30 days from the order placement date.If full payment is not received within 30 days from the order placement date, EAH may cancel the order and charge the applicable cancellation fee in accordance with clause 6.1 and 6.2 of these Terms and Conditions.
    - 4.5 Subject to provision 4.4, if the agreement relates to two or more Products and they are delivered on different dates, that part of the price, or the balance of it, which relates to the Product delivered on a particular date is payable on that date and by the time of delivery.
  5. Lay-by
    - 5.1 EAH may permit a Customer to order Products, subject to clauses 4.1, 4.2 and 4.3, and to pay the balance of the price by instalments over a period greater than 30 days ("lay-by").
    - 5.2 The balance of an order under a lay-by arrangement must be settled within 90 days of the order date, or on delivery of the Products if the Customer requests delivery prior to the expiration of 90 days.
    - 5.3 EAH will not accept the cancellation or exchange of products on lay-by order.
    - 5.4 If the Customer fails to complete the instalment payments of a lay-by order within 90 days from date of order, EAH may give the Customer 14 business days' notice of termination of the Agreement. If the Customer fails to settle the balance of order within that notice period, the agreement is terminated on expiry of that period and items will be retained by EAH and the deposit and any payments made against the balance will be forfeited by the Customer.
    - 5.5 It is the responsibility of the Customer to inform EAH of any change of address or contact details.
  6. Credit
    - 6.1 If the Customer has been approved for a credit account, the Customer may order Products on that account (subject to clause 6.2) and the Customer's credit account will require payment by net cash within 30 days of the date of the invoice issued by EAH for all Products, unless these terms are specifically varied in writing by both parties, or shown specifically on invoices.
    - 6.2 If the customer has been approved for a credit account, the credit account does not apply to and expressly excludes the purchase of pro forma products which are invoiced directly by the manufacturer. Such manufacturers include, but are not limited to, Miele, Neff, Gaggenau, Falcon, GE, Hoover, AEG, for whom EAH act as agents.
    - 6.3 The withholding or extension of credit shall be at the absolute discretion of EAH.
    - 6.4 The Customer shall not withhold or set off payment of any amount due to EAH notwithstanding any claim for faulty or defective Products or any other reason.
  7. Cancellation Fee
    - 7.1 If your order is cancelled, all monies received will be returned excluding the applicable cancellation fee.
    - 7.2 A cancellation fee of 25% of the purchase price will apply to Products cancelled by the Customer
    - 7.3 A cancellation fee of 50% of the purchase price will apply to "Special Ordered" Products.
    - 7.4 Any deposit or payment under clauses 4 or 5 which is to be refunded by reason of this clause shall be refunded by way of a credit note for use on future orders.
  8. Delivery
    - 8.1 EAH will provide the Customer with one (1) free delivery of all or some of the Products to any one (1) location of their choosing, subject to clause 8.4. Subsequent deliveries or deliveries to second locations will incur a delivery fee of \$35.00.
    - 8.2 All orders must be collected or delivered within 180 days (6 months) of the order placement date. Orders not collected or delivered within this time frame may incur storage fees and charges or may be cancelled. EAH may charge the applicable cancellation fee in accordance with clause 7.1 and 7.2. A storage fee of \$15.00 per appliance per month will apply. The Customer is liable to pay any associated storage costs prior to EAH releasing the Products.
    - 8.3 Subject to clause 8.4 EAH will deliver the Products to the location specified in the order. Where no location is specified, EAH will deliver the Products to the Customer's address as set out in the order.
    - 8.4 EAH is not required to deliver the Products in accordance with clause 8.3 if the location to which the Products are to be delivered is off the main land of Tasmania. In those circumstances, EAH may notify the Customer of the location at which the Products are available for collection, or at its sole discretion elect to deliver the Products to a location other than a location in Tasmania.
  - 8.5 EAH shall not be responsible nor accept liability for delay in delivery of the Products and if in any circumstances late delivery is tendered by EAH, the Customer shall accept and pay in full for the same when tendered.
  - 8.6 The Customer must advise EAH prior to the date of delivery of any obstructions which may prevent or hinder the delivery of Products including, but not limited to :
    - Access obstructions, stairs, lifts, narrow passages;
    - Other works being completed at the premises;
    - Flooring deficiencies;
    - In cases of fridges, doorways and accesses must be measured to ensure units will fit.
  - 8.7 If the Customer fails to advise in accordance with clause 8.6 and subsequently delivery of the Products cannot be completed, the Products will be returned to EAH warehouse and a new delivery time will be scheduled and delivery fee charge in accordance with clause 8.1 will be payable before a new delivery date is agreed.
  - 8.8 Risk in the Products shall pass to the Customer:
    - (a) for Products that are to be picked up by the Customer or the Customer's agent, the earlier of:
      - (i) the time of arrival of the Customer or the Customer's agent for the purposes of pick-up; or
      - (ii) at 5pm on the day on which the Customer is advised that the Products are available for pick-up.
    - (b) for Products that are to be delivered to the Customer, at the time of acceptance by the carrier for the purposes of delivery.The Products shall remain at the Customer's risk at all times thereafter unless and until EAH retakes possession of the Products pursuant to these Terms and Conditions.
  - 8.9 The Customer must notify EAH in writing of any claims for damage in transit within 24 hours of receipt of delivery.
  - 8.10 The Customer must notify EAH in writing of any claims for shortages within 48 hours of receipt of delivery or pick-up.
  - 8.11 The Customer must notify EAH in writing of any claims for faulty Products within 5 business days of receipt of delivery or pick-up.
  - 8.12 Products are deemed to be received in good order, condition and quantity if no claim is received by EAH within the time limits set out in this clause.
  - 8.13 Subject to clause 11 and applicable consumer protection legislation, if the Customer accepts delivery of the Products (or collects the Products) and subsequently changes his, her or its mind about the Products (including where the Customer has ordered the incorrect Products), EAH may, in its absolute discretion:
    - (a) accept return of the relevant Products from the Customer at the Customer's cost in good order and condition, unused and in its original packaging;
    - (b) provide replacement Products to the customer;
    - (c) charge a re-stocking fee of 25% of the price of the Products returned; and
    - (d) charge any difference between the price of the replacement Products and the Products returned.
    - (e) The Customer acknowledges that a re-stocking fee represents the costs incurred by EAH in accepting and re-stocking the returned Products.
  - 8.14 EAH will not accept the return of Products that are wholly or in part deemed a "Special Order" unless they do not meet specification, or otherwise are not in accordance with the specific terms of the Agreement.
  - 8.15 EAH will not accept the return of display or clearance Products or bathroom Products unless deemed faulty by EAH.
  - 8.16 If the Customer fails to accept delivery of the Products within 180 days (6 months) EAH may give the customer 5 business days' notice of termination of the Agreement. If the Customer fails to collect or accept delivery within that notice period, the Agreement is terminated on expiry of that period and EAH may charge the applicable cancellation fee in accordance with clause 7.1 and 7.2.
  - 8.17 If EAH is unable to contact the Customer after making reasonable attempts to arrange delivery or collection, EAH may give the customer 30 days' notice of termination of the Agreement. If the Customer fails to make arrangements within the notice period, the Agreement is terminated upon expiry of the period and EAH may charge the applicable cancellation fee in accordance with clause 7.1 and 7.2.
  - 8.18 Baths in excess of 100kg will only be delivered to ground floor premises at Customer's request.
  - 8.19 EAH will take reasonable care when delivering Products and will not take responsibility for damage done to premises or property. It is the responsibility of the Customer to ensure that delivery can be carried out safely at the premises nominated, or the Customer's address in accordance with clause 8.3.
9. Title
  - 9.1 EAH and the Customer acknowledge and agree that EAH shall retain legal and equitable right to title in the Products (i.e. ownership) until the Customer has paid the full purchase price of the Products and any other sums in any way outstanding from the Customer.
  - 9.2 Until then, upon the Customer taking actual or constructive possession of the Products, the risk in the Products shall pass to the Customer and the Customer agrees to hold the Products only as bailee and fiduciary agent for EAH.
  - 9.3 EAH and the Customer agree that EAH takes a Security Interest (as defined in clause 9.11) in all of the Customer's present and after acquired property until the Customer has paid EAH any sums in any way outstanding from the Customer.
  - 9.4 The Customer agrees to keep the Products safe and store them in a manner which enables the Products to be identified and ascertainable as the property of EAH and agrees to insure the Products on behalf of EAH at the Customer's expense.
  - 9.5 EAH agrees that the Customer may sell or deal with the Products in its ordinary course of business, but only as the fiduciary agent and bailee of EAH. At all times the Customer shall keep a record of the Products sold or dealt with, which enables the Products to be identified, and the Customer shall keep any proceeds of such sale of the Products in a separate account until the Customer has paid the full purchase price of the Products to EAH.
  - 9.6 If the Products are sold by the Customer, used by the Customer to make or manufacture any product which is sold by the Customer, or used by the Customer as part of services offered by the Customer to its own customers, the Customer shall, upon the receipt of the proceeds of such sale of product or services, hold in trust for EAH that amount from the proceeds of sale which represents the purchase price of the Products. Upon receipt by the Customer of the said proceeds of sale, the Customer shall pay that sum, which represents the amount owing to EAH for the Products, to EAH forthwith; or if a period of credit has been extended, pay the sum owing to EAH within the period of credit.
  - 9.7 EAH may revoke the authority given to the Customer to use the Products or sell the Products that have not been paid in full by giving written notice at any time if EAH in its absolute unfettered discretion

- deems the credit of the Customer to be unsatisfactory or if the Customer is in default of its obligations under these Terms and Conditions or any other agreement between EAH and the Customer.
- 9.8 In any event, where the Products remain unpaid for by the Customer, the Customer hereby grants to EAH an irrevocable full and free licence to enter the premises of the Customer or its agents and remove such Products relating to the unpaid amount, without EAH incurring any liability to the Customer or any person claiming through the Customer.
- 9.9 The Customer releases and indemnifies EAH from and against all claims, demands, actions, liability, damages, loss, cost and expense whatsoever arising out of or in connection with such entry, repossession and removal and any damage necessarily caused thereby.
- 9.10 While the Products remain the property of EAH, the Customer agrees that it has no right or claim to any interest in the Products to secure any liquidated or unliquidated debt or obligation EAH may owe to the Customer and the Customer cannot claim any lien over the Products.
- 9.11 Money paid by the Customer must be applied in the following order unless EAH agrees otherwise:
- to obligations that are not secured, in the order in which those obligations were incurred;
  - to obligations that are secured, but not by PMSIs, in the order in which those obligations were incurred;
  - to obligations that are secured by PMSIs, in the order in which those obligations were incurred.
10. Product Installation
- 10.1 EAH may, at its absolute discretion, arrange for the installation of washing machines, dryer and stacking kits. The installation service is provide free of charge at the time of delivery of the Products. If a subsequent time is scheduled for installation, a fee of \$35.00 shall apply.
- 10.2 Installation Includes:
- Unpacking and preparing appliances for installation (inclusive of the removal of protective film).
  - Disposal of packaging materials.
  - Inspection of appliances for any existing damage or defect.
  - Connection of the appliances to existing electrical, and/or water services (electrical and water inlets must be within supplier specified distance as per installation manual for each appliance).
  - Levelling and securing your appliances.
  - Disposal of existing or old appliances.
- Installation Does Not Include:
- Completion of structural or flooring work including the removal of access doors, securing a plinth, trimming or modifying any cabinetry, kick panel or door panel.
  - Fitting of reducer valves, nor the completion of any plumbing or electrical works.
- 10.3 Prior to the date of installation, the Customer must ensure that old appliances have been disconnected from water inlet and waste.
- 10.4 The facilities where the appliances are to be installed should be inspected by the Customer prior to installation to ensure that they are free from any defects or obstructions and existing appliances are removed from the niche/cavity.
- 10.5 If the Customer fails to comply with clause 10.3 and 10.4 and subsequent installation of the appliances cannot be completed, a new installation time will be scheduled and a fee charged in accordance with clause 10.1, which fee will be payable before new installation date.
11. Warranty
- 11.1 Except as provided herein or prohibited by law, there are no express or implied warranties, guarantees, conditions or other terms regarding the supply of the Products and EAH shall not be liable to the Customer for physical or financial injury, loss or damage or for any indirect or consequential loss or damage of any kind arising out of the supply, layout, assembly, installation, operation or use of the Products, whether caused by tort, breach of contract or arising out of the negligence of EAH or in any way whatsoever.
- 11.2 If the Customer is not a consumer as defined under the Competition and Consumer Act 2010, and for the purposes of the Australian Consumer Law (ACL) contained therein, any warranty, guarantee, condition or other term arising out of or in connection with the supply of the Products which might apply or which might be implied into or incorporated into the contract by statute, common law, or otherwise (including, without limitation, any implied term or guarantee as to acceptable quality, fitness for purpose, due care and skill) is hereby expressly excluded to the maximum extent permitted by law.
- 11.3 If the Customer is a consumer as defined under the Competition and Consumer Act 2010, and for the purposes of the ACL, EAH is required to make certain guarantees regarding the supply of the Products (including guarantees as to acceptable quality, fitness for purpose, due care and skill) and EAH makes those guarantees to the extent it is required by law to do so. If these guarantees are not required to be made by EAH, EAH does not make them.
- 11.4 Where the Products are not of a kind ordinarily acquired for personal, domestic or household use or consumption, EAH's liability for failure to comply with a consumer guarantee implied by Division 1 of Part 3-2 of the ACL (other than a guarantee under ss. 51, 52 and 53) is hereby limited, at its option, to:
- in the case of goods, any one or more of the following:
    - the replacement of the goods or the supply of equivalent goods;
    - the repair of the goods;
    - the payment of the cost of replacing the goods or of acquiring equivalent goods;
    - the payment of the cost of having the goods repaired; or
  - in the case of services:
    - the supplying of the services again; or
    - the payment of the cost of having the services supplied again.
- 11.5 Notwithstanding all the above, to the maximum extent permitted by law, EAH shall not be liable to the Customer for any Products which have been installed, used, maintained or modified:
- outside EAH's specifications;
  - outside Product specifications;
  - outside system specifications;
  - and which are showing signs of normal wear and tear;
- and such installation, use, maintenance or modification of the Products will render any claim by the Customer null and void.
- 11.6 Nothing in this clause 11 affects any rights the Customer may have under the ACL.
- 11.7 In addition to the Customer's rights under the ACL (if any), EAH provides a Manufacturer's Warranty ("Warranty") in respect of certain Products. The terms of the Warranty are contained in a separate document and (where applicable) form part of, and are incorporated into, these Terms and Conditions. The Warranty contains exclusions and other obligations of the Customer and it is the Customer's responsibility to review the terms carefully. A copy of the Warranty (where applicable) is available upon request.
12. Default
- Should the Customer fail to make a due payment for any Products ordered with or supplied by EAH or commit an act of bankruptcy or by act or omission enable the appointment of a scheme manager, trustee, administrator, official manager, receiver, receiver and manager, liquidator or any other person authorized to enter into possession or assume control of any property of the Customer pursuant to a mortgage or any other security:
- the right of the Customer to sell the Products in the ordinary course of business or otherwise terminates immediately without the need for EAH to provide written confirmation;
  - EAH may, without prejudice to any other rights it may have, do any or all of the following:
    - withdraw any credit facilities which may have been extended to the Customer and demand immediate payment of all moneys owing to EAH;
    - withhold any further deliveries of goods or performance of services required under these Terms and Conditions;
    - in respect of Products already delivered, enter onto the Customer's premises, either personally or through its agent, to recover same and sell for its own benefit, including to compensate EAH for the cost of recovering and selling the Products;
    - suspend and/or terminate performance of any other contracts which EAH has with the Customer.
13. Indemnity
- The Customer indemnifies EAH against any costs (compensation), fees, charges and disbursements:
- incurred by EAH; or
  - charged by any mercantile or collection agent or solicitor engaged;
- for the purpose of the collection or recovery of Products under clause 12(b)(iii) or moneys due and payable by the Customer to EAH on an indemnity basis and all such costs shall be recoverable as a liquidated debt.
14. Change of ownership
- The Customer shall give EAH seven (7) days written notice prior to any change of ownership of the Customer or its business, or of directorships in the case of a corporate customer, which brings about a change in the effective control, or in the partnership, or of any other change whatsoever affecting this contract within seven (7) days from the date of such change and indemnify EAH against any loss or damage incurred by it as a result of the Customer's failure to notify EAH of any such change.
15. No Variation
- All Products sold by EAH are sold subject to these Terms and Conditions. No variation or modification or substitution of these Terms and Conditions shall be binding on EAH unless specifically accepted by EAH in writing. EAH may amend or replace these Terms and Conditions at any time by giving 7 days' notice to the Customer or alternatively by publishing updated Terms and Conditions on EAH's website ([www.eliteapplianceshobart.com.au](http://www.eliteapplianceshobart.com.au)).
16. Governing Law
- These Terms and Conditions shall be governed and construed in accordance with the laws for the time being in force in the State of Tasmania, Australia and the parties agree to the exclusive jurisdiction of the Tasmanian Courts and Tribunals.
17. Severability
- A provision of these Terms and Conditions which is unenforceable in a jurisdiction shall be ineffective to the extent of the unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of the provision in another jurisdiction.
18. Notices
- Any notice to be served on any party must be in writing and sent to the party to whom it is addressed at the given address on the order form by prepaid post. Any notice sent by prepaid post shall be deemed received 48 hours after posting.
19. Interest on overdue amounts
- Interest will accrue at the rate of 15% per annum on any amounts payable by the Customer that are not paid in accordance with the due date for payment in accordance with these Terms and Conditions.
20. Time
- Time wherever mentioned shall be of the essence.

Customer name

Signed