

**VOLHARDEN PTY LTD (A.C.N. 602 940 527) TRADING AS ELEC MEN  
TERMS OF TRADE**

**1. DEFINITIONS**

“**Client**” means the person, firm or corporation, jointly and severally if there is more than one, obtaining goods and services from Elecmen;  
“**Contract**” means any goods proposed or required to be provided by Elecmen to the client;  
“**Elecmen**” means Volharden Pty Ltd (ACN 602 940 527) trading as Elecmen;  
“**Quote**” means any written quotation provided by Elecmen;  
“**Services**” means any services proposed to be provided in relation to the goods;  
“**Running Account**” means goods and services provided under credit or a credit contract held with Elecmen.  
“**Terms**” means these Terms and Conditions of Trade.  
“**Periodic payments**” means payments made at periodic intervals and includes but is not limited to such intervals as the completion by Elecmen of staged goods and/or services provided.

**2. BASIS OF CONTRACT**

- 2.1 Unless otherwise agreed by Elecmen in writing, these Terms apply exclusively to every contract and cannot be varied or supplanted by any other terms, including the clients terms and conditions of purchase (if any).
- 2.2 Any quotation provided is valid for 30 days, and is an invitation only to the client to place an order based upon that quotation, and is subject to the client offering to enter into a contract and accepting these terms.
- 2.3 The terms may include additional terms in Elecmen's quote, which are not inconsistent with these terms, or if inconsistent, the terms of the quote will prevail to the extent of any inconsistency.
- 2.4 The signing were indicated on the quotation forwarding back to Elecmen bearing same within the timeframe outlined in clause 2.2 constitutes an acceptance of the quotation and is also deemed to be a notice served on Elecmen of the client's intention to be bound by these terms and conditions of trade.
- 2.5 An administration fee may apply for re-quoting or providing additional quotes where the client changes specifications.
- 2.6 The contract is accepted by Elecmen when Elecmen confirms its acceptance of an offer from a client in writing (see clause 9.4), or provides the client with the goods and/or services.
- 2.7 Elecmen may refuse to accept any order.
- 2.8 The client must provide Elecmen with its specific requirements in relation to the goods and/or services.
- 2.9 Elecmen may vary or amend these terms by written notice to the client at any time. Any variations or amendments will apply to orders made by the Client after the date of notice.

**3. PRICING**

- 3.1 Unless otherwise agreed in writing, prices specified by quote, verbally or in a price list for the supply of goods and/or services exclude GST and any other taxes or duties imposed on or in relation to the goods and/or services. Any such GST, taxes and other duties must be paid by the client in addition to payment of the price of the goods and/or services.
- 3.2 If:
  - (a) the client request any variation to the contract;
  - (b) there is any change in Elecmen's costs incurred in relation to providing the goods and/or services;Elecmen may vary the price to account for the variation.

**4. PAYMENT**

- 4.1 Unless otherwise agreed in writing, payment for the goods and/or services is due to Elecmen before physical delivery of the goods and/or services.
- 4.2 If credit is offered as a one off or as a running account, then payment is due in full strictly within 14 days of invoice date.

- 4.3 Elecmen reserves the right to require payment of a deposit at the time the client places its order or in accordance with clause 2.6.
- 4.4 Periodic payments maybe requested by Elecmen as agreed upon or at the completion of each stage or upon the provision of an invoice from Elecmen.
- 4.5 Account or invoice payments (unless otherwise previously agreed upon) must be made to Elecmen without any deduction or set off.
- 4.6 Payment by cheque is not deemed made until the proceeds of the cheque has/is cleared.
- 4.7 Payment terms may be revoked or amended as Elecmen's sole discretion immediately upon giving the client written notice pursuant to clause 9.4.

**5. PAYMENT DEFAULT**

- 5.1 If the client defaults in payment by the due date of any amount payable to Elecmen, then all money which would become payable by the client to Elecmen at a later date on any account, becomes immediately due and payable without the requirement of any notice to the client, and Elecmen may, without prejudice to any other remedy available:
  - (a) charge the client interest on any sum due at the prevailing rate of 1.7% per month, calculated monthly from the due date until payment has been made in full;
  - (b) charge the client for all costs and expenses (including without limitation, all legal costs and expenses on an indemnity basis) incurred by Elecmen as a result of the default or taking action to enforce compliance with the terms, or to recover any sum due all to recover any goods. The client irrevocably and unconditionally agrees to indemnify Elecmen in this regard.
  - (c) Elecmen may at its discretion, and the client and guarantor/s each agree to Elecmen lodging and/or registering a caveatable interest over any property owned by the client and/or its guarantor/s, should the client and/or the guarantor/s not rectify any breach of these terms within 14 days of being served written notification of such breach in accord with clause 9.4.
  - (d) Such registration of a Caveat by Elecmen over the clients and/or the guarantor/s property or properties shall not be challenged by the client or its guarantor/s in any way whatsoever, and the client and guarantor/s agree/s not to take any steps in filing a “Lapsing Notice” via Land Victoria to have the Caveat removed, until such time the client and/or the guarantor/s have paid all monies owing by it to Elecmen as claimed from time to time.
  - (e) Cease or suspend for such period as Elecmen deems fit the supply of any further goods and/or services to the client;
  - (f) Amend the agreed payment terms to reflect clause 4.1 without written notice for any further or staged goods and/or services remaining.
  - (g) by written notice to the client, terminate any contract with the clients so far as unperformed by Elecmen without effect on Elecmen's accrued rights under any contract.
- 5.2 Clauses 5.1(c) & (d) may also be relied upon at Elecmen's option, where the client becomes bankrupt, insolvent, commits an act of Bankruptcy (within the meaning of that phrase in the Bankruptcy Act 1966 (Cth), (“the Act”)), entering into an arrangement pursuant to part IX or X of the act, or enters into any scheme of arrangement with its creditors, or has a liquidator administrator or similar functionary appointed in respect of its assets.

**6. PASSING OF TITLE**

- 6.1 Until Elecmen receives payment of cleared funds of any/all amounts due in full for the goods and/or services provided and/or supplied by it to the client, as well as other amounts owing to Elecmen by the client:
  - (a) title and property in all goods remains vested in Elecmen and does not pass to the client;

- (b) the client must hold the goods as fiduciary bailee and agent for and on behalf of Elecmen; and
- (c) Elecmen may without notice enter any premises where it suspects the goods may be and remove them, and for this purpose the client irrevocably licenses Elecmen to enter such premises and also indemnifies Elecmen from and against all costs, claims, demands or any actions by any party arising from such action.

**7. DELIVERY AND COMPLETION**

- 7.1 Any period or date for completion of services specified by Elecmen is intended as an estimate only and is not a contractual commitment. Elecmen will use its reasonable endeavours to meet any estimated dates for the completion of services.
- 7.2 Unless otherwise specified, the client is responsible for all freight and handling charges. If the client requires a more expensive route or means of transportation, the client must pay or reimburse Elecmen for any extra costs involved.
- 7.3 The client must provide reasonable and proper access to any premises of which it has requested Elecmen to perform or provide goods and/or services.
- 7.4 The client indemnifies Elecmen against any loss or damage suffered by Elecmen or its subcontractors as a result of delivery or attempted delivery of goods and/or services, except if caused by Elecmen's negligence.

**8. LIABILITY**

- 8.1 The risk in the goods and all insurance responsibility for theft, damage or otherwise in respect of the goods passes to the client immediately upon delivery of the goods.
- 8.2 The client assumes all risk and liability for loss, damage or injury to persons or to property of the client, or third parties arising out of the use or possession of any of the goods and/or services provided by Elecmen.

**9. GENERAL**

- 9.1 the law of Victoria from time to time governs the terms and the parties agreed to the non-exclusive jurisdiction of the courts of Victoria.
- 9.2 Elecmen's failure to enforce any of these terms shall not be construed as a waiver of any of Elecmen's rights.
- 9.3 If any of the terms are unenforceable it shall be read down so as to be enforceable or, if it cannot be so read down, the term shall be severed from these terms without affecting the enforceability of the remaining terms.
- 9.4 A notice must be in writing and served either personally or sent by electronic mail (e-mail), facsimile or prepaid post to the last known address of the addressee. Notices sent by the means listed above are deemed to be served
  - (a) By post on the day after posting;
  - (b) By facsimile on the day of sending;
  - (c) By email on the day of sending.