



## BlueScope Conditions of Sale

Coated and Industrial Products Australia  
Effective 8 November 2023

### 1. Contract

- 1.1 Orders for Goods placed by the Customer are subject to these Conditions and any special conditions agreed by BlueScope in writing (including quotations and supply agreements) and are to the exclusion of any previous dealings or other agreed arrangements between BlueScope and the Customer or any terms and conditions of purchase submitted by the Customer, whether printed on or sent with any order form or otherwise.
- 1.2 BlueScope may vary these Conditions from time to time and will provide the Customer with replacement Conditions which shall apply to orders placed after the effective date of such replacement Conditions. The placing of an order by the Customer after the effective date of the replacement Conditions will be deemed as their acceptance of the replacement Conditions.

### 2. Orders and quotations

- 2.1 Orders must be placed in writing. Receipt of an order does not constitute acceptance of that order or any other order by BlueScope. BlueScope may accept or decline an order at its absolute discretion. BlueScope will not be liable to the Customer or any third party for declining any order or failing to notify the Customer that it declines an order.
- 2.2 Orders may be placed using Electronic Data Interchange ("EDI"). The Customer agrees that if it has an appropriate EDI capability then EDI is the preferred method to conduct business with BlueScope.
- 2.3 An order will be deemed as accepted on the earlier of BlueScope sending an order acknowledgement in writing to the Customer or the Goods being delivered.
- 2.4 Subject to clause 6.3, BlueScope is not bound to accept any change in an order for any Goods after it has sent the Customer an order acknowledgement. If BlueScope agrees to accept any changes to an order, it will not be required to implement the change unless and until BlueScope and the Customer have agreed any adjustments, including price.
- 2.5 A written quotation given by BlueScope is an offer to sell and overrides any prevailing price lists issued by BlueScope. A written quotation expires on the date specified in the quotation as the expiry date. If no expiry date is specified, the written quotation expires 14 days after the date of the written quotation unless extended by BlueScope in writing.
- 2.6 If BlueScope has given a written quotation, a contract for the supply of Goods is made when the Customer communicates (by writing or conduct) to BlueScope its acceptance of that written quotation without variation. Any order from the Customer which is inconsistent in any way with the quotation is an offer by the Customer to buy the Goods requested in that order from BlueScope, which is made on the terms of these Conditions, and may be accepted or declined by BlueScope in accordance with this clause 2.

### 3. Packaging and tolerances

- 3.1 Goods will be delivered in accordance with BlueScope's standard packaging, loading, bracing and shipping procedures unless otherwise agreed by the Customer and BlueScope in writing. Prior to placing an order, the Customer may request additional or different packaging requirements, which if accepted by BlueScope, may incur additional charges which will be notified by BlueScope to the Customer before the order is placed.
- 3.2 Goods are supplied by BlueScope within the tolerances as to quantity, weight, dimension and chemical composition as specified by BlueScope in relevant BlueScope product literature and applicable Australian Standards unless otherwise agreed by BlueScope and the Customer in writing before an order is placed.

### 4. Delivery and collection

- 4.1 BlueScope will deliver the Goods during Working Hours (or as otherwise agreed) to the nominated delivery point in the order acknowledgement or where not specified, to either the Customer's usual place of trade or another reasonable delivery point. BlueScope is not obliged to complete any order in one delivery and reserves the right to deliver by instalments. BlueScope will be entitled to invoice the Customer for part-payment of an order in respect of Goods delivered. The Customer will not be entitled to terminate an order if BlueScope has delivered an instalment of part of the Goods ordered and the balance will be delivered in separate further instalments.
- 4.2 BlueScope will transport the Goods to the nominated delivery point. Unloading the Goods is the responsibility of the Customer. The Customer will provide facilities for the efficient receipt and safe, prompt unloading of Goods. A reasonable time will be allowed for unloading after arrival. Unless it is caused by BlueScope, excessive waiting time will be charged to the Customer. Where the Customer is not in attendance at the delivery point or is otherwise unwilling or unable to accept the Goods when the Goods arrive, the Customer must pay to BlueScope all costs incurred by it in storing and returning the Goods at prevailing storage and freight rates.
- 4.3 Delivery dates and times provided by BlueScope are estimates only. Any delay will not result in a breach of contract and, except where the Customer is a Small Business or Consumer, the Customer will not be entitled to terminate the order or to any other remedy whatsoever.
- 4.4 Where BlueScope has agreed to Goods being collected, BlueScope will hold Goods for up to 5 days from the agreed collection date. Goods not collected within such time may be delivered to a reasonable delivery point nominated by BlueScope and all reasonable costs incurred by BlueScope in making such a delivery will be charged to and paid by the Customer. BlueScope reserves the right to charge the Customer any reasonable commercial storage or warehouse fees for Goods held past the specified collection date.

- 4.5 If the Customer is required to enter a BlueScope site to collect or inspect the Goods or to review processes, it will comply with all directions given by BlueScope and will complete an induction if required by that site. BlueScope reserves the right to refuse entry to its site for any reason whatsoever.

### 5. Quality

- 5.1 This clause 5 is in addition to any rights which the Customer may have under the Australian Consumer Law.
- 5.2 BlueScope warrants that the Goods delivered are those specified in the delivery docket and the Goods delivered are free from defects in material and workmanship save for such defects that are normally regarded as being commercially acceptable.
- 5.3 Goods will be supplied in accordance with the applicable Australian Standards and published BlueScope product literature current at the date of production of the Goods. Any material change to the specification of Goods set out in the published BlueScope product literature between the date the order is placed by the Customer and the date the relevant Goods are delivered shall be notified to the Customer. Within 3 days of such notification the Customer may elect to withdraw or terminate any order for the relevant Goods the subject of the material change in specification placed before it received the notification.
- 5.4 Subject to the Australian Consumer Law, the Customer must submit any claim for inaccuracies, defective Goods, short supply, faulty workmanship or failure to supply Goods conforming to the order to BlueScope in writing within 7 days after delivery of the Goods, stating the order number and delivery date. If the Customer does not submit such a claim within this period, it will be deemed to have accepted the Goods.
- 5.5 Subject to the Australian Consumer Law, the Customer will not be entitled to reject delivery of any other part of the order for any defect or claim in respect of the Goods delivered.

### 6. Pricing and GST

- 6.1 Prices may be set out in a BlueScope price list, a BlueScope written quotation, or an agreement between BlueScope and the Customer, for the applicable price period. Prices in any written quotation or agreement override any prevailing price list issued by BlueScope. There is no obligation to, and BlueScope is not bound to, sell Goods at these prices except as expressly provided in any written quotation or agreement.
- 6.2 Prices indicated in any price list, written quotation or agreement (other than fixed price agreements) are subject to alteration by BlueScope by written notice for Goods ordered after such notice for delivery on or after the date on which the revised prices are stated to take effect.
- 6.3 Unless otherwise specified by BlueScope, the price of the Goods will be the price prevailing at the date the order is placed by the Customer for the applicable estimated delivery period. If, as at the date the order is placed by the Customer, BlueScope has not set the price for the delivery period requested by the Customer (or has only set an indicative price which is subject to change or further confirmation by BlueScope), the price of the Goods will be the final price for that delivery period as and when determined by BlueScope and notified to the Customer, which shall be reflected in a revised order acknowledgement. If, after receiving such final price notification from BlueScope, the Customer wishes to cancel all or part of an order placed before the final price was notified to it, the Customer must inform BlueScope in writing by no later than 2 Business Days after being notified of the final price by BlueScope, provided that the Customer may not cancel all or part of the order if the final price was lower than any indicative price. Any change to the order will be reflected in a revised order acknowledgement. All prices are based on delivery being on a "Free In Store" (FIS) basis. Freight extras may apply for delivery of Goods to certain regions. Freight extras are as set out in the applicable price list, written quotation or agreement. Please speak to your BlueScope representative for further information if the freight extra for your destination is not listed.
- 6.4 If GST is payable, or notionally payable, on a supply made under or in connection with these Conditions, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply ("GST Amount"). Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided. If a tax invoice is not received prior to the provision of that other consideration, the GST Amount is payable within 10 days after the receipt of a tax invoice. This clause does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.
- 6.5 Where any indemnity, reimbursement or similar payment under these Conditions is based on any cost, expense or other liability, it shall be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.
- 6.6 If an adjustment event occurs in relation to a supply made under or in connection with these Conditions, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.

### 7. Payment and credit terms

- 7.1 Unless otherwise specified by BlueScope in writing, payment for Goods must be made in full and be received by BlueScope by 5pm on the 15<sup>th</sup> calendar day of the month following the month of delivery. Where the Customer has established an approved credit account with BlueScope, payment for the goods must be made in accordance with any agreed credit terms. Payment is

- received by BlueScope when it receives cash or when the proceeds of other payment methods are credited and cleared to BlueScope's nominated bank account.
- 7.2 The production, shipment and delivery of Goods are at all times subject to BlueScope's credit processes. BlueScope may, at its option, suspend performance of or terminate an order or these Conditions if BlueScope reasonably believes that the credit of the Customer becomes impaired, until such time as BlueScope has received full payment or satisfactory security for deliveries made and is satisfied as to the Customer's credit for future deliveries. BlueScope reserves the right to cancel any order, re-evaluate all payment terms, or require full or partial payment or adequate assurance of the Customer's performance of its obligations under these Conditions without liability to BlueScope in the event of a material adverse change to the Customer's financial condition.
- 7.3 Neither party may, and each party waives its right to, set off any amount owed by it to the other against any amount of money owed, or that may become owing, to it by the other party. However, discounts, rebates, credits and other payments due from BlueScope to the Customer in connection with the supply of Goods, or any other supply to the Customer, may be paid by way of credit note against amounts owing by the Customer.
- 8. Default**
- 8.1 Where the Customer is in default of its obligations under these Conditions or it becomes subject to an Insolvency Event, BlueScope will be entitled to refuse to supply or deliver further Goods to the Customer until such time as the Customer has remedied that default or is no longer subject to an Insolvency Event.
- 8.2 Where the Customer is in default of its obligations in relation to payment, then notwithstanding any other rights and remedies available under these Conditions, at Law or otherwise, BlueScope will be entitled to:
- interest on all amounts overdue, from the date of default until the date of payment in full, at the rate of 2% per annum above the prevailing Reference Rate charged by the Australia and New Zealand Banking Group Limited for business finance (or if that rate is no longer published, a comparable rate set by the Australia and New Zealand Banking Group Limited);
  - the cost to BlueScope of recovering the overdue amount, such as legal or debt collection costs;
  - suspend, without incurring liability to the Customer, any contract in force between BlueScope and the Customer for the sale or supply of goods and withhold any deliveries of goods the subject of any order accepted by BlueScope, whether under these Conditions or otherwise;
  - suspend performance, without incurring liability to the Customer, of any contracts in force between BlueScope and the Customer, not being contracts for the sale or supply of goods; and
  - suspend or disallow any early payment discounts, rebates, volume bonuses or incentive payments otherwise claimable by the Customer.
- 8.3 Where the Customer is in default of its obligations in relation to payment and the Customer does not remedy the default within 10 Business Days of receipt of notice of the default, or the Customer becomes subject to an Insolvency Event, BlueScope may in addition to any other rights it may have under these Conditions or at Law:
- terminate, without incurring liability to the Customer, any contract in force between BlueScope and the Customer for the sale or supply of goods, whether under these Conditions or otherwise; and
  - terminate, without incurring liability to the Customer, any contracts in force between BlueScope and the Customer, not being contracts for the sale or supply of goods.
- 9. Risk and title**
- 9.1 Risk in the Goods passes to the Customer when the Goods have entered the Customer site. Where Goods are being collected, risk passes when the Goods are set on, in or alongside the Customer's vehicle, or the passing of any specified collection date. BlueScope is not liable for any theft, damage or loss of and will not be required to provide insurance for Goods once risk has passed.
- 9.2 Until the Customer has paid BlueScope all monies owing to it on any account, BlueScope remains the legal and equitable owner of and has title and ownership in the Goods. Until the Customer has paid all monies owing to BlueScope on any account:
- the Goods are held by the Customer as bailee of BlueScope;
  - the Customer must store the Goods separately and so that they are readily identifiable as the property of BlueScope;
  - the Customer must keep the Goods in good and merchantable condition and fully insure the Goods against loss or damage, however caused;
  - the Customer must not sell the Goods except with the prior written consent of BlueScope or in the ordinary course of the Customer's business, provided that any such sale is at arms' length and on market terms;
  - any proceeds of such re-sale, insofar as they relate to the Goods, must be held on trust for BlueScope in a separate account or otherwise clearly identified in the books and records of the Customer;
  - the Customer must not create any encumbrance over the Goods which is inconsistent with BlueScope's title and ownership to the Goods; and
  - if the Customer uses the Goods in manufacturing or production and sells the finished product in the ordinary course of business (which it is authorised to do unless otherwise notified in writing), the Customer must hold that part of the proceeds of the finished product relating to the Goods in a separate account on trust for BlueScope or otherwise clearly identified in the books and records of the Customer. That part will be taken to be of equal value to the amount owing by the Customer to BlueScope at the time of receipt of the proceeds.
- 9.3 If the Customer is in default of its obligations under these Conditions, it becomes subject to an Insolvency Event or if BlueScope reasonably believes that the payment of any amount in respect of the Goods supplied by BlueScope is in jeopardy, then the Customer irrevocably authorises a representative of BlueScope to enter upon any site where the Goods are located to take possession of the Goods without any prior notice and BlueScope will be further entitled to resell any Goods which it has so taken into possession. The Customer indemnifies BlueScope for all Loss (including legal fees on a full indemnity basis) incurred or suffered by BlueScope (including any such Loss which arises out of a claim made by or against BlueScope) in connection with retaking possession of the Goods or the exercise by BlueScope of its rights under this clause.
- 10. Limiting Liability**
- 10.1 Subject to the Australian Consumer Law, the Customer agrees that if it knows (or ought reasonably to know) that the Goods are to be used for a particular purpose (including use as a component part of another product) or are required to possess special or uniform characteristics, the Customer must clearly specify that purpose or those characteristics in writing in the order. If the Customer does not specify the particular purpose or the special or uniform characteristics for the Goods and BlueScope does not expressly confirm in the order acknowledgement or otherwise in writing that the material is reasonably fit for the specified purpose or that it possesses the specified characteristics, then the Customer agrees:
- that it is solely responsible for assessing the suitability of the Goods for a particular purpose;
  - that it will satisfy itself that the Goods possess any special or uniform characteristics it requires; and
  - not to use, sell or offer for sale the Goods as though they are reasonably fit for the specified purpose.
- 10.2 Subject to clause 10.7(a), the Customer indemnifies and will keep indemnified BlueScope and each of its officers, employees and agents (for each of whom BlueScope holds the benefit of this indemnity upon trust) against any Loss which any such person may incur or be subjected to in respect of or arising from:
- the negligence, wrongful act or omission, breach of statutory duty, breach of contract or wilful misconduct of the Customer or its officers, employees, agents or contractors;
  - any injury to or death of any person or any damage to or loss of property connected with the conduct, operations or performance of the business of the Customer;
  - transport, storage, slitting, roll-forming, repackaging or other handling of the Goods by the Customer;
  - misuse of Goods by the Customer;
  - warranties or representations made by the Customer in relation to the Goods; or
  - any breach of these Conditions by the Customer.
- 10.3 To the extent permitted by Law, including the Australian Consumer Law, except for the warranties expressly made in these Conditions and subject to any express written warranty for certain Goods, all conditions, warranties, undertakings or representations, express or implied, arising by statute, general law or otherwise are expressly excluded by BlueScope to the full extent permitted by Law.
- 10.4 BlueScope's liability for any Loss in connection with the Goods or their supply is limited (to the full extent permitted by Law, including the Australian Consumer Law) to any of the following as determined by BlueScope in its sole discretion:
- repairing or replacing the Goods, the subject of the Loss; or
  - the cost of repairing or replacing the Goods, the subject of the Loss (or acquiring equivalent goods).
- 10.5 Subject to clauses 10.7(b) and (c) and the Australian Consumer Law, BlueScope will not be liable to the Customer (whether by way of damages or otherwise) for:
- any loss or damage to the Goods resulting from any act or omission on the part of the Customer or any of its officers, employees, agents or contractors;
  - any statement or recommendation made or advice, supervision or assistance given by BlueScope, its employees, agents, transport contractors or representatives whether oral or written;
  - any loss or damage to the Goods or any liability which arises during the loading or unloading of the Goods;
  - a delay in delivering the Goods;
  - any claim, action or proceeding by a third party against the Customer (or any loss, damages or liability incurred or suffered by the Customer as a result of any such claim, action or proceeding); or
  - any loss or damage relating to the fitness or suitability of the Goods for the Customer's purpose (including a third party purpose) unless such purposes are known and agreed by BlueScope in writing in the order acknowledgement or other written agreement.
- 10.6 Subject to clause 10.7(b) and the Australian Consumer Law, neither party will be liable to the other party (whether by way of damages or otherwise) for or in relation to:
- any business interruption, loss of revenue, loss of income, loss of production, loss of use, loss of product, loss of business, loss of profits,

- loss of opportunity, loss of contracts, loss of investment, damage to goodwill or damage to business reputation or loss of actual or anticipated savings, however arising; and
- (b) without limiting clause 10.6(a), any indirect or consequential loss that cannot reasonably be considered to arise naturally from the facts, matters or circumstances which give rise to a claim.
- 10.7 Where a Customer is a Small Business or Consumer:
- (a) the Customer's liability to indemnify BlueScope under clause 10.2 or clause 11.6 will be reduced proportionately to the extent that BlueScope's error, negligent act or omission, fraud or wilful misconduct has contributed to the loss;
- (b) under clause 10.5, BlueScope will be proportionately liable to the Small Business or Consumer only to the extent that BlueScope's error, negligent act or omission, fraud or wilful misconduct contributed to the loss or damage; and
- (c) for the avoidance of doubt, BlueScope will remain liable at law in circumstances where its liability cannot be excluded or limited under law, including if BlueScope engages in conduct that is misleading or deceptive or likely to mislead or deceive, or makes false or misleading representations, in breach of the Australian Consumer Law.
- 10.8 Notwithstanding anything else contained in these Conditions (to the full extent permitted by Law, including the Australian Consumer Law), the maximum liability of BlueScope to the Customer whether under contract, at Law, in equity or otherwise for any Loss in connection with the Goods or their supply is an amount equal to the price paid for the Goods the subject of the Loss.
- 11. Intellectual Property**
- 11.1 BlueScope retains the Intellectual Property Rights in any Goods, promotional literature, technical documents or other information provided by BlueScope to the Customer under these Conditions.
- 11.2 The Customer must:
- (a) not make any use of the Intellectual Property Rights other than as described in BlueScope's Visual Identity Guidelines or otherwise as approved by BlueScope;
- (b) differentiate between BlueScope's products and those manufactured by its competitors through the correct use of the Intellectual Property Rights;
- (c) where practicable, indicate prominently in written form that the Intellectual Property Rights are owned by BlueScope and that the Customer is a user of the Intellectual Property Rights;
- (d) only use the Intellectual Property Rights in relation to the Goods;
- (e) not represent or pass off as products made from BlueScope products, any products containing products not obtained from or manufactured by BlueScope;
- (f) provide BlueScope (at BlueScope's expense, unless due to Customer's breach, in which case at Customer's expense) with reasonable assistance in identifying, prosecuting and defending claims with respect to the Intellectual Property Rights;
- (g) not use the Intellectual Property Rights in a manner which, in the reasonable opinion of BlueScope, may damage or be likely to damage the goodwill attaching to the Intellectual Property Rights or do anything to diminish the value of the Intellectual Property Rights, or omit to do anything reasonably requested by BlueScope for the purposes of preventing or limiting any diminution in the value of the Intellectual Property Rights;
- (h) not use the Intellectual Property Rights in any way which would lead the trademarks to become generic, lose distinctiveness or become liable to mislead the public or in any way which would be materially detrimental to or inconsistent with the name, reputation and/or image of BlueScope;
- (i) not, without limitation to sub-clause (h), use any trademark or product reference which is substantially identical or deceptively similar to the Intellectual Property Rights;
- (j) not register or attempt to register any trademark, domain name, business name, design, emblem, logo or slogan that is substantially identical or deceptively similar to the Intellectual Property Rights; and
- (k) not use any of the Intellectual Property Rights as part of its trade name, corporate name or domain name.
- 11.3 If the Customer is in breach of any of these Conditions, including clause 11.2, if requested by BlueScope in writing, the Customer will promptly cease to use any Intellectual Property Right and deliver or (at BlueScope's request) destroy any materials in whatever form including all marketing and advertising materials, logos, labels and any reproductions of BlueScope brands that are in the possession or control of the Customer that carries an Intellectual Property Right.
- 11.4 The Customer must procure that its employees, contractors and agents comply with the provisions of clauses 11.2 and 11.3.
- 11.5 All goodwill in any Intellectual Property Right generated through the use of such right by the Customer is for the benefit of BlueScope.
- 11.6 The Customer warrants to BlueScope that where it provides BlueScope with intellectual property (including intellectual property included in a Customer Specification) that the intellectual property is accurate and that the Customer is entitled to use the intellectual property in the way that is used and does not infringe on any third party's intellectual property rights. Subject to clause 10.7(a), the Customer indemnifies BlueScope against all claims and all Loss incurred by BlueScope as a result of any infringement of a third party's intellectual property rights in relation to, or improper use of, the intellectual property supplied by the Customer to BlueScope.
- 12. Confidentiality**
- 12.1 Each party (receiving party) must keep all confidential and proprietary information provided or disclosed by the other party (disclosing party) confidential and must not disclose it to any person except:
- (a) after it becomes known to the public at large (other than as a consequence of any breach of these Conditions);
- (b) to officers, employees, contractors, agents and advisers of the receiving party or its Related Bodies Corporate;
- (c) after it has been received from a third person entitled to possess such information and provide it to the receiving party;
- (d) to the extent necessary to comply with any applicable Law, legally binding order of any court or other appropriate body or the rules of any applicable securities exchange; or
- (e) disclosure of information, documents, records or reports relating to the receivables and related securities associated with these Conditions or any contract formed under them to a purchaser or financier of such receivables.
- 12.2 The receiving party shall procure that any of its or its Related Bodies Corporate's officers, employees, contractors, agents and advisers who receive such confidential and proprietary information keep it confidential consistent with the obligations in these Conditions.
- 12.3 For the purposes of these Conditions, confidential and proprietary information includes information relating to the Goods, the business affairs or method of carrying on business of the disclosing party or details of any pricing or supply arrangement between the Customer and BlueScope. For avoidance of doubt the terms of these Conditions are not confidential.
- 13. Force Majeure**
- 13.1 If BlueScope is prevented either directly or indirectly from performing any of its obligations under these Conditions, including without limitation, making a delivery of the Goods or any part of the Goods by reason of Force Majeure, it will be entitled, at its option, by written notice to the Customer, to:
- (a) extend the time for delivery of the Goods by a reasonable period having regard to the period during which it is affected by the Force Majeure event;
- (b) terminate the order for Goods the subject of a particular order or any other Goods; and/or
- (c) decline to accept any further orders for Goods.
- BlueScope will not be liable to the Customer for Loss or any other remedy at Law or in equity for breach of contract or failure to perform its obligations under these Conditions due to a Force Majeure event.
- 13.2 Subject to clause 13.3, a Force Majeure event does not relieve the Customer from any obligation to pay for any Goods already delivered or to accept delivery of any Goods capable of delivery by BlueScope despite the Force Majeure event or after such event ends.
- 13.3 If, due to a Force Majeure event, the Goods have not been delivered by the date which is 6 months after the estimated delivery date specified in the order acknowledgement, the Customer may terminate the order in respect of the Goods which have not been delivered by giving not less than 14 days written notice to BlueScope.
- 14. Anti-Bribery and Corruption and Modern Slavery**
- 14.1 Each of BlueScope and the Customer represents, warrants and undertakes to the other at all times that:
- (a) it and its directors, officers, employees and representatives, and any of its Related Bodies Corporate involved in the performance of any contract formed under or incorporating these Conditions, (**Personnel**) will comply with all Laws relating to anti-bribery and corruption in the jurisdictions in which it operates (**ABC Laws**);
- (b) it will take reasonable steps to promote compliance with ABC Laws and ensure that its Personnel comply with all ABC Laws; and
- (c) neither it nor any of its Personnel engage in any activity, practice or conduct that would constitute an offence in relation to slavery, forced labour, involuntary servitude, debt bondage, human trafficking or other slavery-like exploitation as prohibited under any Law.
- 15. Governing Law and Jurisdiction**
- 15.1 These Conditions and any contract formed under them are governed by the Laws of the State or Territory in which the order is accepted by BlueScope and both the Customer and BlueScope submit to the non-exclusive jurisdiction of the courts exercising jurisdiction there, including any court that exercises appellate jurisdiction.
- 15.2 The United Nations Convention on Contracts for the International Sale of Goods is excluded in its entirety with respect to the sale of Goods under these Conditions.
- 16. Miscellaneous**
- 16.1 Each provision of these Conditions is deemed to be separate and severable from the other provisions. To the extent any provision is invalid or unenforceable in any jurisdiction, this will not (a) invalidate the remaining provisions; or (b) affect the validity or enforcement of that provision in any other jurisdiction.
- 16.2 The failure of a party at any time to require performance of any obligation under these Conditions is not a waiver of that party's right to assert any remedy for breach of that obligation and at any other time to require performance of that or any other obligation under these Conditions, unless written notice to that effect is given.



- 16.3 Subject to clause 16.4, neither party may assign the benefit of, or otherwise create an interest in its rights under these Conditions, unless it obtains the prior written consent of the other party.
- 16.4 Nothing in these Conditions restricts BlueScope from assigning, declaring a trust over, transferring or otherwise dealing with any receivables owed to it by the Customer under these Conditions and any contract formed under them, and any or all rights and interests associated with such receivables (including related securities), in favour of any third party. With notice to the Customer, BlueScope may assign any contract formed under these Conditions to any of its Related Bodies Corporate or, in the case of a sale of business, to any third party which acquires all or substantially all of the assets of BlueScope which are used in the performance of the obligations arising under these Conditions.
- 16.5 All drawings, designs, specifications, descriptions, illustrations, data, dimensions, weights and other particulars of Goods are approximations only and are intended to be a general description for information and identification purposes only and do not create a sale by description. Subject to the Australian Consumer Law, the Goods may be produced with minor modifications from any relevant drawings and specifications and the specification shown in BlueScope's promotional literature may be altered to reflect changes made after the date of such promotional literature.
- 16.6 The Customer must comply with all Laws and requirements of any regulatory authority applicable to the Customer's business, including without limitation those Laws and regulatory requirements relating to the environment, health, safety, storage, handling and sale of Goods. The Customer must comply with any processes, material safety data sheets (or similar documents), reasonable instructions or directions of BlueScope issued in connection with the Goods.
- 16.7 The Customer must not make any statement which is misleading or deceptive or make any statement in relation to the Goods that is inconsistent with the specifications relating to the Goods as are published from time to time by BlueScope.
- 17. Use of BlueScope Connect**
- 17.1 The Customer agrees that any purchases made through the <https://www.bluescopeconnect.com.au/> website (the "Site") are subject to these Conditions and any conditions of use ("Site Conditions") regarding the Site. The Site Conditions are incorporated into these Conditions by reference.
- 18. Application of the PPSA**
- 18.1 In this clause, PPSA means the *Personal Property Securities Act 2009*. If a term used in this clause has a particular meaning in the PPSA, it has the same meaning in this clause.
- 18.2 This clause applies to the extent that BlueScope's interest in any Goods is a security interest.
- 18.3 The Customer acknowledges and agrees that BlueScope may apply to register one or more security interests in the Goods in accordance with the PPSA at any time before or after delivery of the Goods.
- 18.4 To the extent permitted by Law, the Customer waives its rights to receive any notice that is required by the PPSA (but this does not prohibit BlueScope from giving such a notice).
- 18.5 BlueScope can apply amounts it receives from the Customer towards amounts owing to it in such order as BlueScope chooses.
- 18.6 If the Customer defaults in the performance of any obligation owed to BlueScope under these Conditions or any other agreement for BlueScope to supply goods to the Customer, BlueScope may enforce its security interest in any Goods by exercising all or any of its rights under these Conditions or the PPSA.
- 18.7 To the maximum extent permitted by Law, BlueScope need not comply with, and the Customer may not exercise rights under, any provisions of Chapter 4 of the PPSA that may be contracted out of.
- 18.8 For the purpose of any clause in these Conditions restricting disclosure, disclosure under section 275 of the PPSA will only be regarded as required by Law to the extent that section 275 requires disclosure despite any agreement.
- 18.9 The Customer must promptly do anything required by BlueScope (such as obtaining consents, producing, completing and signing documents) to ensure that BlueScope's security interest is enforceable, a perfected security interest and has priority over all other security interests in the Goods.
- 18.10 Nothing in this clause is limited by any other provision of these Conditions or any other agreement between the parties.
- 19. Definitions and Interpretation**
- 19.1 In these Conditions:
- Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).
- BlueScope** means BlueScope Steel Limited (ABN 16 000 011 058) or BlueScope Steel (AIS) Proprietary Limited (ABN 19 000 019 625) or any other Related Body Corporate that issues an order acknowledgement or written quotation to the Customer in accordance with these Conditions.
- Business Day** means Monday to Friday (inclusive) excluding public holidays at the place of delivery.
- Conditions** means these terms and conditions, as amended from time to time.
- Consumer** means a person who acquires Goods pursuant to a Consumer Contract as defined in section 23(3) of the Australian Consumer Law.
- Corporations Act** means the *Corporations Act 2001* (Cth).
- Customer** means the entity placing an order and any agent or representative (including any Related Body Corporate of the Customer).
- Customer Specification** means any variation to the Goods requested by the Customer and includes metallurgical properties, chemical composition,

engineering specification, architectural specification or other amendment whatsoever.

**Force Majeure** means any event beyond BlueScope's control including without limitation an act of God, war, pandemic, disease or illness, fire, strike, lockout, trade or industrial disputes, government interference, transport delays, accidents, breakdown of plant or machinery, non-delivery or shortage of supplies.

**Free in Store or FIS** means the price includes the cost of delivery to the Customer.

**Goods** means any goods, products, materials or services supplied by BlueScope in accordance with these Conditions, including without limitation steel products.

**GST** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999*.

**Intellectual Property Rights** means all present and future rights conferred by statute, common law or equity in or in relation to copyright, trade marks, designs, patents, circuit layouts, plant varieties, inventions and confidential information, and other results of intellectual activity in any field whether or not registrable, registered or patentable. These rights include rights in applications to register these rights and all renewals and extensions of these rights.

**Insolvency Event** means the occurrence of any of the following events in relation to a party:

- the party becomes insolvent as defined in the Corporations Act, states that it is insolvent or presumed to be insolvent under an applicable Law;
  - the party is wound up by resolution or an order of a court or declared bankrupt;
  - the party becomes an insolvent under administration as defined in the Corporations Act;
  - the party becomes subject to one of the forms of external administration provided for in Chapter 5 of the Corporations Act;
  - the party enters into or becomes subject to:
    - any arrangement or composition with one or more of its creditors or any assignment for the benefit of one or more of its creditors; or
    - any re-organisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
  - any application or order is made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken which is preparatory to or could result in any of (b), (c), (d) or (e) above;
  - the party is taken, under section 459F(1) of the Corporations Act, to have failed to comply with a statutory demand;
  - the party suspends payment of its debts, ceases or threatens to cease to carry on all or a material part of its business;
- unless the event occurs as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved in writing by the other party to these Conditions.

**Law** means:

- legislation, regulations, by-laws, orders, awards, proclamations and statutory instruments imposed or enforced by any applicable government, agency or authority;
- any written instrument which constitutes a requirement of an organisation which has jurisdiction in connection with the supply of the Goods; and
- principles of common law and equity established by decisions of the courts.

**Loss** means any claim, demand, loss, liability, damage, cost, fee, charge or expense incurred by a party in connection with these Conditions.

**Small Business** means a purchaser that acquires Goods pursuant to a Small Business Contract as defined in section 23(4) of the Australian Consumer Law.

**Related Body Corporate** has the meaning given to that term in the Corporations Act.

**Visual Identity Guidelines** means BlueScope's guidelines on the use of BlueScope trade marks, logotypes and associated intellectual property, which are available on the BlueScope website.

**Working Hours** means 7.00am – 5.00pm where the order is placed, excluding Saturday, Sunday and public holidays.

19.2 The following rules of interpretation apply to these Conditions:

- any requirement for a document or communication to be in 'writing' in these Conditions will be satisfied by letter, facsimile, email or EDI;
- neither party will be disadvantaged in the interpretation of these Conditions on the basis that the party proposed or drafted any part of it; and
- mentioning anything after *includes, including, for example,* or similar expressions, does not limit what else might be included.

**BlueScope's commitment to integrity and ethics**

BlueScope is committed to ethical and fair dealings with its suppliers and customers. If you become aware of any business conduct issue arising out of your dealings with BlueScope, we encourage you to report that matter either via your account contact or, alternatively, via BlueScope's Business Conduct Reporting Hotline (which allows for anonymous reports to be made). Contact details of BlueScope's Business Conduct Reporting Hotline can be found at: <https://www.bluescope.com/our-company/ethics-compliance>



## BlueScope Conditions of Sale

Coated and Industrial Products Australia  
Effective 1 June 2021

### 1. Contract

- 1.1 Orders for Goods placed by the Customer are subject to these Conditions and any special conditions agreed by BlueScope in writing (including quotations and supply agreements) and are to the exclusion of any previous dealings or other agreed arrangements between BlueScope and the Customer or any terms and conditions of purchase submitted by the Customer, whether printed on or sent with any order form or otherwise.
- 1.2 BlueScope may vary these Conditions from time to time and will provide the Customer with replacement Conditions which shall apply to orders placed after the effective date of such replacement Conditions. The placing of an order by the Customer after the effective date of the replacement Conditions will be deemed as their acceptance of the replacement Conditions.

### 2. Orders and quotations

- 2.1 Orders must be placed in writing. Receipt of an order does not constitute acceptance of that order or any other order by BlueScope. BlueScope may accept or decline an order at its absolute discretion. BlueScope will not be liable to the Customer or any third party for declining any order or failing to notify the Customer that it declines an order.
- 2.2 Orders may be placed using Electronic Data Interchange ("EDI"). The Customer agrees that if it has an appropriate EDI capability then EDI is the preferred method to conduct business with BlueScope.
- 2.3 An order will be deemed as accepted on the earlier of BlueScope sending an order acknowledgement in writing to the Customer or the Goods being delivered.
- 2.4 BlueScope is not bound to accept any change in an order for any Goods after it has sent the Customer an order acknowledgement. If BlueScope agrees to accept any changes to an order, it will not be required to implement the change unless and until BlueScope and the Customer have agreed any adjustments, including price.
- 2.5 A written quotation given by BlueScope is an offer to sell and overrides any prevailing price lists issued by BlueScope. A written quotation expires on the date specified in the quotation as the expiry date. If no expiry date is specified, the written quotation expires 14 days after the date of the written quotation unless extended by BlueScope in writing.
- 2.6 If BlueScope has given a written quotation, a contract for the supply of Goods is made when the Customer communicates (by writing or conduct) to BlueScope its acceptance of that written quotation without variation. Any order from the Customer which is inconsistent in any way with the quotation is an offer by the Customer to buy the Goods requested in that order from BlueScope, which is made on the terms of these Conditions, and may be accepted or declined by BlueScope in accordance with this clause 2.

### 3. Packaging and tolerances

- 3.1 Goods will be delivered in accordance with BlueScope's standard packaging, loading, bracing and shipping procedures unless otherwise agreed by the Customer and BlueScope in writing. Prior to placing an order, the Customer may request additional or different packaging requirements, which if accepted by BlueScope, may incur additional charges which will be notified by BlueScope to the Customer before the order is placed.
- 3.2 Goods are supplied by BlueScope within the tolerances as to quantity, weight, dimension and chemical composition as specified by BlueScope in relevant BlueScope product literature and applicable Australian Standards unless otherwise agreed by BlueScope and the Customer in writing before an order is placed.

### 4. Delivery and collection

- 4.1 BlueScope will deliver the Goods during Working Hours (or as otherwise agreed) to the nominated delivery point in the order acknowledgement or where not specified, to either the Customer's usual place of trade or another reasonable delivery point. BlueScope is not obliged to complete any order in one delivery and reserves the right to deliver by instalments. BlueScope will be entitled to invoice the Customer for part-payment of an order in respect of Goods delivered. The Customer will not be entitled to terminate an order if BlueScope has delivered an instalment of part of the Goods ordered and the balance will be delivered in separate further instalments.
- 4.2 BlueScope will transport the Goods to the nominated delivery point. Unloading the Goods is the responsibility of the Customer. The Customer will provide facilities for the efficient receipt and safe, prompt unloading of Goods. A reasonable time will be allowed for unloading after arrival. Unless it is caused by BlueScope, excessive waiting time will be charged to the Customer. Where the Customer is not in attendance at the delivery point or is otherwise unwilling or unable to accept the Goods when the Goods arrive, the Customer must pay to BlueScope all costs incurred by it in storing and returning the Goods at prevailing storage and freight rates.
- 4.3 Delivery dates and times provided by BlueScope are estimates only. Any delay will not result in a breach of contract and, subject to the Australian Consumer Law, the Customer will not be entitled to terminate the order or to any other remedy whatsoever.
- 4.4 Where BlueScope has agreed to Goods being collected, BlueScope will hold Goods for up to 5 days from the agreed collection date. Goods not collected within such time may be delivered to a reasonable delivery point nominated by BlueScope and all reasonable costs incurred by BlueScope in making such a delivery will be charged to and paid by the Customer. BlueScope reserves the

right to charge the Customer any reasonable commercial storage or warehouse fees for Goods held past the specified collection date.

- 4.5 If the Customer is required to enter a BlueScope site to collect or inspect the Goods or to review processes, it will comply with all directions given by BlueScope and will complete an induction if required by that site. BlueScope reserves the right to refuse entry to its site for any reason whatsoever.

### 5. Quality

- 5.1 This clause 5 is in addition to any rights which the Customer may have under the Australian Consumer Law.
- 5.2 BlueScope warrants that the Goods delivered are those specified in the delivery docket and the Goods delivered are free from defects in material and workmanship save for such defects that are normally regarded as being commercially acceptable.
- 5.3 Goods will be supplied in accordance with the applicable Australian Standards and published BlueScope product literature current at the date of production of the Goods. Any material change to the specification of Goods set out in the published BlueScope product literature between the date the order is placed by the Customer and the date the relevant Goods are delivered shall be notified to the Customer. Within 3 days of such notification the Customer may elect to withdraw or terminate any order for the relevant Goods the subject of the material change in specification placed before it received the notification.
- 5.4 Subject to the Australian Consumer Law, the Customer must submit any claim for inaccuracies, defective Goods, short supply, faulty workmanship or failure to supply Goods conforming to the order to BlueScope in writing within 7 days after delivery of the Goods, stating the order number and delivery date. If the Customer does not submit such a claim within this period, it will be deemed to have accepted the Goods.
- 5.5 Subject to the Australian Consumer Law, the Customer will not be entitled to reject delivery of any other part of the order for any defect or claim in respect of the Goods delivered.

### 6. Pricing and GST

- 6.1 Prices may be set out in a BlueScope price list, a BlueScope written quotation, or an agreement between BlueScope and the Customer, for the applicable price period. Prices in any written quotation or agreement override any prevailing price list issued by BlueScope. There is no obligation to, and BlueScope is not bound to, sell Goods at these prices except as expressly provided in any written quotation or agreement.
- 6.2 Prices indicated in any price list, written quotation or agreement (other than fixed price agreements) are subject to alteration by BlueScope by written notice for Goods ordered for delivery on or after the date on which the revised prices are stated to take effect.
- 6.3 Unless otherwise specified by BlueScope, the price of the Goods will be the price prevailing at the date the order is placed by the Customer for the applicable estimated delivery period. If, as at the date the order is placed by the Customer, BlueScope has not set the price for the delivery period requested by the Customer, the price of the Goods will be the price for that delivery period as and when determined by BlueScope and notified to the Customer, which shall be reflected in a revised order acknowledgement. All prices are based on delivery being on a "Free In Store" (FIS) basis. Freight extras may apply for delivery of Goods to certain regions. Freight extras are as set out in the applicable price list, written quotation or agreement. Please speak to your BlueScope representative for further information if the freight extra for your destination is not listed.
- 6.4 If GST is payable, or notionally payable, on a supply made under or in connection with these Conditions, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply ("GST Amount"). Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided. If a tax invoice is not received prior to the provision of that other consideration, the GST Amount is payable within 10 days after the receipt of a tax invoice. This clause does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.
- 6.5 Where any indemnity, reimbursement or similar payment under these Conditions is based on any cost, expense or other liability, it shall be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.
- 6.6 If an adjustment event occurs in relation to a supply made under or in connection with these Conditions, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.

### 7. Payment and credit terms

- 7.1 Unless otherwise specified by BlueScope in writing, payment for Goods must be made in full and be received by BlueScope by 5pm on the 15<sup>th</sup> calendar day of the month following the month of delivery. Where the Customer has established an approved credit account with BlueScope, payment for the goods must be made in accordance with any agreed credit terms. Payment is received by BlueScope when it receives cash or when the proceeds of other payment methods are credited and cleared to BlueScope's nominated bank account.
- 7.2 The production, shipment and delivery of Goods are at all times subject to BlueScope's credit processes. BlueScope may, at its option, suspend

- performance of or terminate an order or these Conditions if BlueScope reasonably believes that the credit of the Customer becomes impaired, until such time as BlueScope has received full payment or satisfactory security for deliveries made and is satisfied as to the Customer's credit for future deliveries. BlueScope reserves the right to cancel any order, re-evaluate all payment terms, or require full or partial payment or adequate assurance of the Customer's performance of its obligations under these Conditions without liability to BlueScope in the event of a material adverse change to the Customer's financial condition.
- 7.3 Neither party may, and each party waives its right to, set off any amount owed by it to the other against any amount of money owed, or that may become owing, to it by the other party. However, discounts, rebates, credits and other payments due from BlueScope to the Customer in connection with the supply of Goods, or any other supply to the Customer, may be paid by way of credit note against amounts owing by the Customer.
- 8. Default**
- 8.1 Where the Customer is in default of its obligations under these Conditions or it becomes subject to an Insolvency Event, BlueScope will be entitled to refuse to supply or deliver further Goods to the Customer until such time as the Customer has remedied that default or is no longer subject to an Insolvency Event.
- 8.2 Where the Customer is in default of its obligations in relation to payment, then notwithstanding any other rights and remedies available under these Conditions, at Law or otherwise, BlueScope will be entitled to:
- interest on all amounts overdue, from the date of default until the date of payment in full, at the rate of 2% per annum above the prevailing Reference Rate charged by the Australia and New Zealand Banking Group Limited for business finance (or if that rate is no longer published, a comparable rate set by the Australia and New Zealand Banking Group Limited);
  - the cost to BlueScope of recovering the overdue amount, such as legal or debt collection costs;
  - terminate or suspend, without incurring liability to the Customer, any contract in force between BlueScope and the Customer for the sale or supply of goods and withhold any deliveries of goods the subject of any order accepted by BlueScope, whether under these Conditions or otherwise;
  - suspend performance under or terminate, in either case without incurring liability to the Customer, any contracts in force between BlueScope and the Customer, not being contracts for the sale or supply of goods; and
  - suspend or disallow any early payment discounts, rebates, volume bonuses or incentive payments otherwise claimable by the Customer.
- 9. Risk and title**
- 9.1 Risk in the Goods passes to the Customer when the Goods have entered the Customer site. Where Goods are being collected, risk passes when the Goods are set on, in or alongside the Customer's vehicle, or the passing of any specified collection date. BlueScope is not liable for any theft, damage or loss of and will not be required to provide insurance for Goods once risk has passed.
- 9.2 Until the Customer has paid BlueScope all monies owing to it on any account, BlueScope remains the legal and equitable owner of and has title and ownership in the Goods. Until the Customer has paid all monies owing to BlueScope on any account:
- the Goods are held by the Customer as bailee of BlueScope;
  - the Customer must store the Goods separately and so that they are readily identifiable as the property of BlueScope;
  - the Customer must keep the Goods in good and merchantable condition and fully insure the Goods against loss or damage, however caused;
  - the Customer must not sell the Goods except with the prior written consent of BlueScope or in the ordinary course of the Customer's business, provided that any such sale is at arms' length and on market terms;
  - any proceeds of such re-sale, insofar as they relate to the Goods, must be held on trust for BlueScope in a separate account or otherwise clearly identified in the books and records of the Customer;
  - the Customer must not create any encumbrance over the Goods which is inconsistent with BlueScope's title and ownership to the Goods; and
  - if the Customer uses the Goods in manufacturing or production and sells the finished product in the ordinary course of business (which it is authorised to do unless otherwise notified in writing), the Customer must hold that part of the proceeds of the finished product relating to the Goods in a separate account on trust for BlueScope or otherwise clearly identified in the books and records of the Customer. That part will be taken to be of equal value to the amount owing by the Customer to BlueScope at the time of receipt of the proceeds.
- 9.3 If the Customer is in default of its obligations under these Conditions, it becomes subject to an Insolvency Event or if BlueScope reasonably believes that the payment of any amount in respect of the Goods supplied by BlueScope is in jeopardy, then the Customer irrevocably authorises a representative of BlueScope to enter upon any site where the Goods are located to take possession of the Goods without any prior notice and BlueScope will be further entitled to resell any Goods which it has so taken into possession. The Customer indemnifies BlueScope for all Loss (including legal fees on a full indemnity basis) incurred or suffered by BlueScope (including any such Loss which arises out of a claim made by or against BlueScope) in connection with
- retaking possession of the Goods or the exercise by BlueScope of its rights under this clause.
- 10. Limiting Liability**
- 10.1 Subject to the Australian Consumer Law, the Customer agrees that if it knows (or ought reasonably to know) that the Goods are to be used for a particular purpose (including use as a component part of another product) or are required to possess special or uniform characteristics, the Customer must clearly specify that purpose or those characteristics in writing in the order. If the Customer does not specify the particular purpose or the special or uniform characteristics for the Goods and BlueScope does not expressly confirm in the order acknowledgement or otherwise in writing that the material is reasonably fit for the specified purpose or that it possesses the specified characteristics, then the Customer agrees:
- that it did not rely on the skill or judgment of BlueScope in relation to the suitability of the Goods for a particular purpose or the special or uniform characteristics possessed by the Goods; and
  - not to use, sell or offer for sale the Goods as though they are reasonably fit for the specified purpose.
- 10.2 Subject to clause 10.7(a), the Customer indemnifies and will keep indemnified BlueScope and each of its officers, employees and agents (for each of whom BlueScope holds the benefit of this indemnity upon trust) against any Loss which any such person may incur or be subjected to in respect of or arising from:
- the negligence, wrongful act or omission, breach of statutory duty, breach of contract or wilful misconduct of the Customer or its officers, employees, agents or contractors;
  - any injury to or death of any person or any damage to or loss of property connected with the conduct, operations or performance of the business of the Customer;
  - transport, storage, slitting, roll-forming, repackaging or other handling of the Goods by the Customer;
  - misuse of Goods by the Customer;
  - warranties or representations made by the Customer in relation to the Goods; or
  - any breach of these Conditions by the Customer.
- 10.3 To the extent permitted by Law, including the Australian Consumer Law, except for the warranties expressly made in these Conditions and subject to any express written warranty for certain Goods, all conditions, warranties, undertakings or representations, express or implied, arising by statute, general law or otherwise are expressly excluded by BlueScope to the full extent permitted by Law.
- 10.4 BlueScope's liability for any Loss in connection with the Goods or their supply is limited (to the full extent permitted by Law, including the Australian Consumer Law) to any of the following as determined by BlueScope in its sole discretion:
- repairing or replacing the Goods, the subject of the Loss; or
  - the cost of repairing or replacing the Goods, the subject of the Loss (or acquiring equivalent goods).
- 10.5 Subject to clause 10.7(b) and the Australian Consumer Law, BlueScope will not be liable to the Customer (whether by way of damages or otherwise) for:
- any loss or damage to the Goods resulting from any act or omission on the part of the Customer or any of its officers, employees, agents or contractors;
  - any statement or recommendation made or advice, supervision or assistance given by BlueScope, its employees, agents, transport contractors or representatives whether oral or written;
  - any loss or damage to the Goods or any liability which arises during the loading or unloading of the Goods;
  - a delay in delivering the Goods;
  - any claim, action or proceeding by a third party against the Customer (or any loss, damages or liability incurred or suffered by the Customer as a result of any such claim, action or proceeding); or
  - any loss or damage relating to the fitness or suitability of the Goods for the Customer's purpose (including a third party purpose) unless such purposes are known and agreed by BlueScope in writing in the order acknowledgement or other written agreement.
- 10.6 Subject to clause 10.7(b) and the Australian Consumer Law, neither party will be liable to the other party (whether by way of damages or otherwise) for or in relation to:
- any business interruption, loss of revenue, loss of income, loss of production, loss of use, loss of product, loss of business, loss of profits, loss of opportunity, loss of contracts, loss of investment, damage to goodwill or damage to business reputation or loss of actual or anticipated savings, however arising; and
  - without limiting clause 10.6(a), any indirect or consequential loss that cannot reasonably be considered to arise naturally from the facts, matters or circumstances which give rise to a claim.
- 10.7 Where a Customer is a Small Business or Consumer:
- the Customer's liability to indemnify BlueScope under clause 10.2 or clause 11.6 will be reduced proportionately to the extent that BlueScope's negligent act or omission or wilful misconduct has contributed to the loss;
  - under clause 10.5, BlueScope will be proportionately liable to the Small Business or Consumer only to the extent that BlueScope's negligent act or omission or wilful misconduct contributed to the loss or damage.
- 10.8 Notwithstanding anything else contained in these Conditions (to the full extent permitted by Law, including the Australian Consumer Law), the maximum



liability of BlueScope to the Customer whether under contract, at Law, in equity or otherwise for any Loss in connection with the Goods or their supply is an amount equal to the price paid for the Goods the subject of the Loss.

## 11. Intellectual Property

11.1 BlueScope retains the Intellectual Property Rights in any Goods, promotional literature, technical documents or other information provided by BlueScope to the Customer under these Conditions.

11.2 The Customer must:

- (a) not make any use of the Intellectual Property Rights other than as described in BlueScope's Visual Identity Guidelines or otherwise as approved by BlueScope;
- (b) differentiate between BlueScope's products and those manufactured by its competitors through the correct use of the Intellectual Property Rights;
- (c) where practicable, indicate prominently in written form that the Intellectual Property Rights are owned by BlueScope and that the Customer is a user of the Intellectual Property Rights;
- (d) only use the Intellectual Property Rights in relation to the Goods;
- (e) not represent or pass off as products made from BlueScope products, any products containing products not obtained from or manufactured by BlueScope;
- (f) provide BlueScope (at BlueScope's expense, unless due to Customer's breach, in which case at Customer's expense) with reasonable assistance in identifying, prosecuting and defending claims with respect to the Intellectual Property Rights;
- (g) not use the Intellectual Property Rights in a manner which, in the reasonable opinion of BlueScope, may damage or be likely to damage the goodwill attaching to the Intellectual Property Rights or do anything to diminish the value of the Intellectual Property Rights, or omit to do anything reasonably requested by BlueScope for the purposes of preventing or limiting any diminution in the value of the Intellectual Property Rights;
- (h) not use the Intellectual Property Rights in any way which would lead the trademarks to become generic, lose distinctiveness or become liable to mislead the public or in any way which would be materially detrimental to or inconsistent with the name, reputation and/or image of BlueScope;
- (i) not, without limitation to sub-clause (h), use any trademark or product reference which is substantially identical or deceptively similar to the Intellectual Property Rights;
- (j) not register or attempt to register any trademark, domain name, business name, design, emblem, logo or slogan that is substantially identical or deceptively similar to the Intellectual Property Rights; and
- (k) not use any of the Intellectual Property Rights as part of its trade name, corporate name or domain name.

11.3 If the Customer is in breach of any of these Conditions, including clause 11.2, if requested by BlueScope in writing, the Customer will promptly cease to use any Intellectual Property Right and deliver or (at BlueScope's request) destroy any materials in whatever form including all marketing and advertising materials, logos, labels and any reproductions of BlueScope brands that are in the possession or control of the Customer that carries an Intellectual Property Right.

11.4 The Customer must procure that its employees, contractors and agents comply with the provisions of clauses 11.2 and 11.3.

11.5 All goodwill in any Intellectual Property Right generated through the use of such right by the Customer is for the benefit of BlueScope.

11.6 The Customer warrants to BlueScope that where it provides BlueScope with intellectual property (including intellectual property included in a Customer Specification) that the intellectual property is accurate and that the Customer is entitled to use the intellectual property in the way that is used and does not infringe on any third party's intellectual property rights. Subject to clause 10.7, the Customer indemnifies BlueScope against all claims and all Loss incurred by BlueScope as a result of any infringement of a third party's intellectual property rights in relation to, or improper use of, the intellectual property supplied by the Customer to BlueScope.

## 12. Confidentiality

12.1 Each party (receiving party) must keep all confidential and proprietary information provided or disclosed by the other party (disclosing party) confidential and must not disclose it to any person except:

- (a) after it becomes known to the public at large (other than as a consequence of any breach of these Conditions);
- (b) to officers, employees, contractors, agents and advisers of the receiving party or its Related Bodies Corporate;
- (c) after it has been received from a third person entitled to possess such information and provide it to the receiving party;
- (d) to the extent necessary to comply with any applicable Law, legally binding order of any court or other appropriate body or the rules of any applicable securities exchange; or
- (e) disclosure of information, documents, records or reports relating to the receivables and related securities associated with these Conditions or any contract formed under them to a purchaser or financier of such receivables.

12.2 The receiving party shall procure that any of its or its Related Bodies Corporate's officers, employees, contractors, agents and advisers who receive such confidential and proprietary information keep it confidential consistent with the obligations in these Conditions.

12.3 For the purposes of these Conditions, confidential and proprietary information includes information relating to the Goods, the business affairs or method of carrying on business of the disclosing party or details of any pricing or supply arrangement between the Customer and BlueScope. For avoidance of doubt the terms of these Conditions are not confidential.

## 13. Force Majeure

13.1 If BlueScope is prevented either directly or indirectly from performing any of its obligations under these Conditions, including without limitation, making a delivery of the Goods or any part of the Goods by reason of Force Majeure, it will be entitled, at its option, by written notice to the Customer, to:

- (a) extend the time for delivery of the Goods by a reasonable period having regard to the period during which it is affected by the Force Majeure event;
- (b) terminate the order for Goods the subject of a particular order or any other Goods; and/or
- (c) decline to accept any further orders for Goods.

BlueScope will not be liable to the Customer for Loss or any other remedy at Law or in equity for breach of contract or failure to perform its obligations under these Conditions due to a Force Majeure event.

13.2 Subject to clause 13.3, a Force Majeure event does not relieve the Customer from any obligation to pay for any Goods already delivered or to accept delivery of any Goods capable of delivery by BlueScope despite the Force Majeure event or after such event ends.

13.3 If, due to a Force Majeure event, the Goods have not been delivered by the date which is 6 months after the estimated delivery date specified in the order acknowledgement, the Customer may terminate the order in respect of the Goods which have not been delivered by giving not less than 14 days written notice to BlueScope.

## 14. Anti-Bribery and Corruption and Modern Slavery

14.1 Each of BlueScope and the Customer represents, warrants and undertakes to the other at all times that:

- (a) it and its directors, officers, employees and representatives, and any of its Related Bodies Corporate involved in the performance of any contract formed under or incorporating these Conditions, (**Personnel**) will comply with all Laws relating to anti-bribery and corruption in the jurisdictions in which it operates (**ABC Laws**);
- (b) it will take reasonable steps to promote compliance with ABC Laws and ensure that its Personnel comply with all ABC Laws; and
- (c) neither it nor any of its Personnel engage in any activity, practice or conduct that would constitute an offence in relation to slavery, forced labour, involuntary servitude, debt bondage, human trafficking or other slavery-like exploitation as prohibited under any Law.

## 15. Governing Law and Jurisdiction

15.1 These Conditions and any contract formed under them are governed by the Laws of the State or Territory in which the order is accepted by BlueScope and both the Customer and BlueScope submit to the non-exclusive jurisdiction of the courts exercising jurisdiction there, including any court that exercises appellate jurisdiction.

15.2 The United Nations Convention on Contracts for the International Sale of Goods is excluded in its entirety with respect to the sale of Goods under these Conditions.

## 16. Miscellaneous

16.1 Each provision of these Conditions is deemed to be separate and severable from the other provisions. To the extent any provision is invalid or unenforceable in any jurisdiction, this will not (a) invalidate the remaining provisions; or (b) affect the validity or enforcement of that provision in any other jurisdiction.

16.2 The failure of a party at any time to require performance of any obligation under these Conditions is not a waiver of that party's right to assert any remedy for breach of that obligation and at any other time to require performance of that or any other obligation under these Conditions, unless written notice to that effect is given.

16.3 Subject to clause 16.4, neither party may assign the benefit of, or otherwise create an interest in its rights under these Conditions, unless it obtains the prior written consent of the other party.

16.4 Nothing in these Conditions restricts BlueScope from assigning, declaring a trust over, transferring or otherwise dealing with any receivables owed to it by the Customer under these Conditions and any contract formed under them, and any or all rights and interests associated with such receivables (including related securities), in favour of any third party. With notice to the Customer, BlueScope may assign any contract formed under these Conditions to any of its Related Bodies Corporate or, in the case of a sale of business, to any third party which acquires all or substantially all of the assets of BlueScope which are used in the performance of the obligations arising under these Conditions.

16.5 All drawings, designs, specifications, descriptions, illustrations, data, dimensions, weights and other particulars of Goods are approximations only and are intended to be a general description for information and identification purposes only and do not create a sale by description. Subject to the Australian Consumer Law, the Goods may be produced with minor modifications from any relevant drawings and specifications and the specification shown in BlueScope's promotional literature may be altered to reflect changes made after the date of such promotional literature.

16.6 The Customer must comply with all Laws and requirements of any regulatory authority applicable to the Customer's business, including without limitation

those Laws and regulatory requirements relating to the environment, health, safety, storage, handling and sale of Goods. The Customer must comply with any processes, material safety data sheets (or similar documents), reasonable instructions or directions of BlueScope issued in connection with the Goods.

16.7 The Customer must not make any statement which is misleading or deceptive or make any statement in relation to the Goods that is inconsistent with the specifications relating to the Goods as are published from time to time by BlueScope.

#### 17. Use of bluescopesteelconnect.com™

17.1 The Customer agrees that any purchases made through the bluescopesteelconnect.com™ website (the "Site") are subject to these Conditions and any conditions of use ("Site Conditions") regarding the Site. The Site Conditions are incorporated into these Conditions by reference.

#### 18. Application of the PPSA

18.1 In this clause, PPSA means the *Personal Property Securities Act 2009*. If a term used in this clause has a particular meaning in the PPSA, it has the same meaning in this clause.

18.2 This clause applies to the extent that BlueScope's interest in any Goods is a security interest.

18.3 The Customer acknowledges and agrees that BlueScope may apply to register one or more security interests in the Goods in accordance with the PPSA at any time before or after delivery of the Goods.

18.4 To the extent permitted by Law, the Customer waives its rights to receive any notice that is required by the PPSA (but this does not prohibit BlueScope from giving such a notice).

18.5 BlueScope can apply amounts it receives from the Customer towards amounts owing to it in such order as BlueScope chooses.

18.6 If the Customer defaults in the performance of any obligation owed to BlueScope under these Conditions or any other agreement for BlueScope to supply goods to the Customer, BlueScope may enforce its security interest in any Goods by exercising all or any of its rights under these Conditions or the PPSA.

18.7 To the maximum extent permitted by Law, BlueScope need not comply with, and the Customer may not exercise rights under, any provisions of Chapter 4 of the PPSA that may be contracted out of.

18.8 For the purpose of any clause in these Conditions restricting disclosure, disclosure under section 275 of the PPSA will only be regarded as required by Law to the extent that section 275 requires disclosure despite any agreement.

18.9 The Customer must promptly do anything required by BlueScope (such as obtaining consents, producing, completing and signing documents) to ensure that BlueScope's security interest is enforceable, a perfected security interest and has priority over all other security interests in the Goods.

18.10 Nothing in this clause is limited by any other provision of these Conditions or any other agreement between the parties.

#### 19. Definitions and Interpretation

19.1 In these Conditions:

**Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

**BlueScope** means BlueScope Steel Limited (ABN 16 000 011 058) or BlueScope Steel (AIS) Proprietary Limited (ABN 19 000 019 625) or any other Related Body Corporate that issues an order acknowledgement or written quotation to the Customer in accordance with these Conditions.

**Conditions** means these terms and conditions, as amended from time to time.

**Consumer** means a person who acquires Goods pursuant to a Consumer Contract as defined in section 23(3) of the Australian Consumer Law.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Customer** means the entity placing an order and any agent or representative (including any Related Body Corporate of the Customer).

**Customer Specification** means any variation to the Goods requested by the Customer and includes metallurgical properties, chemical composition, engineering specification, architectural specification or other amendment whatsoever.

**Force Majeure** means any event beyond BlueScope's control including without limitation an act of God, war, pandemic, disease or illness, fire, strike, lockout, trade or industrial disputes, government interference, transport delays, accidents, breakdown of plant or machinery, non-delivery or shortage of supplies.

**Free in Store** or **FIS** means the price includes the cost of delivery to the Customer.

**Goods** means any goods, products, materials or services supplied by BlueScope in accordance with these Conditions, including without limitation steel products.

**GST** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999*.

**Intellectual Property Rights** means all present and future rights conferred by statute, common law or equity in or in relation to copyright, trade marks, designs, patents, circuit layouts, plant varieties, inventions and confidential information, and other results of intellectual activity in any field whether or not registrable, registered or patentable. These rights include rights in applications to register these rights an all renewals and extensions of these rights.

**Insolvency Event** means the occurrence of any of the following events in relation to a party:

(a) the party becomes insolvent as defined in the Corporations Act, states that it is insolvent or presumed to be insolvent under an applicable Law;

(b) the party is wound up by resolution or an order of a court or declared bankrupt;

(c) the party becomes an insolvent under administration as defined in the Corporations Act;

(d) the party becomes subject to one of the forms of external administration provided for in Chapter 5 of the Corporations Act;

(e) the party enters into or becomes subject to:

(i) any arrangement or composition with one or more of its creditors or any assignment for the benefit of one or more of its creditors; or

(ii) any re-organisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;

(f) any application or order is made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken which is preparatory to or could result in any of (b), (c), (d) or (e) above;

(g) the party is taken, under section 459F(1) of the Corporations Act, to have failed to comply with a statutory demand;

(h) the party suspends payment of its debts, ceases or threatens to cease to carry on all or a material part of its business;

unless the event occurs as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved in writing by the other party to these Conditions.

**Law** means:

(a) legislation, regulations, by-laws, orders, awards, proclamations and statutory instruments imposed or enforced by any applicable government, agency or authority;

(b) any written instrument which constitutes a requirement of an organisation which has jurisdiction in connection with the supply of the Goods; and

(c) principles of common law and equity established by decisions of the courts.

**Loss** means any claim, demand, loss, liability, damage, cost, fee, charge or expense incurred by a party in connection with these Conditions.

**Small Business** means a purchaser that acquires Goods pursuant to a Small Business Contract as defined in section 23(4) of the Australian Consumer Law.

**Related Body Corporate** has the meaning given to that term in the Corporations Act.

**Visual Identity Guidelines** means BlueScope's guidelines on the use of BlueScope trade marks, logotypes and associated intellectual property, which are available on the BlueScope website.

**Working Hours** means 7.00am – 5.00pm where the order is placed, excluding Saturday, Sunday and public holidays.

19.2 The following rules of interpretation apply to these Conditions:

(a) any requirement for a document or communication to be in 'writing' in these Conditions will be satisfied by letter, facsimile, email or EDI;

(b) neither party will be disadvantaged in the interpretation of these Conditions on the basis that the party proposed or drafted any part of it; and

(c) mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.

#### BlueScope's commitment to integrity and ethics

BlueScope is committed to ethical and fair dealings with its suppliers and customers. If you become aware of any business conduct issue arising out of your dealings with BlueScope, we encourage you to report that matter either via your account contact or, alternatively, via BlueScope's Business Conduct Reporting Hotline (which allows for anonymous reports to be made). Contact details of BlueScope's Business Conduct Reporting Hotline can be found at: <https://www.bluescope.com/sustainable-steel/reporting-suspected-business-misconduct/>