



# COMMERCIAL CREDIT ACCOUNT APPLICATION

The Customer applies for a commercial credit account from BlueScope Distribution Pty Ltd ABN 88 096 380 068 and submits the following information:

## INTERNAL USE ONLY

Sales Contact Name:  Sales Contact Ph:

Branch:  ID No.:  Account No.:

## ALL FURTHER ITEMS ON PAGE 1 & PAGE 3 ARE MANDATORY 1. CUSTOMER'S ACCOUNT DETAILS

Please tick: Is the Applicant:  Government  A Company  A Partnership  A Sole Trader  A Trustee

Applicant's Name/Company Name:

ACN  ABN  ARBN

Acting in its own right and/or as Trustee for the  Trust

Trading as Name  Trust ABN

Business Address:

State  Postcode

Postal Address:

State  Postcode

Telephone: ( )  Facsimile ( )  Mobile

Email Address for all invoices & statements

Business Commenced  /  /

## 2. CUSTOMER'S CREDIT DETAILS

Bank:  BSB:  Account Number:

REQUIRED FOR CHEQUE PROCESSING EFFICIENCY

Credit limit requested \$  (monthly)

Trade References (x4)

<input type="text"/>	(Ph) <input type="text"/>
<input type="text"/>	(Ph) <input type="text"/>
<input type="text"/>	(Ph) <input type="text"/>
<input type="text"/>	(Ph) <input type="text"/>

## 3. CUSTOMER'S BUSINESS DETAILS

FULL NAME OF SOLE TRADER, PARTNERS, TRUSTEES AND DIRECTORS

Partners or Directors	Residential Address	Phone	D.O.B	Drivers Lic. No.
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

List of Associated Companies

Do you hold any other accounts with the BlueScope Steel Limited Group?

Have any of the directors/proprietors previously been bankrupt or involved in a company which has been liquidated or placed into official management:  Yes  No (If Yes, please provide the details below)

Have directors provided personal guarantees to other suppliers?  Yes  No

#### 4. BUSINESS DATA: FINANCIAL & PROPERTY

Nature of Business:  No. of Employees

Date Commenced:  Building Company: Yes/No Builders Reg No.

Property where Business conducted:  Owned in Full  Mortgaged  Rented

If Owned, please confirm if owned by Account Applicant  Yes  No

If Rented, please confirm if rented from Related Business / Individual  Yes  No

EDI Capable: Yes  No  Equipment: Bank Financed  Owned in Full  Leased

**\* Please attach latest audited financials or provide key financial information from your most recent Accounts.**

Date information Relates:  /  / 20 Debt Factored:  Yes  No Annual Sales: \$

Paid Up Capital \$  Short Term Debt: \$  Inventory: \$

Retained Profits (Losses) \$  Trade Creditors: \$  Debtors: \$

Total Equity: \$  Total Liabilities: \$  Total Assets: \$

#### DIRECTORS NAMES

1	<input type="text"/>	Land owned in full <input type="checkbox"/>	Mortgaged <input type="checkbox"/>	Rental <input type="checkbox"/>
2	<input type="text"/>	Land owned in full <input type="checkbox"/>	Mortgaged <input type="checkbox"/>	Rental <input type="checkbox"/>
3	<input type="text"/>	Land owned in full <input type="checkbox"/>	Mortgaged <input type="checkbox"/>	Rental <input type="checkbox"/>
4	<input type="text"/>	Land owned in full <input type="checkbox"/>	Mortgaged <input type="checkbox"/>	Rental <input type="checkbox"/>

#### 5. CONDITIONS OF SALE

The Supplier's Conditions of Sale (Issue Date: 1 July 2011) (Conditions) are attached with this Application. The Conditions are incorporated into each and every contract (Contract) for supply of goods made between the Supplier and the Customer (you) after the date (Acceptance Date) that the Supplier agrees to provide credit to you. The Supplier draws the following provisions of the Conditions to your attention:

- If you don't advise us of faults or defects in goods within 2 business days of delivery, you will have no claim against us. If you do advise us within 2 business days, we may replace unused goods.
- Unless the Competition & Consumer Act 2010 (Cth) (CCA) applies, we are not liable to you for any loss or damage you suffer relating to our goods, including indirect, special or consequential loss or damage. If the CCA applies, our liability to you is limited to the extent permitted by the CCA. For example, we may only replace or repair goods.
- If we make goods to your specification, you release us from claims relating to faults in the specification. You also indemnify us if we infringe a third party's rights in using the specification or if we suffer loss arising out of using your specification.
- If we enter your premises to make deliveries, you release us from claims for damage to the premises or personal injury. You also indemnify us if we suffer loss relating to damage to third party's premises or personal injury in making deliveries to you, except if we are negligent.
- If you breach the Conditions, we may withhold supply or terminate, without liability to you, any contracts in force between us whether or not relating to the supply of goods.
- You agree that you do not rely on our skill or judgment as to the suitability of any goods for a particular purpose unless we acknowledge in writing that the goods will be fit for a particular purpose.
- You agree to the Supplier applying to register a security interest in the goods and you waive your right under s 157 of the Personal Property Securities Act 2009 (Cth) (PPSA) to receive notice of any verification of the registration. You agree not to disclose information of the kind mentioned in s 275(1) of the PPSA, except in circumstances required by sections 275(7)(b)-(e) of the PPSA.

By signing this Application in the space provided in section 8, the Customer:

- expressly acknowledges having received notice of the Conditions including, in particular, those Conditions drawn to the Customer's attention in the box above;
- expressly agrees that the Conditions are incorporated into each and every Contract for supply of goods made between the Supplier and the Customer after the Acceptance Date; and
- expressly agrees that if the Supplier varies the Conditions from time to time after the Acceptance Date and provides reasonable notice to the Customer of the variation, the Conditions as varied are incorporated into each and every contract for supply of goods made between the Supplier and the Customer after the date of such notice.

#### 6. PRIVACY AUTHORITY : INDIVIDUALS & GUARANTORS

By signing this application as a sole trader, partner, trustee, director or guarantor, I personally agree that the Supplier may to the extent permitted by law: (a) provide any items of my personal information described in s18E of the Privacy Act 1988 to a credit reporting agency; (b) obtain a consumer credit report about me from a credit reporting agency to assess my credit application or proposed guarantee or to collect overdue payments; (c) give credit worthiness information about me to a person for considering whether to act as guarantor, or to a guarantor; (d) exchange credit worthiness information about me with other credit providers to assess my credit worthiness or application for credit or to notify defaults or the status of my credit. I am aware that I may request access to my personal information held by the Supplier.

## 7. REPRESENTATIONS, ACKNOWLEDGEMENT & AUTHORISATIONS

- a) In this section 7, the Customer is referred to as "You".
- b) You represent to the Supplier that you are not aware of any information, notice or court proceedings that may lead to bankruptcy, appointment of an administrator, controller or managing controller, receiver or receiver manager or liquidator. You do not intend to enter into any scheme or arrangement with creditors either formally through a court or otherwise. None of the directors, partners or sole trader has been a director of a Company which was placed in liquidation or has been declared bankrupt or has entered into an arrangement under the Bankruptcy Act 1966 (as amended) other than as declared in section 3 of this application.
- c) You represent to the Supplier that you are authorised to make this application.
- d) You acknowledge that the submission of this application does not automatically result in the granting of a credit account by the Supplier
- e) If You are the trustee of any Trust You:
  - (i) represent to the Supplier that You are bound by these Conditions and You agree to charge Your land as trustee: and
  - (ii) warrant that it is a proper exercise of Your authority and power under the trust instrument and at law to trade with the Supplier and to charge Your land in accordance with these Conditions.

## 8. SIGNATURES OF SOLE TRADER, ALL PARTNERS, DIRECTORS & TRUSTEES (Required for all applications)

	1	2	3	4
<b>Signature</b>				
<b>Name</b>				
<b>Position</b>				
<b>Date</b>				

### THIS APPLICATION FOR CREDIT SHOULD BE WITNESSED BY AN INDEPENDENT THIRD PARTY

<b>Witness Signature</b>				
<b>Witness Name</b>				
<b>Witness Address</b>				

## 9. GUARANTEE, INDEMNITY & CHARGE

In consideration of the Supplier agreeing to supply or continuing to supply goods and services on credit to the Customer named below and forbearing to sue the Customer (except where provided for by any statutory provision) for any payment currently due to the Supplier, each guarantor named below (the "Guarantor") unconditionally and irrevocably guarantees on demand to the Supplier the due and punctual payment of all debts and monetary liabilities, including without limitation, costs and expenses which are, or which may become, payable by the Customer to the Supplier or any related body corporate on any account and in any capacity (the "Guaranteed Moneys") and, as a separate and independent obligation, agrees to indemnify and keep the Supplier and any related body corporate indemnified from and against any claim, action, loss, damage, liability, cost, expense, outgoing or payment suffered, paid or incurred by the Supplier or such related body corporate in relation to the non payment or non recovery of the Guaranteed Moneys or as a result of any breach by the Customer of the Supplier's Conditions of Sale. The Guarantor hereby agrees with the Supplier that:

- 1 this guarantee, indemnity & charge (the 'Guarantee') shall be a continuing obligation of the Guarantor and that the Guarantor's obligations under this Guarantee are principal obligations and are not released, discharged or otherwise affected by anything which but for this provision might have that effect, including but not limited to:
  - (a) any other guarantee or any security or instrument which the Supplier or any related body corporate may hold in respect of any Guaranteed Moneys or any judgement obtained by the Supplier or any related body corporate, or any release, discharge, surrender or modification of, or dealing with, any such guarantee, security, instrument or judgement;
  - (b) any arrangement with, or release of, the Customer or any other guarantor or person by the Supplier or any related body corporate or by operation of law;
  - (c) the fact that any of the Guaranteed Moneys are irrecoverable for any reason;
  - (d) any change in the membership of or termination of any partnership or firm of which the Customer or Guarantor is a member or the death, liquidation or bankruptcy of the Customer or the assent of the Supplier or any related body corporate to any composition, arrangement or scheme in respect of the Customer or the acceptance by the Supplier or any related body corporate of any dividend or sum of money thereunder;
  - (e) the failure of any other person named as a party to execute this Guarantee;
  - (f) any variation of the terms upon which the goods and/or services are supplied to, or paid for by, the Customer;
  - (g) any claim the Customer may have against the Supplier or any related body corporate;
  - (h) any act or omission by the Supplier or any related body corporate which may result in prejudice to the Guarantor;
  - (i) an increase in the amount of Guaranteed Moneys;
  - (j) the fact that any credit was provided by the Supplier or any related body corporate before this Guarantee was signed;
  - (k) payment to the Supplier or any related body corporate by any person which is later avoided by the application of any statutory provision;
  - (l) the death, liquidation or bankruptcy of the Customer or the Guarantor;
  - (m) the granting of any time, waiver, credit, any indulgence, concession to, composition with, release or discharge by novation of any person whatsoever by the Supplier or any related body corporate;
  - (n) the assignment, novation, transfer or assumption of, or other dealing with, any rights or obligations under this Guarantee or any other document or agreement;
  - (o) any other act, omission, matter or thing whatsoever.
- 2 until the Supplier has received all of the Guaranteed Moneys, the Guarantor agrees:
  - (a) in the event of any bankruptcy or other administration of the Customer's estate or any winding up or scheme of arrangement of the Customer, that the Guarantor will not without the prior consent of the Supplier lodge any proof of debt or similar claim in respect of any debt or liability to the Guarantor on any account whatsoever, nor enforce any security held by the Guarantor in respect of the Customer and shall hold any such debt, liability or security and any rights or benefits in respect thereof on trust for the Supplier;
  - (b) if requested by the Supplier, to lodge a proof of debt or similar claim in any such administration and enforce any such security and to execute all such documents and do all such things as the Supplier may require to enable the Supplier to have and receive the benefit of or arising from any such proof, claim or security;
  - (c) not to attempt or purport to be subrogated to the Supplier; and
  - (d) the Guarantor's liability under this Guarantee shall be that of principal debtor.

- 3 the Guarantor irrevocably appoints the Supplier as the Guarantor's attorney with authority to do on behalf of the Guarantor anything the Guarantor may lawfully authorise an attorney to do, including without limitation the following:
  - (a) to make, sign, execute, seal and deliver any document; and
  - (b) to take possession of, use, sell or otherwise dispose of any asset of the Guarantor.
- 4 the Guarantor further agrees that:
  - (a) the Guarantor has signed this Guarantee voluntarily;
  - (b) before entering this Guarantee, the Guarantor was advised by the Supplier to consult and receive advice as to the purport, effect and consequences of, and obligations created by, this Guarantee from a legal adviser independent of the Supplier;
  - (c) the Guarantor understands the nature and effect of this Guarantee - in particular that the Guarantor has agreed to guarantee all amounts presently owed by the Customer to the Supplier and any related body corporate and all amounts that the Customer may in the future owe to the Supplier and any related body corporate and has also agreed, as a separate and independent obligation, to provide an indemnity to the Supplier and any related body corporate if any of the Guaranteed Moneys is not paid to, or recovered by, the Supplier; and
  - (d) it has not entered into this Guarantee in reliance on any representation, warranty, promise or statement of the Supplier or any person on behalf of the Supplier or any related body corporate.
- 5 the Guarantor agrees that a certificate issued by the Supplier stating any moneys owed by the Customer or Guarantor to the Supplier or any related body corporate or under this Guarantee shall be conclusive evidence of such amounts owing by the Customer and Guarantor.
- 6 the Supplier may give the Customer more credit than the Customer has asked for in this application. The Supplier is not required to inform the Guarantor of the amount of credit given to the Customer at any time.
- 7 no payment shall operate to discharge or reduce a liability of the Guarantor if such payment is or becomes voidable under any law relating to bankruptcy or the winding up of companies, and no discharge or release consequent upon such payment shall discharge the liability of the Guarantor under this Guarantee.
- 8 where any provision of or application of any provision of this Guarantee is rendered ineffective by operation of law in any jurisdiction that shall not affect the validity, legality, enforceability or effectiveness of the remaining provisions or of that provision in any jurisdiction other than the jurisdiction where the provision is rendered ineffective.
- 9 the guarantee and indemnity contained in this Guarantee are separate and independent obligations of the Guarantor and neither limits the generality of the other.
- 10 to secure payment of the Guaranteed Moneys the Guarantor hereby charges with due payment of the Guaranteed Moneys all of the Guarantor's present and future interests in real property and the Guarantor consents to the Supplier lodging a caveat or caveats to note such interests. Upon demand by the Supplier the Guarantor agrees to immediately execute a mortgage or other instrument in terms satisfactory to the Supplier to further secure payment of the Guaranteed Moneys. The Guarantor hereby and by way of security irrevocably appoints every officer and legal practitioner of the Supplier jointly and each of them severally as the Guarantor's lawful attorney ("attorney") with the power and for the purpose of executing (including as a deed) a mortgage or other instrument of security in any form determined in the absolute discretion of the attorney over any real property of the Guarantor to secure the Guaranteed Moneys, if the Guarantor fails within a reasonable time of such demand to execute such mortgage or other instrument, and to procure the registration of such mortgage or other security. Where the Guarantor is a trustee of a trust the Guarantor is bound by this Guarantee and charges the Guarantor's land as trustee and warrants that it is a proper exercise of the Guarantor's authority and power under the trust instrument and at law to enter into this Guarantee.
- 11 all payments which the Guarantor is required to make under this Guarantee must be made without any set-off, counterclaim, condition or deduction and are payable on demand by the Supplier.
- 12 any demand or notice may be served on the Guarantor by delivering it to the Guarantor personally or by sending it by post to the Guarantor's last address.
- 13 the Guarantor must fully indemnify the Supplier for all expenses and legal costs that the Supplier incurs in enforcing this Guarantee.
- 14 the Guarantor must pay all taxes, duties, fees, costs and expenses in relation to the negotiation, preparation, execution, delivery, stamping, registration and discharge of this Guarantee. The Guarantor agrees to pay the GST inclusive amount of any taxable supply made under or in connection with this Guarantee.
- 15 in this Guarantee, 'Guarantor' means the Guarantor jointly and each person who is a Guarantor severally and their respective successors and assigns, and "Agreement" means all current and future supply agreements or arrangements.
- 16 in this Guarantee 'related body corporate' has the meaning in the Corporations Act and includes BlueScope Steel Limited ACN 000 011 058 and all of its subsidiaries.
- 17 in this Guarantee, the following rules of interpretation apply unless the context otherwise requires:
  - (a) words denoting the singular number include the plural (and vice versa);
  - (b) words denoting natural persons include bodies corporate and unincorporate and their permitted assigns (and vice versa); and
  - (c) references to any party to this Guarantee or any other agreement or instrument include the party's successors and permitted assigns.
- 18 This Guarantee is governed by the laws of the State or Territory in which it is executed and the Guarantor irrevocably submits to the non-exclusive jurisdiction of the courts of that State or Territory.

**Executed as an agreement**

**GUARANTOR'S PRIVACY CONSENT**

- I/We have each read and agree to section 6 "Privacy Authority - Individuals & Guarantors" in this Credit Account Application.

**SIGNATURE OF GUARANTORS**

All company directors where the Customer is a company, all trustees where the Customer is a trust, all partners where the Customer is a partnership must give this guarantee, indemnity and charge.

<b>Name of commercial credit applicant</b>			
(the "customer")			
	Acting in its own right and or as trustee for the		Trust
	Trading as		

	1	2	3	4
<b>Signature</b>				
<b>Name</b>				
<b>Position</b>				
<b>Date</b>				

**THIS GUARANTEE SHOULD BE WITNESSED BY AN INDEPENDENT THIRD PARTY**

<b>Witness Signature</b>			
<b>Witness Name</b>			
<b>Witness Address</b>			

**IF YOU DO NOT UNDERSTAND YOUR LIABILITY UNDER THIS GUARANTEE YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE PRIOR TO SIGNING.**

## GENERAL TERMS AND CONDITIONS OF SALE OF BLUESCOPE DISTRIBUTION PTY LTD

These General Terms and Conditions of Sale ("Conditions") shall apply to and form part of any contract for the supply of goods, products and materials and related services ("Goods") by BlueScope Distribution Pty Ltd ABN 88 096 380 068 ("BlueScope") or any Related Corporation of BlueScope to the Purchaser.

### 1. Quotations, orders and contracts

- 1.1 All quotations are made and all orders for Goods are accepted by BlueScope on and subject to the Conditions and any special terms and conditions which are agreed to by BlueScope in writing. Unless otherwise expressly agreed by BlueScope, previous dealings between BlueScope and any Purchaser or the imposition of additional or alternative terms and conditions by a Purchaser shall not vary or replace these Conditions or be deemed in any circumstances whatsoever to do so.
- 1.2 BlueScope may withdraw, revoke or vary a written quotation at any time prior to the Purchaser submitting an order which accepts the offer to sell comprised by the written quotation.
- 1.3 BlueScope reserves the right to accept or decline, in whole or in part, any order for Goods placed by a Purchaser.
- 1.4 The agreement to supply Goods to the Purchaser starts on the date BlueScope agrees to supply the Goods to the Purchaser. This may not be the date the order is received by BlueScope.
- 1.5 Where in the period between acceptance of a quote and delivery of the relevant Goods, BlueScope incurs an increase in the cost of producing and/or delivering the Goods, BlueScope reserves the right to increase the quoted price of those Goods any time prior to delivery (a 'price escalation'). The Purchaser shall accept any such price escalation.
- 1.6 These Conditions prevail over any terms and conditions of trade of the Purchaser whether or not any inconsistency arises.
- 1.7 BlueScope acknowledges that the supply of Goods by BlueScope under these Conditions to an individual whose acquisition of the Goods is wholly or predominantly for personal, domestic or household use or consumption, will be a consumer contract for the purposes of the Australian Consumer Law (Consumer Contract).

### 2. Price

- 2.1 The price of Goods will be BlueScope's current price at the time of delivery (or where clause 4.3(d) applies, the current price at the date of the invoice), subject to any contrary agreement (if any) between BlueScope and the Purchaser regarding price.
- 2.2 Where Goods supplied to a Purchaser are of a kind ordinarily acquired for personal, domestic or household use, BlueScope will provide a quotation or otherwise notify the Purchaser of a single total price, inclusive of GST, applicable to those Goods if the price is capable of being quantified. The Purchaser shall be liable to pay to BlueScope all amounts on account of GST in the same manner and by the same means as all other charges.
- 2.3 The price of Goods specified by BlueScope in any quotation:
  - (a) will remain valid for a period of 30 days for an order made by the Purchaser in accordance with the quotation, unless otherwise specified; and
  - (b) is subject to any other conditions specified in the quotation.
- 2.4 Unless otherwise indicated, all prices for Goods are exclusive of all applicable taxes and charges. The Purchaser shall be liable for all excise, sales, GST or any other tax, charge or government impost (domestic or foreign) upon the Goods or any part of the Goods, or upon the manufacture, use sale or delivery of the Goods in addition to the purchase price. Where Goods are subject to GST, the Customer must pay GST at the same time as payment for Goods is made.
- 2.5 Unless otherwise agreed, prices do not include the cost of delivery of Goods, including but not limited to costs incurred by BlueScope arising out of late notification by the Purchaser of a change to agreed delivery schedule, storage charges where Goods are not collected immediately upon being made available and demurrage costs incurred by BlueScope. Loading lengths (as defined by Local State Transport Authorities) will be subject to any additional delivery charge.
- 2.6 Unless otherwise requested by the Purchaser in writing, prices quoted provide for BlueScope's standard packing arrangements.

### 3. Payment

- 3.1 Unless BlueScope grants credit to the Purchaser and subject to BlueScope's right to withdraw credit, payment for Goods purchased from BlueScope must be made by the Purchaser in immediately available funds on or immediately prior to delivery of the Goods.
- 3.2 Where the Purchaser has an approved credit account with BlueScope, the Purchaser shall ensure that payment for the Goods is made to BlueScope in accordance with the terms agreed between BlueScope and the Purchaser. All

payments are required to be made by the Purchaser by no later than 30 days after the date of BlueScope's invoice or such other date for payment as BlueScope and the Purchaser agree in writing.

- 3.3 BlueScope reserves the right to charge interest on any amount overdue from the date it became due to the date payment is received at the rate of 12% compounded daily. All payments made by the Purchaser will first be applied to the accrued interest.
  - 3.4 BlueScope may set off any amount owed by the Purchaser to BlueScope or any of its Related Corporations against any amount of money owed, or may become owing, by BlueScope or its Related Corporations to the Purchaser. The Purchaser waives any right to set off any amount that is, or may become, owing by the Purchaser to BlueScope against any amount owing by BlueScope to the Purchaser. This clause overrides any other document or agreement to the contrary.
  - 3.5 Payments made by credit card may be subject to a surcharge.
- ### 4. Default by Purchaser
- 4.1 Where the Purchaser is in default in the performance of any of its obligations under these Conditions and the Goods have not been supplied under a Consumer Contract, BlueScope may refuse, without prejudice to any other rights it may have under these Conditions or at law, to supply or deliver further Goods to the Purchaser until such time as the Purchaser has remedied that default, and / or may choose to terminate the contract.
  - 4.2 If the Goods have been supplied by BlueScope under a Consumer Contract and the Purchaser is in default in the performance of any of its material obligations under these Conditions, BlueScope may refuse to deliver further Goods until such time as the Purchaser has remedied that default and where:
    - (a) the Purchaser has not notified BlueScope of any damage, inaccuracies or defects under clause 9 of this Contract; and
    - (b) the Purchaser does not remedy that default within 14 days of the Purchaser receiving written notification, or such other time as may be agreed by the parties,
 BlueScope may terminate the contract in relation to Goods that have not been delivered.
  - 4.3 If the Purchaser (including a Purchaser under a Consumer Contract) commences to be wound up or is placed under official management or into liquidation or has a receiver and/or manager appointed in respect of any of its assets or becomes insolvent, commits any act of bankruptcy or becomes subject to any other analogous event, BlueScope may at its option exercise any or all of the following rights in addition to any other rights it may have under these Conditions or at law:
    - (a) suspend deliveries of further Goods to the Purchaser whether under this contract or otherwise;
    - (b) terminate the contract in relation to Goods that have not been delivered;
    - (c) withdraw any credit facilities which may have been extended to the Purchaser and require immediate payment of all moneys owed to BlueScope by the Purchaser;
    - (d) issue an invoice for, and demand immediate payment of, Goods ordered by the Purchaser but not delivered.
  - 4.4 The Purchaser as beneficial owner charges in favour of BlueScope all of its interest in all of the present and future real property of the Purchaser as security for the due and punctual payment of all debts and monetary liabilities owed by the Purchaser to BlueScope pursuant to a contract on or including the terms of these Conditions. The Purchaser consents to BlueScope lodging a caveat to note its interest. Upon demand by BlueScope, the Purchaser agrees to immediately execute a mortgage on terms satisfactory to BlueScope to more particularly describe the security interest conferred by this clause. Should the Purchaser fail within a reasonable time of such demand to execute such mortgage then the Purchaser irrevocably appoints BlueScope as its attorney with authority to do on its behalf anything that it may lawfully authorise an attorney to do including, without limitation, to make, sign, execute, seal and deliver any document and to take possession of, use, sell or otherwise dispose of any real property of the Purchaser.
  - 4.5 All costs incurred by BlueScope relating to any action taken by BlueScope to recover monies due from the Purchaser (including, without limitation, legal or other debt collection costs) shall be payable by the Purchaser on demand.

### 5. Specifications, materials or special orders

- 5.1 All descriptions, specifications, illustrations, drawings, data, dimensions and weights contained in catalogues, price lists or other advertising matter of BlueScope or elsewhere are approximations only. They are intended by BlueScope to be a general description for information and identification purposes and do not create a sale by description.

- 5.2 BlueScope shall not be bound to accept any change in product dimension, materials or finish, a reduction in the quantity ordered or other particulars of an order for Goods after BlueScope has ordered special materials or commenced tooling for manufacture.
- 5.3 Unless otherwise stated on a quotation, Goods will be supplied by BlueScope within the tolerances in regard to quantity, weight, dimension and chemical composition as specified in the relevant order or, if not specified, as consistent with usual industry practice. Where the total mass or length of any item supplied includes a fraction of a tonne, the Purchaser must pay for that fraction on a pro rata basis.
- 5.4 In the case of goods or components not of BlueScope's manufacture, BlueScope shall give the Purchaser, and use its best endeavours to enforce at the cost of and for the benefit of the Purchaser, such warranties and guarantees as BlueScope has obtained from its suppliers.
- 5.5 Where BlueScope is required to order special material or qualities for which a supplier of BlueScope requests minimum order quantities, the Purchaser may be requested to accept an increase of the minimum quantity required to be ordered by BlueScope to fulfil the order and if so requested the Purchaser shall be obliged to accept and pay for such increase. The price for the additional product shall be determined according to the unit price for the products included in the order.
- 5.6 If BlueScope is required to process the Purchaser's goods or materials then BlueScope does not give any warranty or assurance that materials supplied by the Purchaser are suitable for such processing. Subject to the rights of Consumers as set out in clause 11.2, BlueScope accepts no responsibility and shall not in any way be liable to the Purchaser for any damage done or caused to such materials or goods, except if you are a Purchaser under a Consumer Contract and such loss or damage arises from the negligence or wilful misconduct of BlueScope or any of its officers, employees or agents.
- 5.7 Notwithstanding any other provision of these Conditions, it is a term of the contract made between BlueScope and the Purchaser that BlueScope has discretion to refuse to supply Goods to the Purchaser (without liability to the Purchaser) where:
- Goods are unavailable or insufficient for any reason whatsoever;
  - the Purchaser has failed to comply with terms on which BlueScope has agreed to provide credit to the Purchaser;
  - the Purchaser or a Related Corporation of it has breached a contract with BlueScope or a Related Corporation of it including these Conditions; or
  - BlueScope considers it necessary or desirable to do so for any reason at all.
- 5.8 Subject to the rights of Consumers set out in clause 11.2, unless the Goods have been supplied to the Purchaser by BlueScope under a Consumer Contract, the Purchaser agrees that it does not rely on the skill or judgement of BlueScope in relation to the suitability of any of the Goods for a particular purpose unless it has indicated that purpose in writing to BlueScope and BlueScope has acknowledged in writing that the Goods will be fit for the particular purpose.
- 6. Delivery and Risk**
- 6.1 Unless otherwise agreed, BlueScope shall deliver Goods to the Purchaser as follows:
- BlueScope reserves the right to arrange transport by any means in its absolute discretion;
  - delivery will be made during Working Hours to the location agreed by the parties ("Delivery Point");
  - BlueScope or its transport contractor will deliver the Goods so close ("Drop Spot") to the Delivery Point as, in the opinion of BlueScope or its transport contractor, it is safe or prudent to do so and delivery occurs and risk in the Goods passes to the Purchaser when BlueScope's or its transport contractor's delivery vehicle arrives at the Drop Spot;
  - BlueScope reserves the right to charge the Purchaser any costs which it incurs as a result of any delay by the Purchaser in unloading the Goods or where unloading of the Goods cannot be effected, including, if applicable, a return delivery fee at the prevailing freight rates;
  - the unloading of Goods at a Drop Spot is the Purchaser's responsibility at its own cost and risk but BlueScope or its transport contractor may, without liability to the Purchaser, unload the Goods at the Drop Spot if the Purchaser requests BlueScope to do so or is absent from the Drop Spot at the time BlueScope or its transport contractor wishes to unload and, subject to the rights of Consumers set out in clause 11.2, the Purchaser releases and forever discharges BlueScope and its transport contractor from and against any claim, cause of action or liability arising out of the unloading of Goods at the Drop Spot;
- (f) where the Purchaser attends BlueScope's premises to acquire the Goods, BlueScope may, in its absolute discretion:
- deliver the Goods into or onto the Purchaser's vehicle in which case risk in the Goods passes to the Purchaser and delivery is effected when the Goods are set down in or on the Purchaser's vehicle; or
  - deliver the Goods by setting them down along side the Purchaser's vehicle in which case risk in the Goods passes to the Purchaser and delivery is effected when the Goods are set down along side the Purchaser's vehicle notwithstanding that BlueScope's staff may, on request, assist the Purchaser to load the Goods into or onto the Purchaser's vehicle.
- 6.2 Goods ordered for collection will be held for a maximum period of 10 Business Days after the specific collection date. If the Goods are not collected by that time, they may be delivered to (at BlueScope's option) the Purchaser's site or store or to a store selected by BlueScope and all costs incurred by BlueScope in relation to the holding and delivery of the Goods shall be charged to and be paid by the Purchaser.
- 6.3 The Goods are at the Purchaser's risk from the time at which they are delivered to the Purchaser or its nominee.
- 6.4 Handling Safety – BlueScope product may be sharp and heavy. It is recommended that heavy-duty cut resistant gloves and appropriate manual handling techniques or a lifting plan be used when handling material. Material Safety Data Sheets are available from [www.bluescopesteel.com.au](http://www.bluescopesteel.com.au).
- 6.5 Dates and times quoted for delivery are estimates only. Maximum lengths for products vary by State and Territory and delivery of such will be determined by BlueScope on a case by case basis.
- 6.6 BlueScope shall not be obliged to complete any order in one delivery and expressly reserves the right to deliver by instalments. Where BlueScope delivers by instalments each instalment shall be deemed to be sold to the Purchaser under a separate contract. Failure to deliver any one instalment by the time quoted for delivery of that instalment (if any) shall not entitle the Purchaser to repudiate the order.
- 6.7 Where BlueScope or its transport contractor enters the Purchaser's premises or the premises of a third party nominated by the Purchaser as a delivery point, the Purchaser:
- releases BlueScope from any claim the Purchaser may at any time have had against BlueScope but for this release in respect of damage occasioned to the Purchaser's premises or injury to persons arising out of the delivery by BlueScope or its transport contractor of Goods to such premises; and
  - indemnifies and holds BlueScope harmless from and against any loss, damage or liability suffered or incurred by BlueScope in respect of damage occasioned to the third party's premises or injury to persons arising out of the delivery by BlueScope or its transport contractor of Goods to the premises of the third party except for and to the extent that such loss, damage or liability suffered or incurred by BlueScope arises out of the negligence or wilful misconduct of BlueScope or its transport contractor.
- 6.8 No defect or claim in respect of Goods delivered shall entitle the Purchaser to reject delivery of other Goods, which are not subject to any defect or claim, delivered as part of the order.
- 6.9 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 shall be entitled, at its option, by notice to the Purchaser, either to:
- extend the time for delivery of the Goods for a reasonable period; or
  - subject to refunding the Purchaser for any payment already made to BlueScope in respect of those particular Goods (if any), terminate this contract,
- and the Purchaser shall not have any claim against BlueScope for damages or any other remedy for breach of contract. "Force Majeure" shall mean an act of God, war, fire, strike, lockout, trade or industrial disputes, government interference, lack of production capacity or raw materials, transport delays, accidents, breakdown of plant or machinery, non delivery or shortage of supplies or any other cause beyond BlueScope's control.
- 7. Retention of Title**
- 7.1 The Purchaser agrees that legal and equitable title to the Goods is retained by BlueScope until BlueScope receives payment in full from the Purchaser for the Goods and all other monies owing by the Purchaser to BlueScope at any time. Prior to title in the Goods passing to the Purchaser, the Purchaser:

- (a) must hold the Goods as bailee and fiduciary agent of BlueScope;
  - (b) where the Purchaser processes the Goods, either by using the Goods to manufacture other goods or by incorporating the Goods in or with any other goods, must hold such part of the new goods ("Processed Goods") on trust for BlueScope as bailee and fiduciary agent of BlueScope;
  - (c) must store the Goods and such part of the Processed Goods separate from its own goods and those of any other third party so that they are readily identifiable as the property of BlueScope;
  - (d) must keep the Goods in good and merchantable condition and fully insure the Goods against loss or damage however caused;
  - (e) must not sell the Goods except with the prior written consent of BlueScope or in the ordinary course of the Purchaser's business, provided that any such sale is at arms' length and on market terms;
  - (f) any proceeds of re-sale, insofar as they relate to the Goods shall be held on trust for BlueScope in a separate account; and
  - (g) must not create any encumbrance over the Goods which is inconsistent with BlueScope's title and ownership of the Goods.
- 7.2 For purpose of this clause 7, "such part" means an amount equal in dollar terms to the amount owing by the Purchaser to BlueScope at the time the Goods are used in the manufacture of, or incorporated into, the Processed Goods.
- 7.3 If the Purchaser is in breach of these Conditions including, without limitation, failure by the Purchaser to make payment for the Goods by the date specified by BlueScope to the Purchaser or in BlueScope's reasonable opinion the payment of any amount in respect of the Goods supplied by BlueScope is in jeopardy, the Purchaser must return the Goods to BlueScope immediately on demand.
- 7.4 If the Purchaser does not return the Goods to BlueScope on demand under clause 7.3, the Purchaser irrevocably authorises representatives of BlueScope to enter upon any site where the Goods are located to take possession of the Goods without prior notice, and the Purchaser indemnifies BlueScope for all fees (including legal fees on a full indemnity basis), costs and expenses incurred or suffered as a result of any and all prosecution, actions, demands, claims or proceedings brought by or against BlueScope in connection with the retaking possession of the Goods or the exercise by BlueScope of its rights under this clause, and the Purchaser shall repay all such fees, costs, losses, damages, expenses or any other sums of money on demand.
- 8. Application of the PPSA**
- 8.1 In this clause 8, 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.
- 8.2 This clause 8 applies to the extent that BlueScope's interest in any Goods is a security interest.
- 8.3 The Goods are steel and other metallic products and rollformed steel building products.
- 8.4 The Purchaser acknowledges and agrees that BlueScope may apply to register a security interest in the Goods at any time before or after delivery of the Goods. The Purchaser waives its right under s 157 of the PPSA to receive notice of any verification of the registration.
- 8.5 BlueScope can apply amounts it receives from the Purchaser towards amounts owing to it in such order as BlueScope chooses.
- 8.6 If the Purchaser defaults in the performance of any obligation owed to BlueScope under these Conditions or any other agreement for BlueScope to supply Goods to the Purchaser, BlueScope may enforce its security interest in any Goods by exercising all or any of its rights under these Conditions or the PPSA. To the maximum extent permitted by law, the Purchaser and BlueScope agree that the following provisions of the PPSA do not apply to the enforcement by BlueScope of its security interest in the Goods: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143.
- 8.7 The Purchaser and BlueScope agree not to disclose information of the kind mentioned in s 275(1) of the PPSA, except in circumstances required by sections 275(7)(b)-(e) of the PPSA.
- 8.8 The Purchaser must promptly do anything required by BlueScope to ensure that BlueScope's security interest is a perfected security interest and has priority over all other security interests in the Goods
- 8.9 Nothing in this clause 8 is limited by any other provision of these Conditions or any other agreement between the parties.
- 9. Damage, Inaccuracies and Defects**
- 9.1 The Purchaser shall check all Goods received immediately upon unloading and shall notify BlueScope in writing of any inaccuracies or short supply of Goods or any fault, damage or defect in Goods or failure of Goods to comply with the terms of a contract made pursuant to these Conditions within 2 Business Days of the date of delivery of the Goods.
- 9.2 Subject to the rights of Consumers set out in clause 11.2, if the Purchaser does not notify BlueScope in writing within 2 Business Days of the date of delivery, BlueScope will not be responsible for any loss or damage whatsoever and howsoever caused arising out of or resulting from such inaccuracies or short supply of Goods, or fault, damage or defect in Goods or failure of Goods to comply with the terms of a contract, except if you are a Purchaser under a Consumer Contract and such loss or damage arises from the negligence or wilful misconduct of BlueScope, or any of its officers, employees or agents.
- 9.3 Subject to the rights of Consumers set out in clause 11.2, if the Purchaser notifies BlueScope in writing of a fault, damage or defect in Goods or failure of Goods to comply with the terms of a contract made pursuant to these Conditions within 2 Business Days of delivery then BlueScope will, in its opinion, the Purchaser's notice is reasonable and the Purchaser has not used the Goods, at BlueScope's option, repair or replace the Goods that appear to be faulty, damaged or defective or not in compliance with the terms of a contract made pursuant to these Conditions and BlueScope shall have no additional liability to the Purchaser.
- 9.4 Any queries regarding items shown on invoices issued by BlueScope shall be lodged by the Purchaser with BlueScope within 7 days of the issue date of the relevant invoice.
- 9.5 Goods are not damaged or defective by reason only of the presence of rust, millscale or rolling seams except as provided for in AS3600.
- 10. Equipment**
- 10.1 All roll toolage, shears, lifting and associated equipment which BlueScope makes or obtains to produce the Goods, shall, unless otherwise expressly agreed by BlueScope, be and remain the property of BlueScope and any payment made with respect to them shall be deemed to be a charge in respect of their use. These and any other special tools, jigs, fixtures and patterns acquired or supplied by BlueScope for the fulfilment of the order are the property of BlueScope and are not to be used without its authority.
- 11. Warranties, Liabilities and Indemnities**
- 11.1 Where applicable, Goods shall be installed in accordance with BlueScope's recommended fixing procedures as published from time to time and available on request from your customer service representative
- 11.2 BlueScope acknowledges that consumer legislation contains certain guarantees for the supply of goods or services that cannot be excluded, restricted or modified by these Conditions. For example, for Consumers:
- (a) goods come with non-excludable guarantees that they are of acceptable quality and fit for the purpose for which they are commonly acquired or for a purpose made known to BlueScope and based on which the goods are supplied, and
  - (b) services come with non-excludable warranties that they will be provided with due care and skill and are fit for the purpose for which they are commonly acquired or for a purpose made known to BlueScope and based on which the services are supplied.
- Nothing in these Conditions is intended to exclude or restrict the application of such laws.
- 11.3 Subject to the rights of Consumers set out in clause 11.2:
- (a) BlueScope shall not be responsible for the consequence of any representation made or technical advice given by its employees, agents or sub-contractors in connection with the design, installation and use of the Goods, and the Purchaser agrees that all such advice is accepted by the Purchaser entirely at the Purchaser's risk;
  - (b) or as otherwise expressly specified in the terms of any applicable written warranty provided by BlueScope, BlueScope's liability to the Purchaser (whether arising under statute, contract, tort (including negligence), equity or otherwise) for any defect in the Goods, or the supply of the Goods, is limited, at BlueScope's option, to:
    - (i) in the case of Goods, the repair of the Goods, the replacement of the Goods or paying for the cost of repair or replacement of the Goods; or
    - (ii) in the case of services, the resupply of services or paying for the cost of resupplying the services;
  - (c) and also subject to clause 11.3(b), BlueScope is not liable to the Purchaser or anyone else in connection with the Goods or the supply of the Goods or with these Conditions (including any changes to the Conditions), including without limitation for:
    - (i) any losses, costs, damages, expenses, claims, demands, actions, suits or proceedings (including without limitation for damage to the Goods or injury to any person) arising from:
      - (A) the loading, unloading or delivery of the Goods;
      - (B) a failure to deliver, or delay in delivering, the Goods;

- (C) a failure to install the Goods in accordance with BlueScope's recommended fixing procedures as published from time to time;
- (D) the removal of defective Goods or the installation of replacement Goods; or
- (E) the use of any tool or equipment loaned or hired out by BlueScope;
- (ii) any direct, indirect or consequential loss or damage, any loss of actual or anticipated savings, opportunity, revenue, profit or goodwill, or other economic loss; and
- (iii) any claim, action or proceeding by a third party against the Purchaser (or any loss, damages or liability incurred or suffered by the Purchaser as a result of any such claim, action or proceeding); and
- (d) the Purchaser indemnifies BlueScope from and against all losses, damages, costs and expenses suffered or incurred by BlueScope, and all claims, demands, suits, actions or proceedings made or brought against BlueScope, arising out of:
  - (i) BlueScope's use of or reliance on any materials, design, drawing or specification provided to BlueScope by the Purchaser (including any allegation or claim that any such use or reliance by BlueScope infringes the intellectual property rights of any person);
  - (ii) any loss or damage caused by or during the processing of materials supplied to BlueScope by the Purchaser; or
  - (iii) any loss or damage caused by any tool or equipment, or the use of any tool or equipment, hired out by BlueScope to the Purchaser,

except if you are a Purchaser under a Consumer Contract and such loss or damage arises from the negligence or wilful misconduct of BlueScope, or any of its officers, employees or agents.

## 12. Miscellaneous

- 12.1 These Conditions set out the entire agreement between the parties in relation to their subject matter. The terms of the United Nations Convention on Contracts for the International Sale of Goods 1980 are expressly excluded.
- 12.2 The law applicable to the agreement between BlueScope and the Purchaser is the law of the State or Territory in which the Goods are delivered. BlueScope and the Purchaser submit to the jurisdiction of the relevant State or Territory courts.
- 12.3 Non stock items are not returnable by the Purchaser to BlueScope. BlueScope may in its discretion accept the return of stock items and in so doing may charge the Purchaser a restocking charge.
- 12.4 Nothing in these Conditions shall constitute BlueScope as a subcontractor of the Purchaser. BlueScope's obligations are limited to those of a material supplier.
- 12.5 For the purpose of these Conditions and any transaction effected pursuant to these Conditions, mass of steel reinforcing bars will be calculated on the basis of per metre as defined in AS4671-2001 plus an allowance for rolling margin as determined by BlueScope from time to time. The length used in the calculation of mass will be as defined in AS1100 part 501.
- 12.6 A party waives a right under these Conditions only if it does so in writing. A party does not waive a right simply because it fails to exercise the right, delays exercising the right or only exercises part of the right. A waiver of one breach of a term of these Conditions does not operate as a waiver of another breach of the same term or any other term.
- 12.7 If a provision in these Conditions is wholly or partly invalid or unenforceable in any jurisdiction, that provision or the part of it that is invalid or unenforceable must, to that extent, and in that jurisdiction, be treated as deleted from these Conditions. This does not affect the validity or enforceability of the remaining provisions in that jurisdiction, or of the deleted provision in any other jurisdiction.
- 12.8 BlueScope may assign or otherwise deal with the benefit of any contract made pursuant to these Conditions without the consent of the Purchaser.
- 12.9 BlueScope and the Purchaser may conduct business by Electronic Data Interchange (EDI). The Purchaser agrees that if it has EDI capability with BlueScope's EDI is the preferred method of conducting business. BlueScope and the Purchaser agree that EDI will be conducted in accordance with the terms of any Electronic Trading Partner Agreement to which they are parties and into which these Conditions of sale are incorporated.

## 13. Interpretation

In these Conditions:

**Business Day** means Monday to Friday (inclusive) excluding public holidays at the place of delivery.

**Consumer** means a person who acquires Goods from BlueScope where:

- (a) the amount paid or payable for the Goods did not exceed \$40,000; or
- (b) the Goods were of a kind ordinarily acquired for personal, domestic or household use or consumption,

unless the Goods were acquired for the purpose of re-supply or the purpose of using them up or transforming them in trade or commerce.

**GST** means the tax payable on Taxable Supplies within the meaning of the GST Act;

**GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 and any related legislation imposing such tax or legislation that is enacted to validate, recapture or recoup such tax;

**Purchaser** means a person, being an incorporated or unincorporated business or an individual, who acquires Goods from BlueScope, and includes a Consumer;

**Related Corporation** has the meaning given to the term "related body corporate" in section 50 of the Corporations Act 2001;

**Working Hours** means between 7.00am and 5.00pm, Monday to Friday (inclusive) excluding public holidays.

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