

1. Contract

- 1.1 Orders for Goods placed by the Purchaser are subject to these Conditions and any special conditions agreed by BlueScope in writing (including quotations) and are to the exclusion of any previous dealings or agreed arrangements between BlueScope and the Purchaser or any terms and conditions of purchase submitted by the Purchaser, 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 Purchaser with replacement Conditions. The subsequent placing of an order by the Purchaser 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 Purchaser or any third party for declining any order or failing to notify the Purchaser that it declines an order.
- 2.2 Orders may be placed using Electronic Data Interchange ("EDI"). The Purchaser 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 either electronically or in writing to the Purchaser 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 Purchaser 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 Purchaser 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 A contract for the supply of Goods is made when the Purchaser communicates (by writing or conduct) to BlueScope its acceptance of a written quotation. Any order from the Purchaser which is inconsistent in any way with the quotation is an offer by the Purchaser to buy the Goods from BlueScope, which is made on the terms of these Conditions.

3. Packaging and tolerances

- 3.1 Goods will be delivered in accordance with BlueScope's standard packaging, loading, bracing and shipping procedures. The Purchaser may request additional packaging requirements, which if accepted by BlueScope, will incur additional charges according to BlueScope's Extras List.
- 3.2 Goods are supplied by BlueScope within the tolerances as to quantity, weight, dimension and chemical composition as specified by BlueScope or if not specified, consistent with accepted industry practice.

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 a delivery point at BlueScope's discretion. 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 Purchaser for part-payment of an order in respect of Goods delivered. Failure by BlueScope to deliver any instalment shall not entitle the Purchaser to repudiate the contract.
- 4.2 BlueScope will transport the Goods to the nominated delivery point. Unloading the Goods is the responsibility of the Purchaser. The Purchaser will provide facilities for the efficient receipt and safe, prompt unloading of Goods. A reasonable time will be allowed for unloading after arrival. Excessive waiting time will be charged to the Purchaser. Where the Purchaser is not in attendance at the delivery point or is otherwise unwilling or unable to accept the Goods when the Goods arrive, the Purchaser shall 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 the Purchaser shall 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 delivery point nominated by BlueScope and all costs incurred by BlueScope in making such a delivery will be charged to and paid by the Purchaser. BlueScope reserves the right to charge the Purchaser any storage or warehouse fees for Goods held past the specified collection date.
- 4.5 If the Purchaser 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 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.
- 5.2 Goods will be supplied in accordance with the applicable Australian Standards, product handbooks and product literature current at the date of production.
- 5.3 The Purchaser 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 5 days of delivery of the Goods, stating the order number and delivery date. If the Purchaser does not submit such a claim within this period, it will be deemed to have accepted the Goods.
- 5.4 No defect or claim in respect of the Goods delivered shall entitle the Purchaser to reject delivery of any other part of the order.

6. Pricing

- 6.1 Prices indicated in any price list are subject to alteration by BlueScope without notice and are recommended prices only for Goods ordered on or after the date on which the prices are stated to take effect. There is no obligation to, and BlueScope is not bound to, sell Goods at these prices.
- 6.2 Unless otherwise specified by BlueScope, the price of the Goods shall be the price prevailing at the date the order is invoiced by BlueScope. All prices are based on delivery being on a FIS basis. Freight extras may apply for delivery of Goods to certain regions - please speak to your BlueScope representative for further information.
- 6.3 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 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 Purchaser must pay GST at the same time as payment for Goods is made.

7. Payment and credit terms

- 7.1 Unless otherwise specified by BlueScope, payment for Goods must be made in full and be received by BlueScope by 5pm on the 15th calendar day of the month following the month of delivery. Where the Purchaser 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, in BlueScope's opinion, the credit of the Purchaser becomes impaired, until such time as BlueScope has received full payment or satisfactory security for deliveries made and is satisfied as to the Purchaser'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 Purchaser's performance of its obligations under these Conditions without liability to BlueScope in the event of a material adverse change to the Purchaser's financial condition.
- 7.3 BlueScope may set off any amount owed by the Purchaser to BlueScope against any amount of money that is owed, or may become owing, by BlueScope 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.

8. Default

- 8.1 Where the Purchaser is in default of its obligations under these Conditions (including where it becomes insolvent as defined in Regulation 7.5.02 of the Corporations Regulations 2001 (Cth) or commits an act of bankruptcy) BlueScope will be entitled to refuse to supply or deliver further Goods to the Purchaser until such time as the Purchaser has remedied that default.
- 8.2 Where the Purchaser is in default of its obligations in relation to payment, then notwithstanding any other rights and remedies available under this document, 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 rate charged by the Australian New Zealand Banking Group Limited for commercial borrowing in excess of \$100,000;
 - the cost to BlueScope of recovering the overdue amount, such as legal or debt collection costs;
 - terminate or suspend, without incurring liability to the Purchaser, any contract in force between BlueScope and the Purchaser 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;

- (d) suspend performance under or terminate, in either case without incurring liability to the Purchaser, any contracts in force between BlueScope and the Purchaser, not being contracts for the sale or supply of Goods; or
- (e) disallow any early payment discounts, volume bonuses or incentive payments otherwise claimable by the Purchaser.

9. Risk and title

9.1 Risk in the Goods passes to the Purchaser when the Goods have entered the Purchaser site. Where Goods are being collected, risk passes when the Goods are set on, in or alongside the Purchaser's vehicle, or the passing of any specified collection date. BlueScope is not liable for any theft, damage or loss of and shall not be required to provide insurance for Goods once risk has passed.

9.2 Until payment of all monies owing to BlueScope, BlueScope remains the legal and equitable owner of and has property in the Goods. Until the Purchaser has paid all the monies to BlueScope:

- (a) the Goods are held by the Purchaser as fiduciary bailee of BlueScope;
- (b) the Purchaser must store the Goods separately and so that they are readily identifiable as the property of BlueScope;
- (c) the Purchaser must keep the Goods in good and merchantable condition and fully insure the Goods against loss or damage, however caused;
- (d) the Purchaser 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;
- (e) the Purchaser must not create any encumbrance over the Goods which is inconsistent with BlueScope's title and ownership to the Goods;
- (f) any proceeds of such re-sale, insofar as they relate to the Goods, shall be held on trust for BlueScope in a separate account; and
- (g) if the Purchaser 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 Purchaser shall hold that part of the proceeds of the finished product relating to the Goods in a separate account in trust for the Supplier. That part will be taken to be of equal value to the amount owing by the Purchaser to BlueScope at the time of receipt of the proceeds.

9.3 If the Purchaser is in default of its obligations under these Terms and Conditions or in BlueScope's reasonable opinion the payment of any amount in respect of the Goods supplied by BlueScope is in jeopardy, then the Purchaser 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 the Purchaser indemnifies BlueScope against any action, claim or demand arising out of any act lawfully done by BlueScope in the exercise of its powers and BlueScope shall be further entitled to resell any Goods which it has so taken into possession.

9.4 The parties agree that nothing in these Conditions is intended to create a charge or any other form of security interest and that if and to the extent that, as a matter of law, these Conditions create a charge or any other form of security interest the offending words shall be deleted.

10. Limiting Liability

10.1 The Purchaser 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 Purchaser will clearly specify that purpose or those characteristics in writing in the order. If the Purchaser 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 Purchaser agrees:

- (a) 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
- (b) not to use, sell or offer for sale the Goods as though they are reasonably fit for the specified purpose.

10.2 The Purchaser 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:

- (a) the negligence, wrongful act or omission, breach of statutory duty, breach of contract or wilful default of the Purchaser or its officers, employees, agents or contractors;

- (b) 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 Purchaser;
- (c) transport, storage, slitting, roll-forming, repackaging or other handling of the Goods by the Purchaser;
- (d) misuse of Goods by the Purchaser;
- (e) warranties or representations made by the Purchaser in relation to the Goods; or
- (f) any breach of these Conditions by the Purchaser.

10.3 Except for the warranties expressly made in these Conditions and subject to any express 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 extent permitted by law.

10.4 BlueScope's liability for any Loss relating to the Goods is limited (to the full extent permitted by law) to any of the following as determined by BlueScope in its sole discretion:

- (a) repairing or replacing the Goods, the subject of the Loss; or
- (b) the cost of repairing or replacing the Goods, the subject of the Loss (or acquiring equivalent goods).

10.5 BlueScope will not be liable to the Purchaser for:

- (a) any loss or damage to the Goods resulting from any act or omission on the part of the Purchaser or any of its officers, employees, agents or contractors;
- (b) 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 or any other indirect or consequential loss arising in connection with, or as a result of, the supply or non-supply of the Goods or otherwise in connection with these Conditions;
- (c) any statement or recommendation made or advice, supervision or assistance given by BlueScope, its employees, agents, transport contractors or representatives whether oral or written;
- (d) any loss or damage to the Goods or of any liability which arises during the loading or unloading of the Goods;
- (e) a delay in delivering the Goods;
- (f) 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);
- (g) any loss or damage relating to the fitness or suitability of the Goods for the Purchaser's purpose (including a third party purpose) unless such purposes are known and agreed by BlueScope.

10.6 Notwithstanding anything else contained in these Conditions, the maximum liability of BlueScope to the Purchaser whether under contract, at law, in equity or otherwise for any Loss in connection with the supply of Goods 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 Purchaser under these Terms and Conditions.

11.2 The Purchaser 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 Purchaser is a user of the Intellectual Property Rights;
- (d) only use the Intellectual Property Rights in relation to the Products;
- (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 Purchaser's breach, in which case at Purchaser'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 Trade Marks 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 When requested by BlueScope, the Purchaser will immediately 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 Purchaser that carries an Intellectual Property Right.
- 11.4 The Purchaser 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 Purchaser is for the benefit of BlueScope.
- 11.6 The Purchaser warrants to BlueScope that where it provides BlueScope with intellectual property (including intellectual property included in a Specification) that the intellectual property is accurate and that the Purchaser 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. The Purchaser indemnifies BlueScope against all claims and all losses and damages incurred by BlueScope as a result of any infringement on a third party's intellectual property rights or improper use of the intellectual property supplied by the Purchaser to BlueScope.
- 12. Confidentiality**
- 12.1 The Purchaser must keep all confidential and proprietary information provided or disclosed by BlueScope to the Purchaser confidential and must ensure that its employees, agents and contractors assume the same obligations.
- 12.2 For the purposes of these Conditions, confidential and proprietary information includes information relating to the Goods, BlueScope's business affairs or method of carrying on business or details of any pricing or supply arrangement between the Purchaser and BlueScope.
- 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 shall be entitled, at its option, by notice to the Purchaser, either to:
- (a) extend the time for delivery of the Goods;
- (b) terminate the order for Goods the subject of a particular order or any other Goods; or
- (c) decline to accept any further orders for Goods.
- BlueScope will not be liable to the Purchaser for damages or any other remedy at law or in equity for breach of contract or failure to perform its obligations under these Terms and Conditions due to a Force Majeure event.
- 13.2 A Force Majeure event does not relieve the Purchaser 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.
- 14. Governing Law and Jurisdiction**
- 14.1 This document is governed by the laws of the State or Territory in which the order is accepted by BlueScope and both the Purchaser and BlueScope submit to the non-exclusive jurisdiction of the courts exercising jurisdiction there, including any court that exercises appellate jurisdiction.
- 14.2 The Vienna Convention on the Sale of International Goods (and any enabling legislation in any State or Territory) is hereby excluded from these Terms and Conditions.
- 15. Miscellaneous**
- 15.1 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.
- 15.2 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.
- 15.3 BlueScope may assign any or all of its rights under these Conditions (including a right to any payment) to any person without notice or approval from the Purchaser. The Purchaser may not assign the benefit of, or otherwise create an interest in its rights under this Agreement, unless it obtains the prior written consent of BlueScope Steel.
- 15.4 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. BlueScope reserves the right to produce Goods with such minor modifications from its drawings and specifications as it sees fit or to alter specification shown in its promotional literature to reflect changes made after the date of such promotional literature.
- 15.5 The Purchaser must comply with all laws and requirements of any regulatory authority applicable to the Purchaser's business, including without limitation those laws and regulatory requirements relating to the environment, health, safety, storage, handling and sale of Goods. The Purchaser must comply with any processes, material safety data sheets (or similar documents), instructions or reasonable directions of BlueScope issued in connection with the Goods.
- 15.6 The Purchaser 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.
- 16. Use of bluescopesteelconnect.com™**
- 16.1 The Purchaser agrees that any purchases made through the bluescopesteelconnect.com™ website (the "Site") is subject to these Conditions and any conditions of use ("Site Conditions") regarding the Site. The Site Conditions are incorporated into these Conditions by reference.
- 17. Definitions and Interpretation**
- 17.1 In these *Conditions*:
- BlueScope** means either BlueScope Steel Limited (ABN 16 000 011 058) or BlueScope Steel (AIS) Pty Ltd (ABN 19 000 019 625).
- Conditions** means these terms and conditions, as amended from time to time.
- Force Majeure** means any event beyond BlueScope's control including without limitation an act of God, war, fire, strike, lockout, trade or industrial disputes, government interference, transport delays, accidents, breakdown of plant or machinery, non-delivery or shortage of supplies.
- Goods** means any goods, products, materials or services supplied by BlueScope in accordance with these Conditions.
- GST Act** means A New Tax System (Goods and Services Tax) Act 1999 and GST has the meaning given to that term under the Act.
- 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.
- Loss** means any claim, demand, loss, liability damage or expense incurred by a party in connection with these Conditions.
- Purchaser** means the entity placing an order and any agent or representative (including any related entity of the Purchaser).
- Specification** means any variation to the Goods requested by the Purchaser and includes metallurgical properties, chemical composition, engineering specification, architectural specification or other amendment whatsoever.
- 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 public holidays.
- 17.2 The following rules of interpretation apply to these *Conditions*:
- (a) any requirement for a document or communication to be in 'writing' in these Conditions shall 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.