

1. SUPPLY OF PRODUCTS

1.1 Supply

- (a) Bar-Truss agrees to sell and the Customer agrees to buy Products in accordance with these Terms and Conditions.
- (b) If more than one person is the Customer those persons contract jointly and severally for themselves and each other.
- (c) Where the Customer is acting as trustee of a trust the Customer is bound both personally as well as in its capacity as trustee.

1.2 Exclusion of all other terms and conditions

- (a) These Terms and Conditions:
 - (i) include and incorporate the terms of any Quote that is agreed between Bar-Truss and the Customer;
 - (ii) apply to the exclusion of all other terms and conditions and supersedes all terms and conditions previously issued by Bar-Truss or otherwise agreed between Bar-Truss and the Customer; and
 - (iii) override any terms of purchase order used by the Customer to order and purchase Products.
- (b) No variation of these Terms and Conditions is binding unless expressly agreed in writing by an authorised representative of Bar-Truss.

2. PRODUCT OFFERING

2.1 Price of Products

- (a) Bar-Truss will provide a Quote to the Customer setting out the Purchase Price of the Products. Unless previously withdrawn, Bar-Truss quotations are open for acceptance within the period stated in them or, when no period is so stated, within 30 days only after its date. Bar-Truss reserves the right to refuse any order based on any Quote within 7 days after the receipt of the order.
- (b) Unless expressly stated otherwise, the Purchase Price is exclusive of GST and all other taxes, duties or government charges levied in respect of the Products.
- (c) If GST is imposed on any supply made under or in accordance with these Terms and Conditions, the Customer must pay to Bar-Truss an additional amount equal to the GST payable on the supply, subject to the Customer receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time and in the same manner as payment for

the supply is required to be made in accordance with these Terms and Conditions.

- (d) Prices quoted are those ruling at the date of issue of the Quote and are based on rates of freight, insurance, customs duties, exchange, shipping expenses, cartage, cost of materials and any other charges affecting the cost of production ruling on the date is made.
- (e) Bar-Truss reserves the right to change the Purchase Price in its absolute discretion. If Bar-Truss makes any alterations to the Purchase Price of the Products or to any of their inputs either before acceptance of or during the currency of an order, any such alterations are payable by the Customer.
- (f) It is the responsibility of the Customer to inform itself of the current ruling price. However, all orders exceeding 30 days duration are subject to rise and fall assessments on the material and labour rates prevailing at the time.

2.2 Orders and Specifications

- (a) By accepting a Quote the Customer accepts these Terms and Conditions.
- (b) The Customer warrants the accuracy of all plans, specifications, drawings or other particulars supplied by the Customer. Bar-Truss accepts no responsibility or Liability for incomplete, conflicting, unclear or inaccurate specifications. The Customer undertakes to ensure its specifications have been received and understood by Bar-Truss.
- (c) The Customer acknowledges that the Purchase Price and Quote are prepared and the Products manufactured reliant on the Customer's warranty in clause 2.2(b).
- (d) If the Customer cancels an order for the Products for any reason, Bar-Truss will only accept such cancellation by notice in writing to Bar-Truss and on the basis that all costs incurred by Bar-Truss up to receiving such notice from the Customer will be a debt due to Bar-Truss in accordance with these Terms and Conditions.
- (e) Any variation to the Products ordered as required by the Customer will only be accepted by the Customer detailing such variation by notice in writing to Bar-Truss and by the Customer accepting any variation in the Purchase Price of the Products in writing.
- (f) Once accepted by Bar-Truss, orders cannot be cancelled or varied by the Customer without the written approval of Bar-Truss. Bar-Truss reserves the right to charge a reasonable cancellation fee.

- (g) Bar-Truss may change or substitute raw materials, components or products with equivalent strength and specification without notice.

3. INVOICING AND PAYMENT

3.1 Details in invoice

All invoices issued by Bar-Truss will include details of the Purchase Price and any other costs and charges payable by the Customer in accordance with these Terms and Conditions, including (where relevant) all reasonable charges associated with the delivery of the Products, which will be paid by the Customer unless otherwise agreed.

3.2 Payment of Purchase Price

- (a) Fifty (50) percent of the Purchase Price in relation to Products is payable upon the Customer accepting a Quote and is payable as a deposit due prior to manufacture of the Products, SAVE AND EXCEPT for Customers having entered into a Credit Account pre-approved by Bar-Truss where the Purchase Price is payable strictly within agreed trading terms.
- (b) The balance of the Purchase Price is due strictly prior to delivery of the Products, SAVE AND EXCEPT for Customers having entered into a Credit Account pre-approved by Bar-Truss where the Purchase Price is payable strictly within agreed trading terms.
- (c) Customers with Credit Accounts may be eligible for settlement discounts where accounts are paid within agreed trading terms. This will be indicated on Quotes.
- (d) If the Customer has not paid for any Products by the due date, without prejudice to any other right or remedy, Bar-Truss may recover the Purchase Price together with all interest forthwith from the Customer as a liquidated debt in a court or tribunal of competent jurisdiction irrespective of any claim that the Customer may have against Bar-Truss for anything or matter related to the Products delivered under these Terms and Conditions.

3.3 Payment in cleared funds

Payment by cheque or other negotiable instrument is not regarded as received until funds are cleared.

3.4 Interest

Without in any way limiting Bar-Truss's right to require payment in full in accordance with clause 3.2, Bar-Truss may at its sole discretion charge interest on overdue accounts at a default rate of 2% per month or other such other rate as Bar-Truss notifies the Customer in writing from time to time.

3.5 Recovery Costs

The Customer must pay all costs and expenses incurred by Bar-Truss, its advisers, mercantile agents and any other person, in respect of any action instituted or considered against the Customer, whether for debt, possession of Products or otherwise.

3.6 No right to offset

No amount owing, whether present or future, actual, contingent or prospective and on any account whatsoever by Bar-Truss to the Customer may be offset against any liability whether present, future, actual, contingent or prospective of the Customer to Bar-Truss under these Terms and Conditions or on any other account whatsoever.

4. DELIVERY OF PRODUCTS

4.1 Date for Delivery and Delay

- (a) The delivery times communicated to the Customer are estimates only. Bar-Truss will notify the Customer by telephone and/ or SMS the estimated date of delivery. An SMS or voice message left with the Customer or a Representative will be deemed notification to the Customer and the Customer should check the estimated delivery time for the Products at least 5 days prior to the estimated date delivery communicated.
- (b) Bar-Truss is not responsible for any Liabilities for any delay, failure or inability to deliver in accordance with a communicated delivery time, including any delay caused by a Manufacturer, and is not liable for any Liability occasioned to the Customer or its clients arising from late or non-delivery or late installation of Products.
- (c) A request by the Customer to amend the delivery time given by Bar-Truss will only be accepted if sufficient time is given to alter Bar-Truss's production program.
- (d) The Customer shall ensure that the Customer or a Representative is present at the delivery site to accept delivery and to provide clear access on the delivery site so that the delivery vehicle can unload the Products as close as practicable to the place the Products are to be erected. Clear access areas are to comply with Work Safe guidelines, including No go Zones for Overhead Electrical Powerlines.
- (e) The Customer agrees that Bar-Truss may attend the delivery site at the completion of the Products being installed to collect any surplus Products or part thereof.
- (f) The Customer is responsible for the payment of all costs incurred and associated with the delivery of the Products, including the lifting of

trusses to plate height. Lifting to plate may be completed at the sole discretion of Bar-Truss and is subject to the Customer or a Representative providing to Bar-truss a signed and completed authority. The Customer or a Representative must be present to complete lifting to plate and ensure it is safe to do so. This includes ensuring the building can take the weight of the lifted load. Any lifting to plate is done at the Customer's sole risk and to the maximum extent permitted by Law the Customer assumes sole responsibility for, and indemnifies Bar-truss against, all Liabilities, including any Consequential Loss, arising from or in connection with lifting to plate. Note that portable crane hire is not included in any quotation provided to the Customer and must be paid in addition to the Purchase Price.

- (g) Bar-Truss will endeavour to include costs in Quotes for delivery escorts and permits required under Vic Roads and/ or National Heavy Vehicle Regulator guidelines for Oversize Load Carrying Vehicles (**Guidelines**). These costs are subject to the Guidelines and should extra costs be incurred owing to Guideline changes, these will be payable by the Customer.
- (h) The Customer is not relieved of an obligation to accept or pay for Products because of any delay in delivery.

4.2 Frustrated Delivery

A charge may be rendered to cover Bar-Truss's cost of any frustrated delivery.

4.3 Products damaged or lost in transit

If the Customer makes their own arrangements for freight of the Products risk in the Products passes to the Customer upon collection of the Products and Bar-Truss is not responsible to the Customer or any person claiming through the Customer for any Liabilities or loss or damage to the Products in transit caused by any event of any kind by any person (whether or not Bar-Truss is legally responsible for the person who caused or contributed to that loss or damage).

5. USE OF PRODUCTS

Bar-Truss is not responsible for any Liabilities resulting directly or indirectly from the use of a Product where:

- 5.1 the Product has not been correctly installed or maintained; or
- 5.2 the Customer has provided inaccurate or incomplete specifications or measurements.

6. DEFECTIVE PRODUCTS

6.1 Inspection

- (a) The Customer or a Representative must undertake an inspection of the Products upon delivery to determine if there has been a short delivery. If the Customer or a Representative accepts delivery without notifying Bar-truss of a short delivery, or if the Customer or a Representative is not present to inspect the Products at the notified delivery time, the Customer will be deemed to have given proof of delivery and will have no claim against Bar-truss in respect of short delivery.
- (b) The Customer must, within 7 Business Days of delivery of the Products, check whether the Products suffer from any defect.

6.2 Notice of Defect

- (a) The Customer must give Bar-Truss written notice including photographic images or video of any defect within 7 Business Days of delivery of the Products. All defect claims must accompany a request for credit quoting Bar-Truss' invoice number on which the Products were supplied. If no such notice is given the Customer is deemed to waive any claim that any of the Products delivered are defective.
- (b) If the Customer gives notice under clause 6.2(a), it must:
 - (i) preserve the Products in the state in which they were delivered to the Customer; and
 - (ii) at Bar-Truss's election either:
 - A. allow Bar-Truss (or its nominated agent) access to the Customer's premises to inspect Products; or
 - B. return the Product at the Customer's expense to Bar-Truss for inspection.

6.3 Customer's obligations

Bar-Truss will only accept Liability for any failure of floor and roof trusses (the **Trusses**) supplied to comply with the Nail Plate Suppliers engineering requirements provided the following conditions have been met by the Customer:

- (a) the Trusses must be erected and braced to comply with Australian Standard "Installation of Nail Plate Timber Trusses" AS 4440 1997;
- (b) the Trusses shall be laden with covering as indicated in the Quote provided to the Customer (i.e. tiles, sheet, etc.);
- (c) the Trusses are to be spaced correctly and in accordance with Bar-Truss requirements and Local Council Ordinances;

- (d) the lintels over all openings in external walls must comply with AS 1684 or Approved Engineers Design;
- (e) the Trusses shall be slung by panel points only;
- (f) the Trusses must not under any circumstances be cut or altered without the prior written permission of Bar-Truss;
- (g) all other materials and construction methods used as part of the roofs structure must accord with AS 4440 1997, Local Council Ordinances and accepted building standards;
- (h) the Customer must check with the Manufacturer as to any proposed method of construction of auxiliary roof timbers which could impair the structural efficiency of the roof trusses;
- (i) concrete slabs must be properly waterproofed.
- (j) bottom plates are to be blocked correctly where required on bearers;
- (k) wall connectors are to be used at all junctions on top plates;
- (l) all junction studs are to be nailed at midpoint to blocks provided;
- (m) all bracing elements are to be nailed finally after plumbing on site has occurred;
- (n) roof trusses and wall frames must be effectively clad and weather protected at all times; and
- (o) Bar-Truss will not accept liability for tradesmen employed by the Customer.

6.4 Replacement of Products and Guarantee

- (a) All implied guarantees, warranties and conditions (including warranties as to the quality or fitness for purpose of Products) are excluded to the maximum extent permitted by Law.
- (b) To the maximum extent permitted by Law, Bar-Truss is not liable for:
 - (i) any Consequential Loss under or in connection with these Terms and Conditions; or
 - (ii) any Liability resulting from any action or omission on the part of Bar-Truss, or the employee, contractors or agents of Bar-Truss.
- (c) Bar-Truss's liability for any Products manufactured by it is limited to making good any defects by repairing the defects or at Bar-Truss's option by replacement, within a period not exceeding twelve (12) calendar months

after the Products have been dispatched so long as:

- (i) defects have arisen solely from faulty materials or workmanship;
 - (ii) the Products have not received maltreatment, inattention or interference;
 - (iii) the Products have not been incorrectly installed by the Customer; and
 - (iv) the Customer has complied with clause 6.3
- (d) If Bar-Truss elects to have the Products returned to Bar-Truss (or as Bar-Truss directs), the Products must be returned in the same condition as when first delivered to the Customer.
 - (e) If the Products are not manufactured by Bar-Truss the guarantee of the Manufacturer of those Products is accepted by the Customer and is the only guarantee given to the Customer in respect of the Products. Bar-Truss agrees to assign to the Customer on request made by the Customer the benefit of any warranty or entitlement to the Products that the Manufacturer has granted to Bar-Truss under any contract or by implication or operation of law to the extent that the benefit of any warranty or entitlement is assignable.
 - (f) Bar-Truss is not liable for and the Customer releases Bar-Truss from any claims in respect of faulty or defective design of any Products supplied unless such design has been wholly prepared by Bar-Truss and the responsibility for any claim has been specifically accepted by Bar-Truss in writing. In any event Bar-Truss' liability under this paragraph is limited strictly to the replacement of defective Products in accordance with clause 6.4(c).
 - (g) Should a Product returned to Bar-Truss as defective be found on inspection by Bar-Truss not to be defective, such Product will be returned to the Customer and all charges for the freight and handling will be charged to and must be paid for by the Customer.

7. RISK, TITLE AND THE PPSA

7.1 Risk

- (a) Subject to clause 4.3, the risk in the Products passes to the Customer on delivery of the Products to the Customer's requested delivery location. Bar-Truss is not liable to the Customer for any loss or damage or deterioration of the Products after delivery, even if Bar-Truss arranges freight.
- (b) Where delivery is delayed for any reason beyond the reasonable control of Bar-Truss,

and the delay continues for 14 days after Bar-Truss has notified the Customer that the Products or any part of them are ready to be delivered, the risk of the Products passes to the Customer. Bar-Truss may, at its option, store the Products at its premises or elsewhere and all costs of or incidental to such storage, including insurance, will be payable by the Customer from the date delivery instructions are requested.

7.2 Rights in relation to Products

- (a) Bar-Truss reserves the following rights in relation to the Products until all accounts owed by the Customer to Bar-Truss are fully paid:
 - (i) ownership of the Products;
 - (ii) to enter the Customers premises (or the premises of any associated company or agent where the Products are located) without liability for trespass or any resulting damage and retake possession of the Products; and
 - (iii) to keep or resell any Products repossessed pursuant to this clause. If the Products are resold, or products manufactured using the Products are sold, by the Customer, the Customer shall hold such part of the proceeds of any such sale as represents the invoice price of the Products sold or used in the manufacture of the Products sold in a separate identifiable account as the beneficial property of Bar-Truss and shall pay such amount to Bar-Truss upon request. Notwithstanding the provisions above Bar-Truss shall be entitled to maintain an action against the Customer for the Purchase Price.
- (b) Bar-Truss and the Customer agree:
 - (i) that the Customer is bailee of the Products until such time as property in them passes to the Customer and that this bailment continues in relation to each of the Products until the Purchase Price has been paid in full;
 - (ii) that pending payment in full for the Products, the Customer must insure the Products for their full insurable or replacement value (whichever is the higher) with a reputable and competent insurer;
 - (iii) that the Customer will not supply any of the Products to any person outside its ordinary or usual course of business; and

- (iv) that the Customer will not allow any person to have or acquire any security or interest in the Products.

- (c) In the event that the Customer fails to pay for the Products by the due date; commits an act of bankruptcy or becomes insolvent or bankrupt; or is placed in receivership or voluntary administration; enters into any type of arrangement with creditors; is the subject of a petition for winding up or is wound up; or otherwise fails to observe its obligations under these conditions, Bar-Truss may exercise its rights under clause 7.2(a) and terminate the further supply of Products.
- (d) The Customer hereby charges in favour of Bar-Truss all its respective right, title and interest in any land owned by the Customer, including any land the Customer may acquire in the future, ('the land') to better secure all amounts owing by the Customer to Bar-Truss and the performance of the Customers obligations under these conditions and the Customer agrees that Bar-Truss may register a caveat over the land in relation to this charge.
- (e) Bar-Truss may, at its discretion, apply amounts it receives from the Customer towards amounts owing to it in such order as Bar-Truss chooses.

7.3 Registration of Title under the PPSA

- (a) The Customer acknowledges and agrees that:
 - (i) these Terms and Conditions constitute a Security Agreement for the purpose of the PPSA which creates a Security Interest in favour of Bar-Truss in the Products and in all present and after acquired property supplied by Bar-Truss to the Customer (or for the Customer's account). This Security Interest constitutes security for payment of all of the Customer's indebtedness to Bar-Truss under these Terms and Conditions or otherwise;
 - (ii) Bar-Truss may, without notice to the Customer, register its Security Interest in the Products (in any manner Bar-Truss considers appropriate), in all present and after acquired property and in their proceeds as a Purchase Money Security Interest on the Register; and
 - (iii) the Customer agrees to provide all assistance reasonably required to facilitate registration and perfection of Bar-Truss's Security Interest so that it has priority over all other Security Interests in the Products.
- (b) Where the PPSA applies to action taken by Bar-Truss in relation to the Products, the Customer

waives its right to receive any notices required under sections 95, 118, 121, 130, 132 or 135 of the PPSA.

- (c) The Customer waives its rights under section 157 of the PPSA to receive a verification statement.
- (d) The Customer must reimburse Bar-Truss for all costs and/or expenses incurred or payable by Bar-Truss in relation to the registration of any Security Interest pursuant to these Terms and Conditions.

7.4 Customer's property

Any property of the Customer under Bar-Truss's possession, custody or control is completely at the Customer's risk as regards loss or damage caused to the property or by it.

8. CUSTOMER WARRANTIES

8.1 The Customer warrants:

- (a) that it is solvent and creditworthy;
- (b) that it is authorised under its constitution or charter to enter into these Terms and Conditions;
- (c) that, where it is the trustee of any trust or trusts, it is entering into these Terms and Conditions both in its capacity as trustee of that trust or trusts and in its own beneficial capacity;
- (d) that any Representative that gives instructions to Bar-Truss in relation to the Products on behalf of the Customer is duly authorised to do so, that any such instructions are binding on the Customer and that Bar-Truss is entitled to rely on such instructions and is under no obligation to confirm such instructions with the Customer unless the Customer provides Bar-Truss with express notice in writing to the contrary; and
- (e) that it or its directors have had the opportunity to review and consider these Terms and Conditions and to seek legal advice as to their implications.

9. INTELLECTUAL PROPERTY

9.1 No licence or assignment

The Customer's purchase of Products does not confer on the Customer any licence or assignment of any copyright, patent, design or trademark, or any other intellectual property right (whether registered, registrable or not) that subsists in the Products.

9.2 No warranty

Bar-Truss makes no representation or warranty to the Customer of any kind, express or implied, that the Products will not infringe any intellectual property rights of a third party.

10. INDEMNITY

10.1 The Customer indemnifies Bar-Truss against any Liabilities which Bar-Truss suffers, incurs or is liable for as a result, directly or indirectly, of:

- (a) any breach of these Terms and Conditions by the Customer; or
- (b) any negligent act or omission by the Customer.

10.2 The Customer agrees, in the event of the Customer defaulting under its obligations under these Terms and Conditions, to:

- (a) pay interest on all money due by the Customer to Bar-Truss at the rate of 2% per month, compounding monthly; and
- (b) pay all recovery and enforcement costs incurred by Bar-Truss, on an indemnity basis, such enforcement costs include, but are not limited to, legal costs and disbursements and mercantile agent costs and charges.

11. PRIVACY INFORMATION

The Customer agrees that Bar-Truss may, to the extent permitted by law:

- 11.1 exchange the Customer's personal information with its Related Bodies Corporate; and
- 11.2 use or disclose personal information about the Customer in accordance with Bar-Truss's Privacy Policy from time to time, a copy of which is on Bar-truss's website www.barwontimber.com.au.

12. TERMINATION

12.1 Breach of agreement

Bar-Truss may terminate these Terms and Conditions with immediate effect by giving written notice to the Customer if:

- (a) the Customer breaches any material provision of these Terms and Conditions (including without limitation any breach in respect of an obligation to pay money) and fails to remedy the breach within 7 days after receiving notice requiring it to do so; and
- (b) the Customer breaches a material provision of the Agreement where that breach is not capable of remedy.

12.2 Termination events

The Customer must notify Bar-Truss immediately if:

- (a) it disposes of the whole or any material part of its assets, operations or business;
- (b) there is a change in ownership of the Customer;
- (c) it ceases to carry on business;
- (d) it ceases to be able to pay its debts as they become due;

- (e) any step is taken by a mortgagee to take possession or dispose of the whole or part of its assets, operations or business;
- (f) any step is taken to enter into any arrangement between it and its creditors; or
- (g) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator or other like person in relation to the whole or part of its assets, operations or business.

12.3 Termination for termination events

Bar-Truss may terminate the Agreement immediately without notice if any event referred to in clause 12.2 occurs.

13. AFTER TERMINATION

If the Agreement is terminated the Customer must, within 5 Business Days of termination, pay Bar-Truss all amounts it owes Bar-Truss irrespective of whether those amounts have fallen due and whether or not an invoice has been issued by Bar-Truss.

14. FORCE MAJEURE

No party is liable for any failure to perform or delay in performing its obligations under these Terms and Conditions if that failure or delay is due to a Force Majeure Event. If that failure or delay exceeds 90 days, the other party may terminate the Agreement with immediate effect by giving written notice to the other party. This clause does not apply to any obligation to pay money.

15. ASSIGNMENT

Bar-Truss may in its absolute discretion sub-contract the manufacture or delivery of the Products or otherwise assign these Terms and Conditions. The Customer must not otherwise assign or deal with the Agreement or any rights under the Agreement without the prior written consent of Bar-Truss.

16. GENERAL PROVISIONS

16.1 Notice

A notice to be given by a party to another party under these Terms and Conditions must be in writing and sent to the address previously nominated by that party and will be deemed to be duly given:

- (a) in the case of hand delivery, on the day of delivery;
- (b) three Business Days after the date of posting by pre-paid registered post; or
- (c) if sent by email or SMS, when sent.

16.2 Electronic signatures binding

Delivery of a signature page of an order by PDF file shall be effective as delivery of a manually executed version and shall be deemed legally binding.

16.3 Governing Law

These Terms and Conditions are governed by the Law applicable in the State of Victoria, and the parties consent to the exclusive jurisdiction of the courts of the State of Victoria.

16.4 Time

Time is not of the essence except in relation to payment.

16.5 Business Day

Where the day on or by which something must be done is not a Business Day, that thing must be done on or by the next Business Day.

16.6 Waiver

The failure of a party at any time to require performance of any obligation under these Terms and Conditions is not a waiver of that party's right:

- (a) to insist on performance of, or claim damages for breach of, that obligation unless that party acknowledges in writing that the failure is a waiver; or
- (b) at any other time to require performance of that or any other obligation under the Agreement.

16.7 Unenforceable provision

- (a) If a provision of, or the application of a provision of, these Terms and Conditions is void, illegal or unenforceable in any jurisdiction, it does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.
- (b) Where a clause in these Terms and Conditions is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in these Terms and Conditions.

16.8 Relationship between the parties

Nothing in these Terms and Conditions creates any fiduciary relationship, nor any partnership, joint venture or agency relationship between the parties.

17. INTERPRETATION

In interpreting these Terms and Conditions:

- 17.1 any reference to a party includes its successors and permitted assigns;
- 17.2 headings are for convenience only and have no legal effect;
- 17.3 the singular includes the plural and vice versa;

- 17.4 "including" and similar words do not imply any limitation;
- 17.5 a reference to 'barwon timber\$' is to the Australian dollar;
- 17.6 a reference to legislation or a legislative provision includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- 17.7 if the performance of an obligation under these Terms and Conditions falls due on a weekend or public holiday, it must be performed on the next Business Day.

18. DEFINITIONS

Unless otherwise inconsistent with the context:

- 18.1 All present and after acquired property, Purchase Money Security Interest, Registration, Security Agreement, Security Interest and Verification Statement have the meanings prescribed to them in the PPSA;
- 18.2 **Bar-Truss** means Bar-Truss Pty Ltd ABN 87 103 238 295 of 50 Fellmongers Road, Breakwater, Victoria and each of its successors and assigns.
- 18.3 **Business Day** means a day on which trading banks are open for business in Melbourne, Australia, except a Saturday, Sunday or public holiday.
- 18.4 **Consequential Loss** means any loss or damage suffered by the Customer or any other person which is indirect or consequential; or which is by way of loss of revenue, loss of profits, loss of goodwill or credit, loss of business reputation, future reputation or publicity, loss of use, loss of interest, damage to credit rating, or loss or denial of opportunity.
- 18.5 **Customer** means a customer supplied or to be supplied Products by Bar-Truss.

- 18.6 **Force Majeure Event** means any failure or delay in the performance of a party's obligations under these Terms and Conditions as a result of a national strike, lockout, work stoppage, labour dispute, material shortage, utility outage, delay in transportation, fire, flood, earthquake, severe weather, pandemic, act of God, accident, trade sanction, embargo, act of war, act of terror, condition caused by national emergency, new or changed Law, or any other act or cause beyond the reasonable control and without fault of the delayed party, and whether affecting that party or its agents, subcontractors, dealers or suppliers, for as long as the circumstances prevail.
- 18.7 **GST** means any goods and services tax and any replacement or similar tax.
- 18.8 **Law** means any legislation, ordinance, regulation, bylaw, order, award, proclamation, direction and practice note of the Commonwealth, State or Territory or any government agency, certificate, licence, consent, permit, approval, qualification, registration, standard and requirement, or any other Law from which legal rights and obligations arise.
- 18.9 **Liabilities** means all damages, losses, liabilities, costs, charges, expenses, outgoings or payments (whether direct or indirect, consequential or incidental) including any damages, losses, liabilities, costs, charges, expenses, outgoings or payments in respect of any damage to property or injury to, or death of, any person.
- 18.10 **Manufacturer** means a third party entity engaged by Bar-Truss to manufacture Products.
- 18.11 **Representative** means any employee, contractor, sub-contractor, consultant, service provider or any other individual who is employed, sub-contracted or otherwise working for a contractor, sub-contractor, consultant or service provider who gives instructions to Bar-Truss in relation to the Products and/ or the delivery of the Products on behalf of the Customer.
- 18.12 **PPSA** means Personal Property Securities Act 2009 (Cth);
- 18.13 **Products** means products supplied by Bar-Truss to the Customer.
- 18.14 **Purchase Price** means the price of Products as specified in a Quote provided by Bar-Truss to the Customer.
- 18.15 **Quote** means a written statement of price given by Bar-Truss to the Customer for supplying specified Products, which may include specified terms and conditions such as packing and delivery requirements.

BAR-TRUSS PTY LTD ABN 87 103 238 295

TERMS AND CONDITIONS OF TRADE

18.16 **Related Body Corporate** has the meaning given in section 9 of the *Corporations Act 2001 (Cth)*.

18.17 **Terms and Conditions** means these terms and conditions of trade and the applicable Quote.

I have read and understood this document. I have not relied on anything said to me by the Customer or the Company as to what it means or what its effect may be.

Print signatory's name: _____

Signed: _____

Signatory's capacity: _____

Date: _____

Print witness name: _____

Signed: _____