



CONDITIONS OF PURCHASE

1. ACCEPTANCE OF CONDITIONS — By acceptance of this order or the commencement of work pursuant to this order, the Supplier acknowledges that it has read, understood and accepted the conditions of purchase set out below and any other conditions stipulated by PBR Australia Pty Ltd ABN 19 006 530 427 (PBR).
2. PACKAGING — All goods shall be suitably packed or otherwise prepared for shipment so as to secure the lowest transport and insurance rates in accordance with the carrier's requirements. No charge shall be made for wrapping, cartons, crating, boxing, packing or carriage, unless any such charges are agreed to in writing.
3. DELIVERY — Time shall be of the essence in this contract. Any requirements, either as to quantity or time or delivery shall be deemed to be a condition of this contract. Goods shall not be deemed to have been delivered to, nor to be at the risk of, PBR until received and accepted by PBR at the location specified by PBR. The Supplier shall be liable for any loss, damage or cost sustained or incurred by PBR as a result of the failure by the Supplier to conform to specified delivery dates and/or quantity requirements including without limiting the generality of the foregoing any loss, damage or cost sustained or incurred by PBR as a direct or indirect consequence of stoppage of its assembly lines and/or stoppage of the assembly lines of the original equipment car manufacturers to whom PBR supplies parts or components and/or the consequent inability of those car manufacturers to comply with their contracts (including export contracts). For the purposes of this clause, loss, damage or cost sustained or incurred by PBR indirectly as a result of or in connection with the Supplier's failure to conform to specified delivery dates and/or quantity requirements shall include any costs, damages or other moneys paid or payable by PBR to any other party as a result of or in connection with said failure to conform.
4. SUPPLIER'S RESPONSIBILITY TO ENSURE CONFORMANCE WITH PBR'S REQUIREMENTS — The Supplier agrees and acknowledges that it is responsible to ensure that all goods supplied under this contract conform to all requirements stipulated by PBR (Requirements).
5. SUPPLIER'S WARRANTY — The Supplier warrants that all goods supplied to PBR:
 - a) shall conform to the Requirements;
 - b) shall be fit for the purposes for which the goods will be used and as specified in any drawings or specifications relating to the goods; and/
 - c) shall otherwise be in good working order and without defect.
6. ACCEPTANCE AND REJECTION — PBR shall be entitled (but is under no obligation) to inspect all goods supplied under this contract, whether paid for or not, within a reasonable time after delivery and if upon such inspection PBR discovers that such goods do not comply with the warranties set out in clause 5, PBR may either reject the goods or any of them, in which case the Supplier shall pay to PBR the price thereof if paid, or retain the whole or any of them, in which case the Supplier shall pay to PBR the difference in value thereof from the goods free of fault and complying with the warranties set out in clause 5. PBR shall promptly notify the Supplier of any defects detected and hold any articles so claimed to be defective for the Supplier's instruction and at his risk for a reasonable period not exceeding sixty (60) days from such notification. The Supplier will reimburse to PBR all transportation and other costs incurred by PBR in connection with the rejected goods.
7. SUPPLIER'S LIABILITY FOR SUPPLY OF NON-CONFORMING OR DEFECTIVE GOODS — The Supplier shall be liable for and shall indemnify PBR for any loss, damage or costs (including, but not limited to, any sums which are paid or payable



by PBR to third parties) sustained or incurred by PBR as a result of the manufacture and/or supply of goods which do not comply with the warranties set out in clause 5. The said liability of the Supplier shall not be affected by any failure by PBR to inspect the defective goods upon or after delivery of the same or any failure by PBR to detect or discover the defect, whether or not such failure to inspect the goods or failure to detect or discover the defect was unreasonable or negligent in the circumstances, and it shall not be competent for the Supplier to assert or set up such a failure to inspect the goods or such a failure to detect or discover the defect or such unreasonableness or negligence as a defence (either in whole or in part) to any claim, action or suit by PBR in respect of the manufacture and/or supply of the defective goods.

8. SUPPLIERS LIABILITY FOR RECALL —

a) Without limiting the generality of clause 7 hereof, in the event that any goods supplied to PBR by the Supplier fail to comply with the warranties set out in clause 5 and this necessitates a recall of any product or thing incorporating the defective goods, whether such recall be made by PBR or any customer of PBR or any other party, the Supplier shall indemnify, protect and hold harmless PBR, its successors, assigns, customers and the users of its products against all actions, claims, demands, expenses, costs and liabilities incurred or arising as a consequence of any such recall and without limiting the generality of the foregoing, the Supplier shall reimburse PBR for all costs and expenses incurred by PBR whether directly or indirectly as a result of or in connection with any such recall.

b) For the purposes of sub-clause 8(a) above, costs and expenses incurred by PBR indirectly as a result of or in connection with any recall shall include any costs, damages or other moneys paid or payable by PBR to any other party as a result of or in connection with such recall.

9. SUPPLIER TO MAINTAIN POLICY OF INSURANCE — The Supplier shall take out and maintain at its own cost a policy or policies of insurance with coverage and limits of liability which are prudent and necessary in order to cover the Supplier's obligations and potential liability under this contract. Without limiting the generality of the foregoing, the said insurance is required to insure the Supplier against all claims, demands, losses or liabilities brought or made by PBR and/or incurred by the Supplier pursuant to the indemnity in clause 8 above. The said insurance shall be written by an insurance company reasonably satisfactory to PBR and shall contain terms and conditions which are reasonably satisfactory to PBR and the Supplier shall provide PBR with a copy of such policy or a certificate evidencing the required coverage provided that the approval of PBR of any insurance will not relieve the Supplier from its obligations or liabilities under this clause 9 including, without limitation, the Supplier ensuring that it takes out and maintains adequate insurance.

10. INSOLVENCY AND CANCELLATION — In the event of any suspension of payment or proceedings by or against either party, voluntary or involuntary, in bankruptcy, or insolvency or winding up or for the appointment of a liquidator, or in the event of the breach of any of the terms, including the warranties of the Supplier, the other party shall be entitled to cancel this order forthwith.

11. BLUEPRINTS, TOOLS, ETC. — All tools, gauges, jigs and other equipment and all drawings, blueprints and specifications and other documents supplied without charge to the Supplier by PBR and all goods which shall have been purchased or manufactured by the Supplier and for which PBR shall have paid or will pay the full value thereof pursuant to this order shall be the sole property of PBR. Any tools, gauges, jigs and other equipment and drawings, blueprints and specifications and



other documents which have been purchased by the Supplier from PBR and for which the Supplier shall have paid the full value thereof shall be the sole property of the Supplier subject to any copyright or other rights subsisting therein which shall remain with PBR.

On completion or cancellation of this contract, the Supplier shall at the request of PBR deliver to PBR all finished and unfinished work relevant to this order and all such tools, gauges, jigs and other equipment and all drawings, blueprints, specifications and other documents supplied without charge to the Supplier by PBR or created by or on behalf of the Supplier for the purpose of this order.

COPYRIGHT — PBR shall be the owner of and shall have the entire right, title and interest in all or any copyright or other rights subsisting in all and any drawings, blueprints, specifications and other documents created by or on behalf of the Supplier and in all and any goods which shall have been purchased or manufactured by the Supplier for the purpose of this order and the Supplier shall do all such acts, matters and things as required by PBR at any time to better effect PBR's right, title and interest in the same.

REPRODUCTION — Save and insofar as is necessary for the purpose of this order, the Supplier is not under any circumstances authorised to reproduce in any manner or form any of the equipment, goods, drawings, blueprints, specifications and other documents referred to in this clause, without the permission in writing from PBR.

12. **WAIVER** — Waiver by the Supplier or any specific default or defaults by the Supplier or failure by PBR to cancel this order or any part thereof when right of cancellation arises shall not constitute waiver by PBR of any rights of PBR under any of the terms and conditions of this order arising through any further or subsequent default by the Supplier, whether giving rise to a right of cancellation of a claim for damages.
13. **PATENT PROTECTION** — The Supplier shall indemnify, protect and hold harmless PBR, its successors, assigns, customers and the users of its products by reason of the use or sale of the goods hereby ordered, against all actions or suits at law or in equity, from all damages, claims and demands for actual or alleged infringement of any letters patent, trade marks, copyright and/or designs or any other corresponding protection granted by Commonwealth of Australia or by any other country foreign thereto. If these goods are protected by one or more Patents and a decree of judgement be entered in a court of competent jurisdiction holding any such patent or any of its claims invalid or so limited in scope as to impair its protection commercially, this order may forthwith be cancelled by PBR.
14. **TECHNICAL INFORMATION DISCLOSED TO OR BY PBR** — The Supplier agrees not to assert any claim (other than a claim for patent infringement) with respect to any technical information which the Supplier shall have disclosed or may hereafter disclose to PBR in connection with the goods and services covered by this order. The Supplier furthermore agrees to treat and maintain confidential all and any technical information disclosed by PBR to the Supplier for so long as such technical information remains confidential and does not become a part of the public domain by reason of a breach of confidence by the Supplier.
15. **PUBLICATION** — The Supplier shall not, without first obtaining the written consent of PBR, in any manner advertise or publish the fact that the Supplier has contracted with PBR for supply of the goods herein mentioned.
16. **ASSIGNMENT** — This order is not transferable unless authority is received in writing, from PBR.
17. **RESTRICTIONS OF SALE** — The Supplier shall not without first having obtained the approval of PBR in writing, furnish any goods for the manufacture of which drawings and/or specifications and/or samples are supplied to the Supplier by PBR to any third



party nor will he manufacture them for commercial sale other than to PBR. This restriction applies even though the Supplier ceases to make the goods for PBR.

18. PRICING CONTROL — This order is placed on the express condition that the prices set out do not exceed the maximum prices at which the goods may be sold pursuant to any laws of the Commonwealth and/or State in which such goods are purchased.
19. PRICE — The price(s) quoted is firm and does not include sales tax, stamp duty or any other governmental impost all of which (other than goods and services tax) shall be payable by the Supplier if applicable. No price increases are acceptable unless confirmed by PBR. The Supplier must supply PBR with a tax invoice and all other necessary assistance in order for PBR to claim input credits pursuant to A New Tax System (Goods and Services Tax) Act 1999 and any subsequent laws or regulations in respect of goods and services supplied by the Supplier.
20. RIGHT TO AUDIT — Where a firm or fixed price has not been established, the Supplier's pertinent records relating to charges are to be made available if required, for audit by members of PBR's audit staff.
21. POTENTIALLY HARMFUL INGREDIENTS — The Supplier agrees to furnish promptly to PBR:
 - 1) upon written request a list of all ingredients in materials purchased herein and, as necessary, the amount of one or more ingredients; and/
 - 2) thereafter information concerning any changes in such ingredients.
22. EDI TRANSMISSION — Where PBR transmits an order to the Supplier by way of electronic data interchange ("EDI"), then where an EDI agreement exists between the Supplier and PBR, such EDI Agreement shall apply to that contract and prevail in case of any inconsistency with these conditions of purchase and any other conditions stipulated by PBR where no EDI Agreement exists between the Supplier and PBR Pty. Ltd., these Terms and Conditions shall apply.
23. FINAL AGREEMENT — Where PBR places an order with the Supplier then:
 - a) these conditions of purchase and any other conditions stipulated by PBR;
 - b) any terms and conditions incorporated by reference herein;
 - c) the terms and conditions of the delivery schedules to be provided by PBR hereunder; and
 - d) where clause 22 above applies, the EDI agreement,
 - e) contain the complete and final agreement between PBR and the Supplier. No other terms or conditions (including without limitation any terms or conditions contained in any invoice of the Supplier or in any other document prepared or issued by the Supplier whether received before or after this order purporting to specify, set forth or define the Supplier's terms of supply) will be binding upon PBR unless made in writing and signed by PBR's authorised representative.
24. DEFINITION—In this contract "goods" includes parts, materials or components or any part or parts thereof.

ADDITIONAL CONDITIONS/REQUIREMENTS FOR IMPORTED PRODUCT
25. BANKERS:—

National Australia Bank, 271 Collins Street, Melbourne, Victoria, 3000, Australia
26. INSURANCE:—

Purchaser will arrange cover under open Marine Policy (unless purchase is based on C.I.F. Pricing).
27. PACKAGES:—

To be sound export quality, indelibly port marked, (as per front of order) on two opposite exterior surfaces, with minimum height of print 25mm, and to be numbered 1 and upwards. No. 1 package to have copy of packing list secured below marks, for parcels post and airfreight, include also a copy of invoice. All timber packaging must

have been sterilised by a treatment method approved by the Australian Department of Health.

All other packing materials must conform to existing entry regulations.

28. BARE METAL surfaces to be fully protected to prevent corrosion and damage.

29. DOCUMENTS:—

Two negotiable sets to be sent to PBR by separate airmails and one non-negotiable copy to be sent by airmail to PBR's nominated customs agent.

Each set to consist of:—

I. Bills of lading — Show notify party as PBR Australia Pty. Ltd. 264 East Boundary Road, East Bentleigh, Victoria, 3165, Australia.

II. Commercial invoice specifying order no., price basis, country of origin.

Note: Bureau of Customs require:—

Product descriptions to be in English language.

All discounts to be clearly specified as to type (e.g. trade, quantity, cash, etc.).

Goods of declared preference countries to be shown on invoice under their preference category, and supported by certificate of origin.

Machinery invoices must show separate values and descriptions for:

a) Each driving unit (motor — identify horsepower and type of mounting-foot, flange, direct drive, etc.).

b) Each apparatus for transmitting power from driving unit to machine (v-belt, etc.).

c) Each device for regulating, starting or controlling driving unit (switches, etc.).

III. Packing list showing contents, markings, type of packages, metric dimensions, cubic measurement, net kilograms, gross kilograms of each package: with total packages, cubic measurements and gross kilograms of shipment.

IV. F.C.L. SHIPMENTS:

a) Certificate of timber treatment from approved fumigator.

b) Cost of inland freight after goods have been packed in container to be shown separately.

30. PRICE BASIS:—

Ex-Works Price to be cost of goods, ready for shipment, on vehicle at your works — cost beyond this point will be handled by purchaser.

F.O.B. Price is to be cost of goods at the nominated departure point (if port, on board vessel; if inland container depot, in container at depot) — costs beyond this point will be handled by purchaser.

C & F Price is to be cost of goods at the nominated port of destination on board vessel — purchaser responsible for costs beyond this point (including marine insurance).

C.I.F. Price is to be cost of goods, including insurance, at the nominated port of destination on board vessel — costs beyond this point will be handled by purchaser.

31. SPECIAL NOTES — MINIMUM SHIPMENTS

If sea consignments are less than 0.5m³, purchaser will be penalised by minimum freight rates.

In these instances the supplier is required to request from purchaser by facsimile or email, alternative shipping method.