



**PFITZNER**  
Performance Gearboxes

## TERMS AND CONDITIONS

### 1. DEFINITIONS

Pfitzner Performance Gearbox (PPG) means Pfitzner Performance Gearbox PTY Limited, ACN 095 283 686. The customer is the person or organization that has ordered and/or purchased a product (or products) and/or service (or services) from PPG.

'Goods' means products or services provided and/or manufactured by PPG.

### 2. GENERAL

These terms and conditions shall apply to the sale of all goods by PPG and are not affected by any terms and conditions stipulated by the customer.

There shall be no modification or waiver of these terms, unless confirmed by PPG in writing.

### 3. PRICES

Prices quoted for stock or bespoke parts are applicable for 30-days from the date of the quotation, unless agreed by PPG in writing. Customer purchase orders should refer to the quotation. Any discrepancies between these two documents will require a replacement quotation to be raised.

All prices quoted are ex-works and exclude shipping, handling, delivery and insurance. Tax and other duties will be invoiced to the customer as applicable in the territory at that time.

PPG reserves the right to alter the price of the goods to reflect any increase in costs that are beyond PPG's reasonable control, such as: fluctuations in foreign exchange rates and currency regulations; changes in rates of tax and excise; changes in costs of labour and materials; changes in rates for shipping, handling and delivery; changes in delivery dates; alterations to specification and quantities; delays caused by the customer's actions, errors and omissions; failure of the customer to supply adequate and accurate information.

### 4. PAYMENT

Orders must be secured with a deposit of at least 40% of the value of the work and/or goods. No work will commence until such time as this payment has been received.

Goods will be invoiced when ready for dispatch from PPG's premises. In no circumstances is the Customer entitled to make any deduction or withhold payment.

Where PPG has agreed to grant a credit arrangement to the Customer, payment must be made no later than the date agreed. Credit terms may be withdrawn or altered by PPG at any time with and without notice.

Without prejudice to any other rights or remedies of PPG, if the Customer fails to settle any invoice by the due date, interest shall be payable on any overdue amount from the date on which payment was due, to that on which it is made on a daily basis at the rate of 3% per annum above the base lending rate.

In addition, the Customer shall reimburse PPG all costs and expenses (including legal costs) that would be incurred in the collection of any overdue amount.

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If by reason of failure to pay, late payment or otherwise PPG considers that the customer's creditworthiness is impaired, then without prejudice to any other available rights and remedies, PPG shall be entitled to suspend

further deliveries of goods and will regard any former agreements between itself and the customer and null and void.

In the event that the customer wishes to cancel an order or project the project prior to delivery or completion, any outstanding invoices for work completed by PPG will be settled. In addition, the customer will reimburse PPG all costs (including irrevocable commitments) that PPG has incurred prior to cancellation that are not covered by outstanding invoices within 30 days of the date of invoice for such costs. This will include all costs related to engineering and manufacturing, whether the work has been completed or not.

## **5. DELIVERY**

All delivery dates quoted are based on information available at that time. They are to be considered as estimates only and are not binding, thereby excluding PPG from liability, consequential or otherwise, if goods are delayed or delivered on an alternative date.

Delays will not entitle the customer or any third party to claim for financial loss or damages (whether direct or indirect), neither will they entitle the customer to refuse delivery of the goods or refuse to pay in full when the goods are delivered.

Once the goods leave its premises, PPG will not accept any liability for loss or damage, howsoever caused, in any stages of transit. Once the goods have been delivered, the risk of damage passes wholly to the customer or any agent that represents the customer. However, if the customer reports that goods have been lost or damaged, PPG will assist with the claim against the shipping company.

In cases where goods are being supplied for overseas export and forwarding, it is the customer's responsibility to ensure that all documentation, legislation and regulations are complied with, plus applicable taxes, duties and excise charges are paid for. PPG accepts no liability for omissions and errors made by the customer.

## **6. OWNERSHIP OF GOODS & TOOLING**

All goods shall remain the property of PPG until the customer has paid for them in full. Until title passes the customer shall hold the goods as the fiduciary agent and bailee of PPG. It is the customer's responsibility to store the goods so they are identifiable as the property of PPG and shall allow access to representatives of PPG to visit the premises to check on or re-possess the goods until such time as full payment is made.

If the goods are not available or have been sold, then the customer is liable to pay the full amount of the resale to PPG, notwithstanding any other claim or costs that PPG may have incurred in order to recover the debt.

Any tooling, equipment and fixtures that are invoiced at part cost only are to remain the property of PPG.

## **7. WARRANTY AND EXTENT OF LIABILITY**

PPG shall have no liability to the Customer (other than liability for death or personal injury resulting from PPG's negligence) for any loss or damage of any nature arising from any breach of any expressed or implied warranty, term or condition of the contract, or from any negligence or breach of statutory or other duty on the part of PPG in connection with the performance - or purported performance of - or failure to perform the contract other than as set out in this condition. In no circumstances shall PPG be liable for any claims for indirect or consequential injury or damage (including loss of profits) arising from any such matters.

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Lightweight, weight-optimized and performance components are supplied subject to warranty only against manufacturing defects. It is possible that in certain conditions operating life may be reduced. Similarly prototype, experimental or components manufactured to the Customer's design are supplied subject to warranty only against manufacturing defects. Furthermore, such components - by their very nature - are not warranted as to their suitability for use or performance.

Goods intended for motorsport or any related application, or for product development, evaluation or experimentation, are supplied subject to the customer recognizing that such goods may operate under extreme

loads and conditions and that it is wholly the customer's responsibility to ensure that the goods are correctly fitted, inspected, adjusted and maintained at all times to suit the specific conditions in which they may be used.

It is the customer's responsibility to ensure that the correct type and specification of products are fitted and that the products' published limitations are not exceeded. PPG will accept no responsibility whatsoever for failure, damage, injury or consequential loss if the wrong product or products have been used or, in the opinion of PPG, if excessive loads have been applied to the components, in particular if used during an activity that can be described as motorsport, be it competitive or otherwise.

Subject to the provisions of Condition 5 which apply in the case of loss or damage in transit, if the customer establishes that any goods have not been delivered, or have been delivered damaged, or are not of the correct quantity, or do not comply with their description, PPG shall - at its option - either;

- (1) Replace with similar goods any goods which are so missing or damaged or do not comply with their description or;
- (2) Credit the customer for their invoice value or;
- (3) Repair any damaged goods.

In the case of goods not manufactured by PPG, the sole liability shall be passed to the customer together with the benefit of any guarantees, conditions or warranties received by PPG in respect of such goods.

Subject to the preceding paragraph, if the customer establishes that any goods are defective and notifies PPG in writing to this effect and returns the goods in question - carriage paid to PPG - within a period of six months from the date of delivery, PPG shall - at its option - either;

- (1) Replace with similar goods or;
- (2) Repair any defective goods or;
- (3) Allow the customer credit for their invoice value.

No claim shall arise against PPG for any defect arising from any design or specification provided by the Customer or if any person other than PPG has done any adjustments, alterations or other work to the goods. In no circumstances shall the liability of PPG to the customer exceed the invoice value of the goods.

## **8. RESPONSIBILITY OF THIRD PARTY DAMAGES AND RIGHTS**

PPG will not be responsible for damages, costs and expenses that are the result of work carried out in accordance with customer requests, designs or specifications. This includes the infringement - or alleged infringement - of third party intellectual property rights, registered designs or patents.

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#### **9. SUB-CONTRACTING OF WORK**

PPG reserves the right to sub-contract work – either in whole or part - at its absolute discretion.

#### **10. CONFIDENTIALITY**

Any information, technical or otherwise, provided by PPG to the customer remains the property of PPG and is to be regarded as confidential and may not be disclosed unless written permission has been granted by PPG. Permission to disclose does not transfer the ownership or rights of the property.

#### **11. RETURN OF GOODS**

In cases where PPG has agreed that goods may be accepted for credit, they must be returned in good order and a re-saleable condition within six-months of being supplied. Carriage will not be paid by PPG unless previously agreed in writing with the customer. A handling charge may be applied, typically 10%.

Goods made to special order cannot be returned and therefore, no credit will be issued unless it is proved conclusively that they are incorrectly made or defective as a result of work carried out by PPG.

#### **12. LAW**

In cases of dispute, Australian law will apply. This law and these terms and conditions will apply to the exclusion of any conflicting laws and terms and conditions of the customer or the country in which they reside.

**ENDS**

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