



## **Consumer Goods (Motor Vehicles With Affected Takata Airbag Inflators and Specified Spare Parts) Recall Notice 2018**

---

I, Michael Sukkar, Assistant Minister to the Treasurer, issue the following recall notice.

Dated 27/02/ 2018

Michael Sukkar  
Assistant Minister to the Treasurer

---

# Contents

<b>Part 1—Preliminary</b>	<b>2</b>
1 Name	2
2 Commencement	2
3 Authority	2
4 Definitions	2
<b>Part 2—Recall</b>	<b>6</b>
5 Recall	6
6 Replacement, quarantine and destruction of Affected Takata Airbag Inflators	9
7 Notification of Consumers	11
8 Recall Database and recall information on Supplier's website	13
9 Second-hand Vehicles	15
10 Consumer dispute resolution	18
11 Record keeping and reporting	18
12 Independent auditor	20
13. Applications to the ACCC	21
14. Documents which may be published on the Product Safety Australia Website	21
<b>Schedule 1—Recall and Replacement Timetable, Recall Initiation Schedule and Quarterly Completion Schedule</b>	<b>22</b>
<b>Schedule 2 –Communication and Engagement Plan</b>	<b>31</b>
General	31
Content of Consumer communications	31
Direct Consumer Communications Campaign	36
Advertising and public media campaign	37
Obtaining and updating Consumer contact information	38

## Part 1—Preliminary

### 1 Name

This Recall Notice is the Consumer Goods (Motor Vehicles With Affected Takata Airbag Inflators and Specified Spare Parts) Recall Notice 2018.

### 2 Commencement

- (1) Each provision of this Recall Notice specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	[Insert day after notice is registered].	[insert day after notice is registered]

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This Recall Notice is made under section 122 of the ACL.

### 4 Definitions

In this Recall Notice, the following definitions apply:

**ACCC** means the Australian Competition and Consumer Commission.

**ACL** means the Australian Consumer Law set out in Schedule 2 to the CCA as it applies as a law of the Commonwealth, States and Territories: see section 140K of the CCA and corresponding provisions of Acts of States and Territories applying that Schedule.

**active recall** means when recall action has been initiated in respect of a Vehicle. When the relevant Affected Takata Airbag Inflator subject to the recall action has been replaced, the Vehicle is no longer under active recall. However, the Vehicle may be under active recall again in the future if further recall action is initiated for the Vehicle in relation to another Affected Takata Airbag Inflator in the Vehicle.

**Affected Takata Airbag Inflator** means a frontal driver or passenger airbag inflator made by Takata that uses either Phase Stabilised Ammonium Nitrate (PSAN) without desiccant (including an Alpha Inflator) or PSAN with calcium sulphate desiccant.

**Alpha Inflator** means an inflator made by Takata using Phase Stabilised Ammonium Nitrate propellant, which is a PSDI inflator manufactured between 1 August 2000 and 31 December 2001, or an SPI, PSPI or PSPI-L inflator manufactured between 1 August 2000 and 31 December 2002.

**CCA** means the *Competition and Consumer Act 2010* (Cth).

**Communication and Engagement Plan** is a plan as required by section 7 of this Recall Notice.

**Consumer** means the owner of a Vehicle.

**Consumer Goods** means the following goods:

- (a) a Vehicle; and/or
- (b) a Spare Part.

**contact details**, in relation to a requirement to seek and/or provide contact details of a person in connection with a requirement in this Recall Notice, means at least a postal address, email address and telephone number.

**Dealer** means any vehicle dealer owned, licensed or authorised by a Supplier to sell Vehicles to Consumers.

**Director** has the meaning given by section 9 of the *Corporations Act 2001* (Cth).

**Durable Label** means a label of material and with printing adequately durable for the environment in which the label is located. In order to be adequately durable, such a label must, at a minimum, be impervious to all fluids and vapours to which it is likely to be exposed in normal vehicle operation and maintenance, and must not be removable other than by its destruction.

**import**, in relation to a Vehicle or Spare Part, means doing an act which constitutes importation of the Vehicle or Spare Part for the purposes of the *Customs Act 1901* (Cth).

**initiate recall action**, for the recall of Vehicles, means take steps to contact Consumers directly or as otherwise approved under a Communication and Engagement Plan to commence replacement of Affected Takata Airbag Inflators. Once a Supplier has initiated recall action in respect of a Vehicle, that Vehicle is said to be under **active recall**.

**Officer** has the meaning given by section 9 of the *Corporations Act 2001* (Cth).

**Original Equipment Manufacturer** means a corporation that controls the original designs and processes to manufacture and assemble a vehicle and holds itself out to the public as the manufacturer of the vehicle.

**PRA Number** means Product Recall Assessment Number and is a unique number allocated to each recall notified to the ACCC.

**Priority Factors** means the factors that Suppliers must use to prioritise replacement of Affected Takata Airbag Inflators as specified at clause 4 of Schedule 1 to this Recall Notice.

**Product Safety Australia Website** means the dedicated product safety website maintained by the ACCC at <https://www.productsafety.gov.au/>.

**Quarterly Completion Schedule** means the schedule specified at clause 3 of Schedule 1 to this Recall Notice.

**Recall Initiation Schedule** means a schedule required by clause 2 of Schedule 1 to this Recall Notice.

**Recall Database** means an online database as required by section 8 of this Recall Notice.

**Recall and Replacement Timetable** means the timetable specified at clause 1 of Schedule 1 to this Recall Notice.

**Related Body Corporate** means any body corporate that would be deemed to be a related body corporate by section 6 of the ACL.

**Regulator** has the meaning given by section 2 of the ACL.

**Representative** includes a Director, Officer, Senior Manager, employee, servant, agent and contractor.

**Senior Manager** has the meaning given by section 9 of the *Corporations Act 2001* (Cth).

**Spare Part** means an Affected Takata Airbag Inflator, or a part containing an Affected Takata Airbag Inflator, that is supplied in Australia.

**Supplier** means any person who is the first person to, in trade or commerce, supply a Vehicle in Australia, and may include:

- (a) the Original Equipment Manufacturer of the Vehicle or a Related Body Corporate of the Original Equipment Manufacturer;
- (b) a licensed distributor of the Original Equipment Manufacturer or of a Related Body Corporate of the Original Equipment Manufacturer; or
- (c) a person who is licensed or approved under the *Motor Vehicles Standards Act 1989* (Cth) and/or Motor Vehicles Standards Regulations 1989 (Cth) to supply new and/or second hand vehicles in Australia and does not fall within (a) or (b) above.

Note 1: A Dealer is not a Supplier in relation to Vehicles and Spare Parts that it supplies to Consumers.

Note 2: A person is not a Supplier in relation to a Vehicle or Spare Part that it imports on behalf of another party, unless the person also supplies the Vehicle or Spare Part in Australia by way of sale, exchange, lease, hire or hire-purchase.

*supply* has the meaning given by section 2 of the ACL.

*Supply Profile* means the quantity, make, model and target market of Vehicles supplied by the Supplier in Australia.

*Takata* means Takata Corporation and its Related Bodies Corporate.

*TPA* means the *Trade Practices Act 1974* (Cth).

*trade or commerce* has the meaning given by section 2 of the ACL

*Vehicle* means a motor vehicle that is supplied in Australia and that is intended to be used, or is of a kind likely to be used, for personal, domestic or household use or consumption, and that has an Affected Takata Airbag Inflator installed.

*VIN* means a vehicle's unique alpha numeric identification number

## Part 2—Recall

### 5 Recall

#### *General*

- (1) Nothing in this Recall Notice alters consumer rights and remedies or obligations on any person who, in trade or commerce, supplies Vehicles or Spare Parts, under the ACL, the CCA, and the TPA, including the consumer guarantees provisions of the ACL and the implied warranties provisions of the TPA, or any other Australian law.

#### *Vehicles*

- (2) The Supplier of a Vehicle must:
- (a) initiate the recall of a Vehicle as follows:
    - i. for a Vehicle with an Alpha Inflator, in accordance with the requirements set out in Schedule 1 and with communications consistent with the requirements of Schedule 2; and
    - ii. for a Vehicle with an Affected Takata Airbag Inflator that is not an Alpha Inflator, in accordance with the requirements set out in Schedule 1 and a Communication and Engagement Plan approved by the ACCC in accordance with section 7; and
  - (b) replace the Affected Takata Airbag Inflator (in accordance with this section, section 6, and the requirements set out in Schedule 1, but in any event by 31 December 2020 or such other date as approved by the ACCC).
- (3) Subject to subsections 5(4) and (5), a Supplier will be considered to have complied with its obligation to replace Affected Takata Airbag Inflators under this Recall Notice, when:
- (a) all Affected Takata Airbag Inflators have been replaced (in accordance with this section, section 6, and the requirements set out in Schedule 1); or
  - (b) the Supplier applies to the ACCC for assessment of its compliance with its replacement obligations and the ACCC advises the Supplier that it is satisfied that the Supplier has complied with its replacement obligations under this Recall Notice.
- (4) A Supplier of Vehicles will be considered to have complied with its obligation under this Recall Notice to replace an Affected Takata Airbag Inflator even if the Affected Takata Airbag Inflator was not replaced as required by this Recall Notice if the ACCC is satisfied that:
- (a) a Consumer did not present the Vehicle for replacement of the Affected Takata Airbag Inflator despite multiple notifications under

a Communication and Engagement Plan approved in accordance with this Recall Notice or, where notification preceded this Recall Notice, by means (and using language) reviewed after this Recall Notice and approved by the ACCC as acceptable. For the purposes of this provision, a Consumer will be taken to have been adequately notified where a Supplier can show that the Consumer has been notified in accordance with an approved Communication and Engagement Plan. In accordance with the requirements of Schedule 2, proven notification of a Consumer may require multiple notification across multiple channels where necessary; or

- (b) a Consumer could not be notified in circumstances where a Supplier properly implemented an approved Communication and Engagement Plan as required by this Recall Notice or, where notification preceded commencement of this Recall Notice, by means approved by the ACCC as acceptable; or
- (c) the Vehicle has not been registered for at least two consecutive years with any State or Territory registration authority; or
- (d) the Vehicle has been scrapped, exported or stolen.

To be satisfied of the above, the ACCC must be provided with adequate evidence by the Supplier.

- (5) Despite subsections 5(3) and (4), any Supplier with less than 100% actual replacement of Affected Takata Airbag Inflators must use its best endeavours to identify Vehicles presented to its Dealer network, and must seek to replace the Affected Takata Airbag Inflator whenever it identifies a Vehicle. This obligation is ongoing, survives any ACCC confirmation of completion and extends beyond 31 December 2020 until such time as a Supplier can demonstrate with adequate evidence to the ACCC that it has achieved 100% actual replacement.
- (6) Where a Supplier replaces an Affected Takata Airbag Inflator, the Supplier must bear the cost of the replacement, including any necessary transportation costs. In this regard:
  - (a) if the replacement process will deprive the Consumer of the use of their Vehicle for more than 24 hours, then, at the Consumer's request, the Supplier must provide the Consumer with a loan or hire vehicle, or offer to fund or provide alternative transportation which is reasonable in the circumstances of the Consumer, for the duration of the replacement process;
  - (b) if the Vehicle has an Alpha Inflator, then the Supplier must offer to arrange for the Vehicle to be towed to the place of replacement or for a qualified technician to travel to the Vehicle (or some similar arrangement so that the Consumer need not drive the Vehicle); and
  - (c) where circumstances reasonably warrant special arrangements to facilitate the replacement, then, at a Consumer's request, the Supplier must make those arrangements at no cost to the Consumer. Special arrangements may include towing/transporting a vehicle to a place of replacement, providing a qualified technician to perform



replacement at a place near the Consumer's location, or other similar measures. Examples of situations where special arrangements may be warranted include those involving a Consumer who is:

- i. elderly, infirm, disabled or otherwise has special needs;
  - ii. located more than 250 kilometres from the nearest place of replacement a Supplier can arrange; or
  - iii. located on an island which does not have a Dealer in the Supplier's Dealer network or another qualified place of replacement authorised by the Supplier.
- (7) A Supplier may apply to the ACCC to vary a date specified in this Recall Notice, including Schedule 1. In considering the variation application and determining an appropriate variation, if any, the ACCC will have regard to the reasons and information provided with the application, and any other relevant information, including the following:
- (a) the safety risk to Consumers in all of the circumstances, including but not limited to the age and location of relevant Vehicles, the location of the Affected Takata Airbag Inflator in the Vehicle, and the Affected Takata Airbag Inflator family(ies) involved;
  - (b) the steps the Supplier has taken to obtain replacement airbag inflators;
  - (c) the steps the Supplier has taken to increase qualified repair personnel or facilities, as needed;
  - (d) the steps the Supplier has taken to identify and notify affected Consumers; and
  - (e) the steps the Supplier has taken to address the risk of death or injury associated with Vehicle use until the Affected Takata Airbag Inflator is replaced (for example, offering affected Consumers a loan or hire car).
- (8) A Supplier must put in place arrangements with its Dealers to allow Consumers to take their Vehicle to any Dealer within the Supplier's Dealer network for replacement of the Affected Takata Airbag Inflator in the Vehicle.
- (9) A Supplier may satisfy obligations under this Recall Notice by action undertaken by a Dealer or other authorised representative of the Supplier on the Supplier's behalf. A Supplier must ensure that any such Dealer or other authorised representative complies with the requirements of and prohibitions in this Recall Notice when acting on behalf of the Supplier.

### ***Spare Parts***

- (10) A person who, in trade or commerce, supplies airbags or airbag inflators and is or becomes aware that they have a Spare Part (other than a Spare Part intended to be used as a replacement part in accordance with this Recall Notice) in their possession, power or control, must, as soon as practicable, notify a Supplier that supplies a vehicle into which the person believes the

Spare Part could be installed, or the Supplier of the Vehicle from which the Spare Part has been removed, that it has a Spare Part so that the Supplier can make arrangements for the Spare Part to be safely retrieved. The notification of the Supplier may be through the Supplier's Dealer network or head office, and must specify the name of the person holding the Spare Part and relevant details of the Spare Part, including quantity, type and any other relevant information.

- (11) A person who, in trade or commerce, supplies airbags or airbag inflators must use their best endeavours to identify whether any parts they have in their possession, power or control are Spare Parts. Best endeavours include reading information provided by a Supplier under section 9, periodically checking Vehicle recall details (including lists of VINs of affected Vehicles, Recall Databases and Recall Initiation Schedules) available on Supplier websites, and checking the Product Safety Australia Website.
- (12) A Supplier notified in accordance with subsection 5(10) must retrieve the relevant Spare Part at its own cost and handle the Spare Part in the same way it would handle any Affected Takata Airbag Inflator removed from a Vehicle.
- (13) A person who, in trade or commerce, supplies airbags or airbag inflators must not supply a Spare Part or install one in any vehicle unless that act is specifically permitted by this Recall Notice and is in compliance with the requirements of section 6.

#### ***Supply of new Vehicles with Affected Takata Airbag Inflators***

- (14) A person must not, in trade or commerce, supply a new Vehicle (or demonstration Vehicle that has not previously been supplied to a Consumer) with an Affected Takata Airbag Inflator in any circumstances after 31 December 2018. If a person supplies such a Vehicle before 31 December 2018, the person must comply with the other provisions of this Recall Notice, and in particular the requirements in section 7.

#### **6 Replacement, quarantine and destruction of Affected Takata Airbag Inflators**

- (1) A Supplier must not, under any circumstances, use an Alpha Inflator as a replacement inflator.
- (2) A Supplier must use its best endeavours to replace an Affected Takata Airbag Inflator with an inflator that is not an Affected Takata Airbag Inflator. From 31 December 2019, an Affected Takata Airbag Inflator must not be used as a replacement under any circumstances.
- (3) If, prior to 31 December 2019, a Supplier considers that it is necessary to use a new Affected Takata Airbag Inflator as a replacement inflator in a Vehicle pursuant to subsection 5(2), then the Supplier must:
  - (a) notify the Consumer (orally and in writing at the time of replacement) in clear and simple language in accordance with the requirements of Schedule 2 and approved as part of a Communication and Engagement Plan that:

- i. an Affected Takata Airbag Inflator has been used as a replacement and will itself need to be replaced;
  - ii. to avoid risk of future injury or death, the Affected Takata Airbag Inflator must be replaced as soon as possible after the Supplier initiates active recall of the inflator, specifying the applicable date or, if the Recall Initiation Schedule is not yet available, referring the Consumer to the Supplier's website and noting that the Recall Initiation Schedule will be published there; and
  - iii. the Supplier will make direct contact with the Consumer to arrange for replacement when recall action is initiated; and
- (b) record (at least) the following information in the service record of the Vehicle:
- i. that the Vehicle is installed with a faulty Takata airbag inflator;
  - ii. the location of the inflator (that is, driver side, passenger side, or both); and
  - iii. that, to avoid future risk of injury or death due to misdeployment, the Affected Takata Airbag Inflator must be replaced as soon as possible after recall action is initiated for the Inflator, and either specify the applicable date from the Recall Initiation Schedule (once available), or note that the Recall Initiation Schedule will be published on the Supplier's website; and
- (c) cause a notice to be affixed on the Vehicle's front windscreen and a Durable Label to be affixed in the Vehicle's engine bay containing (at least) the following statement:
- “This vehicle is fitted with a faulty Takata airbag inflator in the [specify airbag, e.g. driver side, passenger side or both]. Replace as soon as possible after [insert, as applicable, either the date recall action is to be initiated as specified in the Recall Initiation Schedule (once available), or, if the Recall Initiation Schedule is not yet available, words to the effect of ‘notification of active recall of the inflator’] to avoid risk of future injury or death due to misdeployment.”
- (4) If a Supplier has replaced an Affected Takata Airbag Inflator with another Affected Takata Airbag Inflator prior to the commencement of this Recall Notice, then, if the Supplier has not already done so using substantially similar language to that set out in subsection 6(3), the Supplier must inform the relevant Consumer in writing that this has occurred as soon as possible using substantially similar language to that set out in subsection 6(3). The language used by the Supplier to inform the relevant Consumer may be amended or modified as required depending on the date for further replacement in accordance with Schedule 1 (e.g., if the date for replacement

is known and the communication is a notification of recall, it should clearly state this).

- (5) Where a Supplier removes an Affected Takata Airbag Inflator, or an Affected Takata Airbag Inflator otherwise comes into the possession, power or control of a Supplier, and that Affected Takata Airbag Inflator is not intended to be used to replace another Affected Takata Airbag Inflator, then the Supplier must ensure that it is immediately quarantined, labelled and handled in a manner to prevent re-use for any purpose other than testing by or on behalf of the Supplier.
- (6) A Supplier must provide instructions to its Dealers or other authorised representatives regarding quarantine, labelling and handling of Affected Takata Airbag Inflators and must provide evidence of these instructions to the ACCC on request.
- (7) A Supplier must ensure that all Affected Takata Airbag Inflators in its possession, power or control are ultimately destroyed or used in testing and must provide evidence of this to the ACCC on request.

## 7 Notification of Consumers

### *Communication and Engagement Plan*

- (1) A Supplier must develop and implement a Communication and Engagement Plan for contacting, communicating with, and engaging with Consumers, and for maximising rates of replacement of Affected Takata Airbag Inflators under this Recall Notice. In particular:
  - (a) a Supplier that falls within (a) and (b) of the definition of Supplier must develop and implement a Communication and Engagement Plan which, at a minimum, addresses the requirements in Schedule 2;
  - (b) a Supplier that falls within (c) of the definition of Supplier must develop and implement a Communication and Engagement Plan that adopts some or all of the measures outlined in Schedule 2 as are reasonable and appropriate for the circumstances of the Supplier.
- (2) Each Supplier must submit a Communication and Engagement Plan to the ACCC within one month of the commencement of this Recall Notice.
- (3) Where this Recall Notice requires specified language for specified communications, that language must be used.
- (4) If the ACCC considers that a Communication and Engagement Plan submitted pursuant to this section is inadequate, then the ACCC will propose improvements to the Plan and the Supplier must submit a revised Plan within 5 business days of receipt of the ACCC's proposed improvements, or by some other date if agreed by the ACCC. The ACCC will consider the revised Plan and if it still considers that the Plan is inadequate, then the ACCC will propose further improvements to the Plan, and the Supplier must submit a further revised Plan within 5 business days of receipt of the ACCC's proposed improvements. If the ACCC considers that the second revised Plan

is inadequate, then the ACCC will specify the required communications and Consumer engagement to be undertaken by the Supplier.

- (5) If a Supplier wishes to amend an approved Communication and Engagement Plan, then it must notify the ACCC and seek ACCC approval of the proposed amendments to the Plan. The ACCC will apply the same process as that set out in subsection 7(4) for assessment and approval (or specification, as applicable) of any amended Plan.
- (6) The ACCC will have regard to the following matters when assessing the adequacy of a Plan, any proposed amendments to a Plan and prescribing a Plan for a Supplier:
  - (a) the Supplier's submissions in respect of the Plan;
  - (b) the communications and engagement activities already undertaken by the Supplier under Vehicle recalls commenced prior to the commencement of this Recall Notice;
  - (c) the Supplier's relevant Supply Profile;
  - (d) the Supplier's replacement rates of Vehicles already recalled (if any), and replacement capacity;
  - (e) the matters set out in Schedule 2 to this Recall Notice;
  - (f) for amendments, any relevant reports or information received pursuant to the requirements of this Recall Notice, as well as the Recall Initiation Schedule and the Quarterly Completion Schedule;
  - (g) the size and resources of the Supplier; and
  - (h) any other matter.
- (7) If a Supplier has already commenced recall of Vehicles prior to commencement of this Recall Notice and recall of some category of Vehicles is planned for initiation prior to approval of a Communication and Engagement Plan, then the Supplier may initiate that recall(s) but must use communications consistent with the requirements of Schedule 2 for direct Consumer communications in initiating the recall.

***Prescribed communications with supply of a new Vehicle***

- (8) Where a Dealer or a Supplier that falls within category (c) of the definition of Supplier is supplying a new or demonstration Vehicle that has not previously been supplied to a Consumer, and the Vehicle contains an Affected Takata Airbag Inflator not yet under active recall under this Recall Notice (which supply is prohibited after 31 December 2018 pursuant to subsection 5(14)), then prior to supply, the Dealer or a category (c) Supplier must:
  - (a) notify the Consumer (orally and in writing) in clear and simple language in accordance with the requirements of Schedule 2 and approved as part of a Communication and Engagement Plan that:
    - i. the Vehicle contains an Affected Takata Airbag Inflator that will require replacement;

- ii. to avoid future risk of injury or death, the Affected Takata Airbag Inflator must be replaced as soon as possible after the Supplier initiates active recall of the inflator, specifying the applicable date or, if the Recall Initiation Schedule is not yet available, referring the Consumer to the Supplier's website and noting that the Recall Initiation Schedule will be published there; and
  - iii. the Supplier will make direct contact with the Consumer to arrange for replacement when recall action is initiated; and
- (b) record at least the following information in the service record of the Vehicle (or some other information if approved as part of the Communication and Engagement Plan):
- i. that the Vehicle is installed with a faulty Takata airbag inflator;
  - ii. the location of the inflator (that is, driver side, passenger side, or both); and
  - iii. that, to avoid future risk of injury or death due to misdeployment, the Affected Takata Airbag Inflator must be replaced as soon as possible after recall action is initiated for the Inflator, and either specify the applicable date from the Recall Initiation Schedule (once available), or note that the Recall Initiation Schedule will be published on the Supplier's website; and
- (c) cause a notice to be affixed on the Vehicle's front windscreen and a Durable Label to be affixed in the Vehicle's engine bay containing at least the following statement (or some other statement if approved as part of a Communication and Engagement Plan):
- "This vehicle is fitted with a faulty Takata airbag inflator in the [specify airbag, e.g. driver side, passenger side or both]. Replace as soon as possible after [insert, as applicable, either the date recall action is to be initiated as specified in the Recall Initiation Schedule (once available), or if the Recall Initiation Schedule is not yet available, words to the effect of 'notification of active recall of the inflator'] to avoid risk of future injury or death due to misdeployment."
- (9) A Supplier must provide clear instructions to its Dealers regarding the communications required under subsection 7(8) and must provide its Dealers with copies of the written communications required to be provided to Consumers under paragraph 7(8)(a) and the notices and Durable Labels required to be affixed to Vehicles under paragraph 7(8)(c).

## **8 Recall Database and recall information on Supplier's website**

- (1) A Supplier that falls within categories (a) or (b) of the definition of Supplier must comply with the obligations in this section.

- (2) A Supplier must establish and maintain a Recall Database on the Supplier's website that allows Consumers to enter a VIN into a search field and obtain immediate information about the Takata recall status of the Vehicle. The Recall Database must be established and accessible to Consumers by no later than 1 July 2018 or another date approved by the ACCC on application.
- (3) The Supplier's Recall Database must, at a minimum:
- (a) inform a Consumer of the model and release year of any vehicle matching the VIN;
  - (b) inform a Consumer of the recall status of any vehicle matching the VIN by identifying its status as any of the following as applicable:
    - i. complete (meaning the vehicle has had any Affected Takata Airbag Inflator replaced and the replacement inflator does not require future replacement);
    - ii. active (meaning the Vehicle is subject to active recall at the time of the VIN search, including for replacement of a replacement inflator);
    - iii. future (meaning the Vehicle is not subject to active recall at the time of the VIN search, but that recall action will be initiated for the Vehicle in the future, with the expected date of recall initiation stated according to the Recall Initiation Schedule); or
    - iv. critical (meaning that the Vehicle is subject to an active recall and the Affected Takata Airbag Inflator poses a heightened safety risk and it is critical that replacement occurs immediately. This will apply to Alpha Inflators and may also be specified to other categories of Affected Takata Airbag Inflators as determined by the Supplier);
  - (c) provide Consumers with a description of the safety risk and what action the Consumer should take, using language approved in the Supplier's Communication and Engagement Plan or if prior to ACCC approval of such plan, consistent with the requirements of Schedule 2; and
  - (d) provide Consumers with the relevant PRA Number assigned to the recall by the ACCC, if applicable;
  - (e) provide Consumers with a link to other relevant information concerning the Supplier's Takata recall (including information required to be provided under this Recall Notice);
  - (f) if Vehicles supplied by the Supplier are subject to future recall initiation, provide a brief explanatory statement noting how and why replacement is being prioritised by the Supplier with regard to the Priority Factors listed in Schedule 1; and

- (g) provide Consumers with the option to obtain a PDF report of their search (including date of search, input data and search results) for record keeping purposes.
- (4) As soon as practicable, but by no later than 1 July 2018, a Supplier must publish the following documents that apply to the Supplier on its website with links from the page hosting the Recall Database as well as from the main page on the Supplier's website which relates to the recall (if applicable):
    - (a) Recall and Replacement Timetable,
    - (b) Recall Initiation Schedule, and
    - (c) Quarterly Completion Schedule.
  - (5) A Supplier must provide the ACCC with access to its Recall Database via an Application Program Interface (API), if reasonably practicable to do so.
  - (6) A Supplier must provide on its website a means for Consumers to update their contact details with the Supplier, and there must be a link to this update mechanism on the Supplier's Recall Database page and the main page on the Supplier's website which relates to the recall (if applicable).
  - (7) A Supplier's Recall Database page must make clear that a Vehicle not currently under active recall may later be recalled, that all planned future recalls are set out in the Recall Initiation Schedule (noting the link provided), and that, while the Supplier will seek to contact affected Consumers directly at the relevant time, they may be unable to do so if the Consumer's accurate contact details are not available to the Supplier.
  - (8) Where a Supplier has replaced or is continuing to replace an Affected Takata Airbag Inflator with another Affected Takata Airbag Inflator, then the Supplier's Recall Database page must inform Consumers that, in some cases, replacement airbags may need to be replaced again, to ensure long term safety.
  - (9) A Supplier's Recall Database page and direct consumer communications must alert Consumers with a Vehicle that has had a frontal airbag replaced following a collision or other incident that any replacement airbag installed in the Vehicle may be faulty and require replacement, and encourage such Consumers to contact a Dealer or other authorised representative to arrange for the airbag to be checked.
  - (10) Suppliers may apply to ACCC to vary the above listed obligations.
  - (11) A Supplier that falls within category (c) definition of Supplier must use its best endeavours to, at a minimum, publish on its website a searchable list of affected Vehicles that it has supplied by VIN and its Recall Initiation Schedule.

## 9 Second-hand Vehicles

- (1) A Supplier must develop a Second-hand Vehicle Action Plan to maximise the replacement of Affected Takata Airbag Inflators in Vehicles that have been or are being sold second-hand. The Plan must be submitted for approval to the



ACCC within two months of commencement of this Recall Notice. The Plan must be designed to:

- (a) ensure distribution of information regarding the recall status of Vehicles in the second-hand vehicle market; and
  - (b) encourage and support replacement of Affected Takata Airbag Inflators in the second-hand vehicle market, including by conducting replacement through its Dealer network.
- (2) If the ACCC considers that a Plan submitted pursuant to this section is inadequate, then the ACCC will propose improvements to the Plan and the Supplier must submit a revised Plan within 5 business days of receipt of the ACCC's proposed improvements, or by some other date if agreed by the ACCC. If the ACCC considers that the revised Plan is inadequate, then the ACCC will propose improvements to the revised Plan and the Supplier must submit a further revised Plan within 5 business days of receipt of the ACCC's proposed improvements, or by some other date if agreed by the ACCC. If the ACCC considers that the further revised Plan is still inadequate, then it may either propose further changes (using the same process as above) or it may specify the required communications and replacement support to be undertaken by the Supplier.
- (3) The ACCC will have regard to the following matters when assessing the adequacy of a submitted Plan or prescribing a Plan for a Supplier pursuant to subsections 9(1) and (2):
- (a) the Supplier's relevant Supply Profile,
  - (b) any prior relevant communications to the second-hand Vehicle market; and
  - (c) any other relevant factors (including the size and resources of the Supplier).
- (4) A person who, in trade or commerce, supplies second-hand vehicles, including a Dealer, must:
- (a) check the VIN and other recall information for each second-hand vehicle in its possession, power or control and intended for supply, including by using Recall Databases and Recall Initiation Schedules provided by Suppliers (including on Supplier webpages or otherwise) to ascertain whether the vehicle is under active recall (or is scheduled for future recall) by a Supplier in relation to an Affected Takata Airbag Inflator;
  - (b) not supply any Vehicle under active recall by a Supplier in relation to an Affected Takata Airbag Inflator;
  - (c) prior to supply of a Vehicle that is not under active recall but which is identified by a Supplier as subject to future recall in the Supplier's Recall Initiation Schedule or is otherwise believed or known by the person to have an Affected Takata Airbag Inflator and which is less than six years post manufacture (using January of the model year as a proxy for date of manufacture), notify the prospective purchaser (orally and in writing) that:

- i. the Vehicle has a faulty Takata airbag inflator which, depending on its age and other factors, will pose a risk of serious injury or death in the future;
  - ii. the inflator will require replacement, and to avoid the risk of injury or death, it is critical that the inflator be replaced as soon as possible after recall action is initiated by the Supplier, because as it gets older, a combination of high temperatures and humidity can affect it and, if the vehicle is involved in a collision, the airbag can go off with too much explosive force causing sharp metal fragments to shoot out and kill or seriously injure people in the vehicle;
  - iii. the Supplier will initiate recall of the inflator at the time specified in the Recall Initiation Schedule which is (or will be, as applicable) on the Supplier's website;
  - iv. the Supplier will arrange for replacement of the inflator by making direct contact with the purchaser when recall action is initiated, if the purchaser's contact details are known by the Supplier; and
  - v. further information is available on the Supplier's website, and the purchaser can also contact the Supplier for further information.
- (d) prior to supply of a Vehicle that is not under active recall but which is identified by a Supplier as subject to future recall in the Supplier's Recall Initiation Schedule or is otherwise believed or known by the person to have an Affected Takata Airbag Inflator and which is more than six years post manufacture (using January of the model year as a proxy for date of manufacture), notify the prospective purchaser (orally and in writing) that:
- i. the Vehicle has a faulty Takata airbag inflator which poses a risk of serious injury or death which increases as the vehicle gets older and is exposed to high heat and humidity. The combination of age, high temperatures and humidity can affect the airbag so that, if the vehicle is involved in a collision, the airbag can go off with too much explosive force causing sharp metal fragments to shoot out and kill or seriously injure people in the vehicle;
  - ii. the inflator requires replacement, and to minimise the risk of injury or death, it is critical that the inflator be replaced as soon as possible after recall action is initiated by the Supplier; and
  - iii. the information specified in subparagraphs 9(4)(c)(iii), (iv) and (v).
- (e) at the time of supply of a Vehicle that is not under active recall but which is believed or known by the person to have an Affected Takata Airbag Inflator, seek consent of the purchaser to provide the purchaser's contact details, including postal address, telephone and email address, to the relevant Supplier so that the Supplier can

contact the purchaser regarding replacement of the Affected Takata Airbag Inflator, and provide the purchaser's details to the relevant Supplier if and when consent is obtained. Further, where a purchaser does not provide consent, the person must encourage the purchaser to contact the Supplier directly and provide contact details.

## 10 Consumer dispute resolution

- (1) A Supplier must establish a dispute resolution mechanism or system that meets the requirements of this section, or ensure any existing dispute resolution mechanism or system meets the requirements of this section.
- (2) A Supplier must use its best endeavours to ensure the dispute resolution mechanism or system is consistent with AS/NZS 10002:2014 *Guidelines for complaint management in organizations*, tailored as required to the Supplier's circumstances. The mechanism or system must feature, at a minimum, the following:
  - (a) a Consumer complaints person or team dedicated to assisting Consumers with questions and complaints (this could be the same initial toll-free contact number that a Supplier provides as part of a Communication and Engagement Plan); and
  - (b) a structure for prompt escalation of Consumer issues not able to be resolved through the complaints personnel, with such escalation to include attention of a qualified and informed person using best endeavours to assist the Consumer and resolve any dispute in accordance with the Supplier's obligations under the ACL.
- (3) If the Supplier is notified by a Regulator or the Commonwealth Department of Infrastructure, Regional Development and Cities of a dispute relating to an Affected Takata Airbag Inflator, the Supplier must use its best endeavours to deal promptly and fairly to address the dispute and manage it in accordance with the Supplier's obligations under the ACL.

## 11 Record keeping and reporting

- (1) A Supplier must track and keep records of the following:
  - (a) the Supplier's compliance with this Recall Notice;
  - (b) the Supplier's recall and replacement rates, with data recorded in a way to inform the reports required in Schedule 1;
  - (c) reports of any misdeployment of an Affected Takata Airbag Inflator in a Consumer Good supplied by the Supplier, including full details regarding the facts and circumstances of the incident and those person(s) involved;
  - (d) reports of any injury or death that anyone associates with misdeployment of an Affected Takata Airbag Inflator in a Consumer Good supplied by the Supplier, including full details regarding the facts and circumstances of the incident and those person(s) involved;

- (e) complaints from Consumers in respect of an Affected Takata Airbag Inflator in a Consumer Good supplied by the Supplier, or in respect of the Supplier's recall campaign, identified by issue and by location (State or Territory), and with information on how each complaint has been managed;
  - (f) where all replacement parts needed to complete the replacement of all Affected Takata Airbag Inflators are not yet available, the status of availability of those parts and possible additional measures the Supplier can implement to improve part availability;
  - (g) replacement workshop capacity and progress in improving it, if needed; and
  - (h) the information required to be reported in accordance with Schedule 1.
- (2) The ACCC may request a Supplier provide it with any records required to be held pursuant to subsection 11(1). A Supplier must provide the documents requested within 10 business days of receiving such a request.
- (3) Where the data collected under the requirements in subsection 11(1) includes reports from person(s) regarding misdeployment, injury, death, or complaints), the Supplier must obtain the name and contact details of persons involved in the reported incident or complaint, and persons providing information, and the Supplier must seek consent from those persons to provide their name and contact details to the ACCC. Where the Supplier receives consent, the Supplier must provide the name and contact details of those persons to the ACCC as part of relevant reporting requirements.
- (4) Where data collected under the requirements of subsection 11(1) includes information regarding a person who has advised the Supplier that they do not wish to have their Vehicle's Affected Takata Airbag replaced, the Supplier must seek consent from that person to provide their name and contact details to the ACCC. Where the Supplier receives consent, the Supplier must provide the names and contact details of those persons and the relevant Vehicle. Where those person(s) do not consent to their name and contact details being provided to the ACCC, the Supplier must provide the ACCC with the VIN and other details of the Vehicle and note that the person(s) did not consent to provision of their details to the ACCC.
- (5) A Supplier must notify the ACCC of any reports of which the Supplier is aware regarding any misdeployment of an Affected Takata Airbag Inflator supplied by the Supplier (or any Related Body Corporate of the Supplier) worldwide. The Supplier must notify the ACCC of the following details, if known, within two business days of becoming aware of such a report:
- (a) the date of the incident;
  - (b) the location of the incident, specified by city, state, territory or province, and country;
  - (c) the make and model of the vehicle involved in the incident;
  - (d) whether the incident occurred in testing or otherwise;

- (e) the Affected Takata Airbag Inflator family involved (e.g., SDI, PSDI-5, PSPI-L, etc.);
  - (f) whether anyone considers that the incident resulted in injury or death, and if so, the nature and circumstances of the injury or death and any medical treatment; and
  - (g) the names and contact details of persons involved in or reporting any such incident, if those persons consent to provision of their contact details to the ACCC.
- (6) A Supplier must provide the following documents to the ACCC:
- (a) the Plans required under sections 7 and 9 of this Recall Notice within the time specified in those sections;
  - (b) the documents required under Schedule 1 of this Recall Notice within the time specified in the Schedule; and
  - (c) each of the independent auditor's reports provided to the Supplier under section 12 (if applicable), within one week of receipt by the Supplier of the report.
- (7) A Supplier that falls within categories (a) or (b) of the definition of Supplier must provide the ACCC with a report summarising the information required to be tracked under paragraphs 11(1)(c), (d) and (e) within 10 business days of the end of each calendar quarter. Such quarterly reports must include any updates to reports made in relation to subsection 11(5).
- (8) A Supplier's reporting obligations under this Recall Notice, except for those set out in subsection 11(5), will end once the Supplier's obligations under this Recall Notice have been met as set out in subsections 5(3), (4) and (5).

## 12 Independent auditor

- (1) A Supplier that falls within (a) or (b) of the definition of Supplier must appoint an independent auditor to monitor the Supplier's compliance with this Recall Notice, including, for example, implementation of recalls, replacement rates, efforts to source replacement inflators, replacement capacity management, and Consumer complaints management. The auditor must make recommendations for improvement (if any) and assess implementation of those recommendations or other improvements in subsequent reports.
- (2) Before appointing an independent auditor, a Supplier must submit the name and qualifications of their proposed auditor to the ACCC, so that the ACCC can assess their independence and qualifications. Submission of the name of the nominated auditor must be made by no later than the commencement of quarter 3 of 2018. The Supplier must identify any association between the proposed auditor and the Supplier which may affect or be perceived to affect the auditor's independence. The ACCC will notify the Supplier if it accepts the independence and qualifications of the auditor. If the ACCC is not satisfied as to the independence and/or qualifications of the auditor, then it will so notify the Supplier, and the Supplier must nominate a different independent auditor in accordance with the same process as above within 5 business days. This process of nomination and assessment will continue until

the ACCC is satisfied of the independence and qualifications of the nominated auditor.

- (3) The ACCC will consider joint nominations of an independent auditor by multiple Suppliers.
- (4) Subject to subsections 12(5) and (6), and until further notice from the ACCC, the independent auditor must provide a report to the Supplier within one month of the end of each calendar quarter or at an earlier date if requested by the Supplier or the ACCC.
- (5) A Supplier may apply to the ACCC for an exemption from this section based on the Supplier's Supply Profile, the replacement rates achieved as at the time of commencement of this Recall Notice, or other factors the Supplier considers relevant.
- (6) A Supplier's obligations under this section will end once the Supplier's obligations under this Recall Notice have been met as set out in subsections 5(3), (4) and (5), or if a Supplier makes an application to the ACCC to end the obligation and the ACCC determines that the Supplier's recall action has reached a point and achieved a replacement rate such that the independent auditor's monitoring and reporting is no longer of assistance in improving the Supplier's compliance and recall outcome.

### **13 Applications to the ACCC**

- (1) Any application to the ACCC under this Recall Notice must be:
  - (a) in writing;
  - (b) submitted to the ACCC via the specified link on the Product Safety Australia Website; and
  - (c) accompanied by supporting documents or information, if any.

### **14 Documents which may be published on the Product Safety Australia Website**

- (1) The ACCC may publish on the Product Safety Australia Website any document provided to the ACCC under this Recall Notice, including, but not limited to the following documents and any amendments to them:
  - (a) the plans required under sections 7 and 9 (and any approved variations to those plans);
  - (b) the reports required under section 11 and Schedule 1;
  - (c) the documents required under Schedule 1, including the Recall and Replacement Timetable, the Recall Initiation Schedule and the Quarterly Completion Schedule, as well as any amendments or modifications to those documents; and
  - (d) any application made under this Recall Notice and any response to such an application by the ACCC.

## **Schedule 1—Recall and Replacement Timetable, Recall Initiation Schedule and Quarterly Completion Schedule**

Note: See sections 5 and 6 of the Recall Notice

### ***Recall and Replacement Timetable***

1. A Supplier must initiate recall action for Vehicles and replace the Affected Takata Airbag Inflators in them by the dates specified in the Recall and Replacement Timetable below (or by such other time approved by the ACCC on application) and in accordance with the other requirements in the Recall Notice and this Schedule. If a recall has already been initiated for a Vehicle, and the Vehicle is under active recall, then the middle column (Time by which recall action must be initiated) will not apply, though additional Consumer communications may be required under an approved Communication and Engagement Plan. When a recall of a Vehicle or category of Vehicles is initiated, the recall must be notified to the ACCC through the relevant recall notification link on the Product Safety Australia Website. The recall notification must include relevant information regarding the Vehicle or category of Vehicles in the notified recall, including but not limited to a list of VINs for affected Vehicles and the relevant Affected Takata Airbag Inflator family.

**Recall and Replacement Timetable**

Type of airbag inflator	Time by which recall action must be initiated	Time by which inflators of this type must be replaced
Alpha Inflators	Within one week of commencement of this Recall Notice	Within five business days after the replacement part arrives at the dealership nominated by the Consumer (or other such date as requested by the Consumer), where the replacement part is to be provided to the nominated dealership within two weeks of the Consumer request.
All other Affected Takata Airbag Inflators	As soon as practicable after the ACCC notifies a Supplier of approval or prescription of a Supplier’s Communication and Engagement Plan under section 7(4) of this Recall Notice and on a rolling basis to allow for completion of replacement by the required dates	As soon as practicable, and in any event by 31 December 2020 unless otherwise approved by the ACCC, with replacement prioritised according to the Priority Factors in clause 4 of this Schedule and the applicable Quarterly Completion Schedule.

2. Unless a Supplier intends to initiate recall action for all Vehicles by no later than 2 April 2018, a Supplier must provide the ACCC with a Recall Initiation Schedule by 2 April 2018. The Recall Initiation Schedule must be in the form of a table, and must specify the Supplier’s recall initiation dates for Vehicles, or categories of Vehicles, which do not have Alpha Inflators. The table must prioritise recall initiation according to the Priority Factors in clause 4 of this Schedule and so that the applicable Quarterly Completion Schedule can be met.

***Quarterly Completion Schedule***

3. Subject to subsection 5(7) of this Recall Notice (which allows applications for amendment to replacement completion times), a Supplier must meet the Recall and Replacement Timetable as applicable in accordance with, at a minimum, the Default Quarterly Completion Schedule



Recall and Replacement Timetable, Recall Initiation Schedule and Quarterly Completion Schedule – **Schedule 1**

below. The Default Quarterly Completion Schedule commences from the third calendar quarter of 2018, and finishes on 31 December 2020 unless otherwise approved by the ACCC. For the purposes of the Default Quarterly Completion Schedule and related reporting requirements:

- (a) the Required Completion Rate is cumulative and is the percentage of the total number of Affected Takata Airbag Inflators the Supplier has supplied in Vehicles in Australia which are to be replaced by the end of each quarter up to 31 December 2020;
- (b) the total number of Affected Takata Airbag Inflators the Supplier has supplied in Vehicles in Australia must:
  - i. include those Affected Takata Airbag Inflators that have been installed to replace another Affected Takata Airbag Inflator in a Vehicle;
  - ii. not include Affected Takata Airbag Inflators already replaced as at 1 July 2018.
- (c) a Supplier may subtract an Affected Takata Airbag Inflator from the total number of Affected Takata Airbag Inflators that the Supplier has supplied in Vehicles in Australia if the ACCC is satisfied that the Supplier has complied with its obligations to replace the Affected Takata Airbag Inflator as set out in subsections 5(3) and (4) of this Recall Notice. A Supplier counting a non-replaced inflator in this way must, however, identify that it is doing so in its Quarterly Completion Report.

**Default Quarterly Completion Schedule**

Quarter	Q3/2018	Q4/2018	Q1/2019	Q2/2019	Q3/2019	Q4/2019	Q1/2020	Q2/2020	Q3/2020	Q4/2020
Period	1 July 2018 - 30 September 2018	1 October 2018 – 31 December 2018	1 January 2019 – 31 March 2019	1 April 2019 – 30 June 2019	1 July 2019 – 30 September 2019	1 October 2019 – 31 December 2019	1 January 2020 – 31 March 2020	1 April 2020 – 30 June 2020	1 July 2020 – 30 September 2020	1 October 2020 – 31 December 2020
Required Completion Rate	15%	25%	35%	45%	55%	65%	75%	85%	95%	100%

### ***Priority Factors***

4. Suppliers must prioritise replacement of Affected Takata Airbag Inflators by reference to the following Priority Factors:
  - (a) the geographical location of the Vehicle in Australia, with first priority given to Vehicles currently registered in areas of high heat and humidity (or which are known to the Supplier to have been registered in such an area);
  - (b) the age of the Vehicle (or in the case of a Vehicle where an Affected Takata Airbag Inflator has been used as a replacement, the date of replacement), with first priority given to older Vehicles, and particularly those that are older than 6 years, as the best evidence indicates that risk of harm manifests after a Vehicle reaches 6 years post manufacture and increases with age thereafter; and
  - (c) the location of the Affected Takata Airbag Inflator in the Vehicle, with first priority given to driver side inflators.

### ***Best endeavours to limit workshop visits by Consumers***

5. Where a Vehicle has an Affected Takata Airbag Inflator on both the driver and passenger side, the Supplier must use its best endeavours to replace both at the same time.

### ***Application to ACCC to vary the Recall Initiation Schedule and Quarterly Completion Schedule***

6. A Supplier may apply to the ACCC to vary the Recall Initiation Schedule for certain categories of Vehicles containing Affected Takata Inflators that are not Alpha Inflators in accordance with section 13 of the Recall Notice. Any such application must:
  - (a) address replacement of all Affected Takata Airbag Inflators in the Supplier's Vehicles by 31 December 2020 or another date approved by the ACCC;
  - (b) detail how replacement is proposed to be prioritised based on at least the Priority Factors set out in clause 4 of this Schedule, but may seek to include other factors particular to the Supplier's Vehicles;
  - (c) identify each category of Vehicle (by make, model and any other relevant factor) that requires a longer period within which to initiate recall action and the date by which recall action will be initiated ; and
  - (d) outline in detail the reasons why the additional time is required, and the measures the Supplier is taking to minimise any additional time needed.

7. A Supplier may apply to the ACCC for an alternative quarterly completion schedule in accordance with section 13 of the Recall Notice. Any such application must:
  - (a) address replacement of all Affected Takata Airbag Inflators in the Supplier’s Vehicles by 31 December 2020 or another date approved by the ACCC;
  - (b) show proposed alternative quarterly completion rates for replacement for each calendar quarter between 1 July 2018 and 31 December 2020, and this may also be broken down by reference to category of Vehicle (by make, model and any other relevant factor) and date of recall initiation;
  - (c) detail how replacement is proposed to be prioritised based on at least the Priority Factors set out in clause 4 of this Schedule, but may seek to include other factors particular to the Supplier’s Vehicles; and
  - (d) set out the reasons why an alternative completion schedule is required and the measures the Supplier is taking to minimise any additional time needed.
  
8. The ACCC will consider applications made under this Schedule in accordance with subsection 5(7) of this Recall Notice.

### ***Reporting to the ACCC***

#### ***Baseline Commencement Report***

9. On 1 July 2018, each Supplier must provide a Baseline Commencement Report to the ACCC, which may be made public on the Product Safety Australia Website. The Baseline Commencement Report must include the following information relevant to the Supplier:
  - (a) the total number of Affected Takata Airbag Inflators that have been replaced as at 1 July 2018 (or a date specified and as close to 1 July as data collection will allow to be reported as at the reporting date);
  - (b) the total number of Affected Takata Airbag Inflators that are still in Vehicles as at 1 July 2018 (or a date specified and as close to 1 July as data collection will allow to be reported as at the reporting date);

- (c) a breakdown of the total number of Affected Takata Airbag Inflators that have not yet been replaced (including replacement Affected Takata Airbag Inflators installed in Vehicles) that identifies each relevant Vehicle make and model for each of the following categories:
  - i. Alpha Inflators (with a break-down of driver and passenger side inflators);
  - ii. driver side inflators (not including Alpha Inflators);
  - iii. passenger side inflators (not including Alpha Inflators); and
- (d) the total number of Affected Takata Airbag Inflators that have been replaced with another Affected Takata Airbag Inflator and which will require future replacement, and a breakdown of any such replacements completed by vehicle make and model;
- (e) an overview of the Supplier's replacement parts availability, including:
  - i. the number of parts that the Supplier has available as a percentage of the total number of parts needed to complete the Supplier's replacement obligations under this Recall Notice,
  - ii. the number of parts that the Supplier has available for each Vehicle make and model as a percentage of the total number of parts needed to complete the Supplier's replacement obligations under this Recall Notice for each Vehicle make and model; and
  - iii. any other data, description or categorisation of availability of parts that the Supplier considers useful for the ACCC to understand the Supplier's replacement part availability;
- (f) where the Supplier has less than 100% of the total replacement parts that it needs, information regarding the measures the Supplier has taken to secure replacement parts, including details of alternative suppliers contacted, barriers to obtaining 100% of parts needed, and any other information the Supplier considers relevant to its replacement parts availability;

### *Quarterly Completion Reports*

- 10. Within 10 business days of the end of each calendar quarter thereafter, Suppliers must provide a Quarterly Completion Report to the ACCC. The Quarterly Completion Reports may be made public on the Product Safety Australia Website. The Quarterly Completion Reports must include the following information:

- (a) Vehicle makes and models for which recall action was initiated during the quarter, if applicable;
- (b) a statement (in % form) of the Supplier's overall completion results against the % target required in the Default Quarterly Completion Schedule or any alternative quarterly completion schedule that may apply to the Supplier; and
- (c) a narrative describing the steps the Supplier has taken to maximise the replacement rates during the quarter, including at least:
  - i. any improvements to communications, for example, measures to improve accuracy of Consumer contact details, measures to improve direct contact impact (for example, using methods of direct contact other than letters), content changes, measures to improve Consumer awareness and response rate;
  - ii. any improvements to increase availability of replacement parts, including details of measures implemented and any planned measures;
  - iii. any improvements to replacement workshop capacity, and any planned measures;
  - iv. any replacement the Supplier has conducted via its Dealer network or representatives, or otherwise supported of Affected Takata Airbag Inflators in Vehicles bearing the same brand as the Supplier's Vehicles but which were not imported or supplied by the Supplier (sometimes referred to as 'grey imports'), within Australia, including the manner of the support offered;
  - v. if the Supplier has been contacted and requested to conduct or support replacement of Affected Takata Airbag Inflators in grey imported vehicles within Australia, but the Supplier has not conducted or supported that replacement, details of each such request (including the requesting party's contact details), the relevant Vehicle/s, and the reasons for the refusal to assist by the Supplier; and
  - vi. the Supplier's response to any recommendations provided by the Independent Auditor, if applicable, including measures to implement recommendations.

### *Monthly reports*

11. In addition to the Quarterly Completion Reports required by clause 10 of this Schedule, a Supplier must provide a Monthly Completion Report to the ACCC within 10 business days of the end of each month for the preceding month. This obligation commences in the second month following commencement of this Recall Notice. The Monthly Completion Reports may be made public on Product Safety Australia Website and must include the following information broken down by state and territory:

- (a) the total number of Affected Takata Airbag Inflators that require future replacement;
  - (b) the total number of Affected Takata Airbag Inflators that have been replaced during the preceding calendar month;
  - (c) a break-down of the number of Affected Takata Airbag Inflators replaced during the preceding calendar month by vehicle make, model and release year in each of the following categories:
    - i. Alpha Inflators (with a break-down of passenger and driver side inflators);
    - ii. driver side inflators (not including Alpha Inflators);
    - iii. passenger side inflators (not including Alpha Inflators);
  - (d) the total number of Affected Takata Airbag Inflators that have been replaced with another Affected Takata Airbag Inflator during the preceding calendar month by Vehicle make, model and release year.
12. From 1 June 2018, a Supplier must provide the ACCC with a VIN Status Report showing the recall and replacement status of all Vehicles the Supplier has supplied in Australia listed by VIN. The VIN Status Report is cumulative and must be updated on a monthly basis and provided to the ACCC within 10 business days of the end of each month. The VIN Status Report must include the following information:
- (a) the model and release year of the Vehicle;
  - (b) the relevant PRA Number(s) (if recall action has been initiated and notified to the ACCC via the Product Safety Australia Website);
  - (c) the relevant recall initiation date(s);
  - (d) whether or not the Consumer has been notified;
  - (e) the location of the Affected Takata Airbag Inflator;
  - (f) whether or not the Vehicle has an Alpha Inflator;
  - (g) whether the Vehicle has received a replacement inflator that is an Affected Takata Inflator;
  - (h) the date that the replacement(s) was/were completed;
  - (i) the Consumer's post code (if known);
  - (j) the State or Territory of Vehicle registration (if known);

- (k) the Vehicle registration number (if known);
- (l) whether or not the Vehicle has been scrapped, exported or stolen or has not been registered in a State or Territory for at least two consecutive years (if known);
- (m) the Affected Takata Airbag Inflator family involved (if known e.g., SDI, PSDI-5, PSPI-L, etc).

*Form of reports*

13. The ACCC will provide Suppliers with instructions for the form of reports required by this Schedule prior to the commencement of reporting obligations under this Schedule. Suppliers must provide their reports pursuant to this Schedule in the form prescribed by the ACCC.

## Schedule 2 – Communication and Engagement Plan

Note: See sections 5, 6, 7 and 11

This Schedule sets out the requirements for a Communication and Engagement Plan under section 7 of this Recall Notice.

### General

1. A Communication and Engagement Plan is a plan for contacting, communicating with, and engaging with Consumers, and for maximising rates of replacement of Affected Takata Airbag Inflators.
2. A Supplier's Communication and Engagement Plan must address each of the components set out in this Schedule.
3. If a Supplier has already initiated recall action and related Consumer communications and engagement prior to commencement of this Recall Notice, then the ACCC will have regard to that Supplier's prior communications and engagement in assessing the Supplier's proposed Communication and Engagement Plan.

### Content of Consumer communications

4. Where this Recall Notice requires specified language for specified communications, that language must be used.
5. In all communications with Consumers pursuant to this Recall Notice, a Supplier must use clear, simple language. In particular, a Supplier must identify the risk presented by airbag inflator ruptures in clear, simple language that emphasises the risk of injury or death from shrapnel in the event of a rupture and avoid unnecessarily technical or scientific terminology. Supplier communications with Consumers must also use appropriately urgent terms. The assessment of urgency must take into account the age of the Vehicle, the type of inflator involved, the location of the Vehicle in an area of high absolute humidity, and the location of the relevant inflator inside the Vehicle. In this regard:

- (a) An example of a clear, simple message to a Consumer with a Vehicle containing an Alpha Inflator is:

"Stop driving your vehicle immediately! Your vehicle's airbag is faulty and it could **kill or seriously injure** you and other people in your vehicle. You should urgently contact a [vehicle type] dealer to arrange for the airbag to be replaced.

Your [name and model of vehicle] is installed with the most dangerous type of faulty Takata airbag. If you are involved in a collision, the airbag can go off with too much explosive force, causing sharp metal fragments to shoot out and **kill or seriously injure people in the vehicle**. You should stop driving your vehicle and urgently contact a [vehicle type] dealer to arrange for the airbag inflator to be replaced.

Your dealer can arrange to have your vehicle towed to the workshop for repair so that you do not need to drive the vehicle. If



replacement of the inflator will take longer than 24 hours you can request alternative transport, which may include a loan or hire car or funding for other reasonable transportation (such as a cab charge).

Please take note that any replacement airbag installed in your vehicle following a collision or other incident *may also be faulty*. It is critical that you urgently contact a [vehicle type] dealer to arrange for the airbag to be checked and replaced, if faulty.”

- (b) An example of a clear, simple message to a Consumer with a Vehicle containing an Affected Takata Airbag Inflator other than an Alpha Inflator, and which was manufactured more than 6 years previously, is:

“Your vehicle’s airbag is faulty and it could **kill or seriously injure** you and other people in your vehicle. You should immediately contact a [vehicle type] dealer to arrange for the airbag to be replaced.

Your [name and model of vehicle] is installed with a faulty Takata airbag. As it gets older, a combination of high temperatures and humidity can affect airbags with the fault. If you are involved in a collision, the airbag can go off with too much explosive force causing sharp metal fragments to shoot out and **kill or seriously injure people in the vehicle**. It is important that you immediately contact [vehicle manufacturer], [directly on Supplier’s designated phone number if possible/applicable, or] through their local dealer [or on website – insert webpage information] to arrange to have the airbag replaced.

Please take note that any replacement airbag installed in your vehicle following a collision or other incident *may also be faulty*. It is critical that you urgently contact a [vehicle type] dealer to arrange for the airbag to be checked and replaced, if faulty.”

- (c) An example of a clear, simple message to a Consumer with a Vehicle containing an Affected Takata Airbag Inflator other than an Alpha Inflator, and which was manufactured less than 6 years previously, is:

“Your vehicle’s airbag is faulty and it could **kill or seriously injure** you and other people in your vehicle from when it reaches six years after its year of manufacture. **There is no immediate known risk with the airbag, but there will be in the future.** Please contact [vehicle type] dealer to arrange for the airbag inflator to be replaced. Your [name and model of vehicle] has a faulty Takata airbag. As it gets older, a combination of high temperatures and humidity can affect airbags with the fault. If you are involved in a collision, the airbag can go off with too much explosive force causing sharp metal fragments to shoot out and **kill or seriously injure people in the vehicle**. It is important that you contact [vehicle manufacturer], [directly on Supplier’s designated phone number if possible/applicable, or] through their local dealer [or on website – insert webpage information] to arrange to have the airbag replaced before it reaches 6 years old.

Please take note that any replacement airbag installed in your vehicle following a collision or other incident *may also be faulty*. It is important that you contact a [vehicle type] dealer to arrange for the airbag to be checked and replaced, if faulty.

You should keep this letter with your vehicle records. If you sell or give your vehicle to another driver before replacing the airbag, please provide them with a copy of this letter and encourage them to contact the dealer directly to update the owner contact details for the vehicle.”

- (d) An example of a clear, simple message to a Consumer with a Vehicle that is having an Affected Takata Airbag Inflator replaced with another Affected Takata Airbag Inflator is:

“We have removed the faulty [driver side and/or passenger side] Takata [airbag /airbag inflator, as applicable] from your vehicle, and have replaced it with a newer Takata [driver side and/or passenger side airbag /airbag inflator, as applicable]. The replacement [airbag /airbag inflator, as applicable] is safe at this time, but it also has a fault that will make it unsafe in the future. The replacement [airbag /airbag inflator, as applicable], however, **must be replaced** [as soon as possible after the Supplier initiates active recall of the inflator, specifying either the applicable future date or, if the Recall Initiation Schedule is not yet available, referring the Consumer to the Supplier’s website and noting that the Recall Initiation Schedule will be published there].

It is very important for your safety that the [airbag /airbag inflator, as applicable] be replaced again by that time. If it is not replaced by that time, and the vehicle is involved in a collision, the airbag can go off with too much explosive force causing sharp metal fragments to shoot out and **kill or seriously injure people in the vehicle**.

We will contact you to arrange for the replacement before the [airbag /airbag inflator, as applicable] becomes unsafe. If your contact details change, please make sure to let us know, so that we can contact you to arrange replacement.

You should keep this letter with your vehicle records. If you sell or give your vehicle to another driver before replacing the [airbag /airbag inflator, as applicable], please provide them with a copy of this letter and encourage them to contact the dealer directly to update the owner contact details for the vehicle.”

- (e) An example of a clear, simple message to use when a Dealer is supplying a Consumer with a new Vehicle (or demonstration Vehicle that has not previously been supplied to a Consumer) and that Vehicle has an Affected Takata Airbag Inflator is:

“Your vehicle’s [driver and/or passenger side] airbag is faulty and it could kill or seriously injure you and other people in your vehicle, from when it reaches six years after its year of manufacture, which is [specify date]. There is no immediate known risk with the airbag,

but there will be in the future. As it gets older, a combination of high temperatures and humidity can affect airbags with the fault. **It is critical that the airbag be replaced before** [insert date in accordance with Schedule 1]. If it is not replaced by that time, and the vehicle is involved in a collision, the airbag can go off with too much explosive force causing sharp metal fragments to shoot out and **kill or seriously injure people in the vehicle.**

We will contact you to arrange for the replacement before the airbag becomes unsafe. If your contact details change, please make sure to let us know, so that we can contact you to arrange replacement.

You should keep this letter with your vehicle records. If you sell or give your vehicle to another driver before replacing the airbag, please provide them with a copy of this letter and encourage them to contact the dealer directly to update the owner contact details for the vehicle.”

6. A Supplier must not include information or phrases that are likely to minimise or mitigate the perception of the risk, as these may discourage Consumer action to have the Affected Takata Airbag Inflator replaced. Examples of such language include: “No ruptures have been observed in [the Supplier’s] vehicles to date”, and “we are only conducting this recall as a precaution”.
7. A Supplier must use language designed to capture attention and be impactful. A Supplier must use bold text to highlight particularly impactful words (e.g., “urgent”, “kill”).
8. A Supplier must avoid using generic or low-impact imagery (e.g., scenic pictures).
9. In letter communications, a Supplier must:
  - (a) include a red headline at or near the top of the letter and on the front of the envelope, with prominently featured text, such as “URGENT SAFETY RECALL”; and
  - (b) specify the number of attempts they have made to contact the Consumer by letter, by including in the heading or subject line, words to the effect of “Contact Attempt Number xx”.
10. In email communications, a Supplier must use the words “URGENT SAFETY RECALL” in the subject line.
11. A Supplier must include relevant information regarding dates, such as the date by which this Recall Notice requires the Affected Takata Airbag Inflator to be replaced.
12. A Supplier must tailor communications to the individual Consumer and Vehicle in issue, to reinforce the message’s credibility and distinguish it from commercial solicitations. This includes at least:
  - (a) Addressing communications using the Consumer’s name (avoid “Dear Vehicle Owner” or “Dear Resident”).
  - (b) Prominently displaying the Supplier’s logo.

- (c) Including details such as the Vehicle’s make, model, and model-year, and repeating these same details in the text of the communication.
- (d) Ensuring that all communications feature a link to a webpage offering recall-specific information and a VIN lookup tool, rather than the general homepage of the Supplier’s website or a page on the Supplier’s website addressing recalls or Dealer repairs in general.

**Communication and engagement design: ensuring ready access to information, and prompt, efficient scheduling of replacement**

- 13. A Supplier must design the Plan and supporting communication channels to ensure ready access by Consumers and to encourage and facilitate prompt and efficient scheduling of replacements.
- 14. Where possible, a Supplier must have a dedicated (and preferably toll-free) telephone number which Consumers can call to schedule a replacement, update contact details, or make other enquiries or complaints relating to the Supplier’s recalls pursuant to this Recall Notice. If it is not practicable to do this, then a Supplier must ensure that telephone details of its Dealers or other authorised representatives are clearly communicated or readily available, and that Dealers have informed staff dedicated to the recall to field calls and schedule replacements.
- 15. A Supplier must ensure that staff involved in in-bound and out-bound telephone communications are instructed to seek to schedule an appointment for a replacement as part of the initial interaction with the Consumer, and to minimise the need for the Consumer to make a separate call or wait for a call-back to schedule an appointment.
- 16. A Supplier must ensure that the Recall Database on the Supplier’s website is easy to navigate and that it meets the requirements in this Recall Notice, including that it:
  - (a) allows Consumers to enter a Vehicle Identification Number (VIN) into a search field and obtain immediate information about inclusion of the Vehicle in an active recall and has general information about the recall;
  - (b) where possible, provides the following information for a Vehicle not included in an active recall:
    - i. when the Vehicle is scheduled for active recall (i.e. when recall of the Vehicle will be initiated) in accordance with Schedule 1; and
    - ii. if applicable, a brief explanatory statement noting how and why replacement is being prioritised, including by reference to the Priority Factors listed in Schedule 1.
  - (c) features links to or copies of the Recall and Replacement Timetable, Recall Initiation Schedule, and Quarterly Completion Schedule.
- 17. Suppliers must design messaging to encourage Consumers to have their Affected Takata Airbag Inflator replaced, by proactively addressing Consumer concerns relating to replacement. This must include messaging that:

- (a) emphasises that replacements are free, and can be performed by any Dealer in the Supplier’s network (or another authorised representative of the Supplier) regardless of where the Vehicle was purchased;
  - (b) acknowledges the inconvenience presented by the need to have the Affected Takata Airbag Inflator replaced and, where applicable, prominently features the details of all services the Supplier or the Supplier’s Dealer provide that address Consumer inconvenience associated with the replacement. These might include guaranteed replacement within a specified period of hours, towing, provision of loan or hire vehicles or other transportation, extended dealer service hours, and any other offers the Supplier may have on offer as incentives (for example, a fuel card);
  - (c) advises Consumers that they may report concerns regarding the recall to a specified person or contact point at the Supplier (providing contact details), if applicable, and to the ACCC at <https://www.productsafety.gov.au/contact-us/for-consumers/make-an-enquiry>.
18. Suppliers must ensure that messaging is accessible to Consumers from a culturally and linguistically diverse (CALD) audience. This includes, at a minimum:
- (a) In all written communications with Consumers and on the Supplier’s website (including the page featuring the Recall Database), either
    - i. include a short statement outlining the serious safety risks of Affected Takata Airbag Inflators and the need for urgent action in common community languages, including Arabic, Chinese (Simplified and Traditional), Vietnamese, Farsi, Korean, Spanish, Dari, Indonesian, and Hindi; or
    - ii. provide links or contact information to a free of charge interpreting/translation service, such as the National Accreditation Authority for Translators and Interpreters (NAATI) <https://www.naati.com.au/> or Translating and Interpreting Service (TIS National) <https://www.tisnational.gov.au/>.
  - (b) In all written communications and on the Supplier’s website, provide details of the National Relay Service for Consumers who are Deaf or have a hearing or speech impairment.

**Direct Consumer Communications Campaign**

- 19. A Supplier must employ a Direct Consumer Communications Campaign (the **Direct Campaign**) across multiple channels and escalate as necessary until the Supplier has complied with its obligations in respect of that Vehicle as set out in section 5 of this Recall Notice.
- 20. The Direct Campaign may commence prior to the applicable recall initiation date for a Vehicle pursuant to Schedule 1, but must commence on the applicable recall initiation date at the latest.
- 21. The Direct Campaign must include direct contact with a Consumer by:
  - (a) written communication delivered by post; and

- (b) where required under an escalation strategy pursuant to clause 23 of this Schedule, written communication delivered by registered post or other personal courier service where confirmation of receipt by the addressee is provided.
22. The Direct Campaign may also include in person visits, where appropriate under an escalation strategy pursuant to clause 23 of this Schedule.
  23. The Direct Campaign must include a specified escalation strategy. The escalation of the contact from communication by post through to registered post and an in person visit will depend on the outcome of the initial contact and must also take into account the particular circumstances of the Consumer and Vehicle, including the type of inflator involved, the location of the inflator in the Vehicle, the location of the Vehicle, and the age of the Vehicle. An escalation strategy, must include the following, at a minimum:
    - (a) where postal communication has been utilised for two months and the Consumer has not yet contacted the Supplier, the Supplier must escalate to registered post or other personal courier service where confirmation of receipt by the addressee is provided;
    - (b) where an Alpha Inflator is involved, the Supplier must escalate to in person visits (unless the Supplier has made the required efforts to obtain an address as required in clauses 27 and 28 of this Schedule and no known address is available despite those efforts).
  24. The Direct Campaign must also include concurrent (e.g., concurrently with postal communications) efforts to contact Consumers by email, telephone calls, and SMS/text messaging (unless the Supplier has made the required efforts to obtain such contact details as required in clauses 27 and 28 of this Schedule and such contact details are not available despite those efforts).

### **Advertising and public media campaign**

25. A Supplier must employ each of the following means of Consumer outreach using advertising or public media:
  - (a) prominent advertisements in print newspapers in every market into which they supply, including at least one national print newspaper, a daily print newspaper in each state and territory and print newspapers in major regional and/or rural markets,
  - (b) radio advertising;
  - (c) television advertising;
  - (d) press releases or other methods to seek mainstream media coverage including television and radio;
  - (e) social media posts and paid advertising (e.g. Facebook, Twitter, YouTube, etc.); and
  - (f) digital advertising (on relevant sites such as news websites, second-hand vehicle advertising sites, etc.).

26. The ACCC will consider Plans that feature joint communications by multiple Suppliers (in addition to a Supplier’s own communications) where appropriate and effective. Joint communications may be appropriate for advertisements in print media, media coverage on or advertising in television and radio, digital advertising, and some forms of social media. Any proposed joint communications must be identified in a Supplier’s Communication and Engagement Plan and are accordingly subject to ACCC approval.

**Obtaining and updating Consumer contact information**

27. Suppliers must pursue Consumer contact information from multiple sources beyond data from the National Exchange of Vehicle and Driver Information System (NEVDIS).
28. Suppliers must proactively maintain up-to-date contact information for Consumers. This must include at least the following:
- (a) increase the frequency with which updated Consumer contact information is obtained, especially for older model-year Vehicles that may change hands frequently in the second-hand vehicle market;
  - (b) offer convenient, multiple means for Consumers to update their contact information. This must include, at a minimum, some means on the Supplier’s website for Consumers to update their contact details, with a link to this update mechanism on the Supplier’s Recall Database page and the main page on the Supplier’s website which relates to the recall (if applicable) (see section 8(6) of this Recall Notice). It may also include a dedicated phone number, a postage-paid card the Consumer can mail back, or other means;
  - (c) whenever possible, include in communications to Consumers an option for the recipient to notify the Supplier that the Vehicle has been sold, transferred, or is otherwise being primarily driven by a party not residing at the same address as the recipient, and which invites provision of contact details for the current owner or operator of the Vehicle.