



IntelliGas Terms of Purchase Order

IntelliGas Pty Ltd (ABN 49 141 630 462) - Terms and Conditions of Purchase Order

1. Parties

The Supplier named in the Purchase Order agrees to sell, and INTELLIGAS agrees to buy the Products and Services on these terms.

2. Purchase Order

2.1 The Products and Services must comply with the description, specifications, quantity and quality specified in the Purchase Order together with any attached drawings ("Specifications").

2.2 If required by INTELLIGAS, the Seller must allow INTELLIGAS an opportunity to inspect the Products during manufacture or at any time prior to delivery.

3. Delivery and Acceptance of Products

3.1 Delivery of the Product and Services shall be on the delivery date specified on the Purchase Order, and if not specified then within a reasonable time after acceptance of the order.

3.2 Delivery shall be in accordance with reasonable directions given by INTELLIGAS. Notwithstanding this clause, the Seller is responsible for packing the Product safely to ensure it is not damaged in transit.

3.3 Title to the Products will pass to INTELLIGAS upon acceptance of the Products unless payment is made prior to delivery. If part or full payment is made prior to delivery, title passes to INTELLIGAS upon the manufacture or creation of the Product or the acquisition of its components by the Seller.

3.4 The Seller must notify INTELLIGAS of any delay or change to the manufacture slot for the Product.

3.5 The Seller must provide INTELLIGAS with the shipping documents, instruction sheets and manuals at or before the shipping or dispatch of the Product. Prior to delivery at the INTELLIGAS nominated site, the Seller must provide advance notice of any applicable safety precautions, weight exceeding 3 tonnes, or of individual pieces exceeding 2 meters wide, 2 meters high or 9 meters long.

3.6 INTELLIGAS may require the Seller to pay the costs and expenses incurred by INTELLIGAS or any late fee specified in the Purchase Order in the event that the delivery of the Products or Services is delayed through no fault of INTELLIGAS.

4. Price

4.1 The Price specified in the Purchase Order shall be an all-inclusive price, inclusive of costs, duties, freight, and certification (as applicable).

4.2 Unless specified otherwise in the Purchase Order, INTELLIGAS shall pay the Price to the Seller 30 days of INTELLIGAS receiving a complying tax invoice to be issued not later than the delivery date.

4.3 INTELLIGAS may set off against the Price, any money owing by the Seller to INTELLIGAS without limiting INTELLIGAS's right to recover those monies in any other way.

5. Insurance

5.1 The Seller must at all times until the end of the Defect Liability Period, maintain public liability, and product liability insurance to cover any reasonable risk of loss or damage arising in connection with the Product.

5.2 The Seller must at all times until the end of the Defect Liability Period maintain public liability insurance in an amount satisfactory to INTELLIGAS, and workers compensation for all workers involved in providing the Services.

5.3 If required by INTELLIGAS, the Seller must produce evidence of this insurance.

6. Defect Liability Period

6.1 The Seller shall be responsible to INTELLIGAS and any customer of INTELLIGAS for any Defect in the Product or Services during the Defect Liability Period.

6.2 The Defect Liability Period commences on delivery of the Product or Services and continues until the expiry of a reasonable period of time after the Services are performed or the Product is installed and commissioned, but in any event not less than 12 months from the delivery of the Product.

6.3 For the purposes of this clause, a Defect is something causing or likely to cause an impairment of performance, durability or use of the Product or Services or otherwise reduce the value of the Product or Services to INTELLIGAS.

6.4 The Seller must forthwith upon INTELLIGAS's written request and upon INTELLIGAS election, either repair or replace the Product or Services, or refund INTELLIGAS the Price without deduction. The Seller must meet any loss, costs or expenses incurred by INTELLIGAS in connection with the Defect.

6.5 INTELLIGAS may exercise its rights under this clause regardless of whether or not INTELLIGAS has accepted, and/or paid for the Product or Services.

6.6 Any repairs and replacement of the Products or Services will be subject to a further Defects Liability Period.

7. Warranty

7.1 The Seller warrants and represents that:

(a) The Product or Services complies with all health and safety legislation and regulation, codes of practice and industry standard.

(b) The manufacture, supply and use of the Product will not breach any law or regulation, nor any third party's intellectual property rights.

(c) The Seller has inspected the Product to ensure it fully complies with all Specifications and that the Specifications are suitable and appropriate for the use and performance of the Product.

(d) The Product is suitable to perform the purpose required of it by INTELLIGAS.

(e) The Product uses quality materials suitable for the purpose and application for the Product, and the Services use workmanship of a high professional standard.

(f) The Product was produced in accordance with quality assurance standards approved by INTELLIGAS.

(g) Appropriate manuals and instructions accompany the Product or Services to ensure INTELLIGAS is fully informed of the safety issues, operational and maintenance requirements.

(h) The Seller transfers good and clear title to the Products and Services to INTELLIGAS free and clear of any charge or third-party interest.

7.2 If the Seller gives INTELLIGAS the full rights and title to the benefit of any third-party supplier's warranty.

8. Indemnity

8.1 The Seller indemnifies and will hold harmless throughout this contract and until the end of the Defect Liability Period INTELLIGAS and its officers against all loss liability damages and costs in connection with any failure to comply with the defects liability, and breach of warranty, negligence or breach of this contract or any personal injury or property damage caused by or arising from the Product or Services.

8.2 The Seller's liability is reduced proportionately for that proportion of the liability arising from the conduct of INTELLIGAS or its officers.

9. Security

9.1 Where INTELLIGAS has paid part or the whole of the Price prior to delivery of the Product, the Seller acknowledges INTELLIGAS has a legal interest in the Product and any components as a PMSI.

9.2 The Seller authorises INTELLIGAS to register its interest in the Product on the Personal Property Security Register and will sign all documents and give all reasonable assistance to INTELLIGAS to effect this.

10. Force Majeure

10.1 The following events constitute Force Majeure: a severe weather event, flooding, fire, earthquake, civil unrest, war, industrial action, epidemic, pandemic, extended disruption to transport systems, extended power outage.

10.2 If an event of Force Majeure prevents one party from performing its obligations under these terms, that affected party ("Affected Party") may give the other party notice in writing stating the reason for the delay, the steps to be taken to mitigate the delay or resume performance of the obligations.

10.3 Provided the Affected Party takes all reasonable steps to resume performance of its obligation, it is not liable for the failure to perform its obligations arising from the Force Majeure.

10.4 Should the Affected Party be unable to resume its obligations within 30 days, either party may give written notice to terminate the Purchase Order.

10.5 If the Purchase Order is terminated under clause 10.4, the Seller will only be liable to pay INTELLIGAS for all Services performed in accordance with the Purchase Order up to the date of termination, and INTELLIGAS will not be liable to the Seller for any loss, liability, damages or costs arising out of or in connection with such termination.

11. Confidentiality

11.1 The Seller acknowledges that the following information is Confidential Information: Price, commercial terms, application of the Product in the INTELLIGAS plant and equipment, Specifications peculiar to INTELLIGAS application, information expressly stated by INTELLIGAS to be confidential, and the INTELLIGAS technology ("Confidential Information").

11.2 The Seller agrees to not use nor disclose any Confidential Information to anyone except to the extent strictly necessary for the purposes of the delivery of the Product or as required by law.

11.3 The Seller acknowledges that damages may not be an adequate remedy to protect INTELLIGAS' interest from breaches of confidentiality and consents to injunctive relief should that be necessary to protect INTELLIGAS' interests.

11.4 This clause survives the termination of the Purchase Order for any reason.

12. Intellectual Property

12.1 Where INTELLIGAS provides the Seller with access to or use of INTELLIGAS intellectual property, all title and rights to that intellectual property remain at all times with INTELLIGAS including without limitation all enhancements, improvements and further developments ("New Intellectual Property") in connection with or arising from INTELLIGAS intellectual property.

12.2 The Seller assigns and transfers all New Intellectual Property that it may develop specifically for INTELLIGAS' Specifications, to INTELLIGAS immediately upon its creation. The Seller shall do all acts and things to give effect to that assignment and transfer at INTELLIGAS cost.

12.3 Except for the purpose of producing and delivering the Product or Services to INTELLIGAS, the Seller must not use or disclose INTELLIGAS Intellectual Property or the New Intellectual Property without INTELLIGAS' prior written consent.

12.4 The Seller must comply with all directions given by INTELLIGAS in relation to INTELLIGAS' Intellectual Property or the New Intellectual Property including, without limitation, immediately returning it to INTELLIGAS.

13. Dispute Resolution

13.1 If a dispute arises between the parties, a senior representative of each party must meet in person within 21 days and negotiate in good faith to reach a commercial settlement of the dispute.

13.2 Neither party may commence litigation until this dispute resolution process is completed, except in the case of an urgent injunction.

14. GST

14.1 For the purposes of this clause the following expressions have these meanings:

(a) "GST" "Supply", "Tax Invoice" and "Taxable Supply" each have the meaning given in the GST Act; and

(b) "GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* as amended.

14.2 If a Supply is made by either party ("Supplier") to the other ("Recipient") under the Purchase Order, which is a Taxable Supply, then the Supplier shall be entitled to recover from the Recipient an additional amount on account of GST equal to the amount of the Supplier's GST liability calculated in accordance with the GST Act on the basis that the consideration payable is the value of the Taxable Supply, and shall be recoverable at the time the Price is paid.

14.3 Both parties acknowledge that they are registered for GST purposes.

15. General

15.1 These terms may not be amended or replaced except with the express prior written agreement of both parties.

15.2 Any purported terms and conditions of sale of the Product or Services in the sales literature, tender, quotation or information provided by the Seller, but which are not expressly contained in the Purchase Order are excluded and do not form part of the term and conditions.

15.3 The Purchase Order shall be governed by the laws of Queensland and any court of competent jurisdiction in Queensland shall have the jurisdiction to determine any matter in connection with the Purchase Order and these terms.

15.4 A monetary amount shall refer to an amount in Australian dollars.

15.5 All notices and communication shall be given in writing including without limitation by email, and shall be sent to the relevant address of the parties set out in the Purchase Order or otherwise notified by one party to the other.

15.6 Mail sent by pre-paid post will be deemed to be received two days after post and electronic transmissions will be deemed to be received when a sent notice is received by the sender.

15.7 Notices sent electronically and received outside of business hours will be deemed to be received the following business day.