

## 1. DEFINITIONS

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In the Purchase Order, unless the context otherwise requires:

**Anti-Bribery & Corruption Laws** includes but is not limited to the Australian Criminal Code Act 1995, the US Foreign Corrupt Practices Act 1977, the UK Bribery Act 2010, any other similar applicable laws (including any applicable Australian State or Territory laws) dealing with bribery and corruption offences.

**AGIG** means each of the following entities and any entity which is a Related Body Corporate of: CK William Australia Holdings Pty Ltd (ABN 14 613 690 243); Multinet Group Holdings Pty Ltd (ABN 83 104 036 937); the trustees for the DBNGP Trust and the DBNGP WA Pipeline Trust; Australian Gas Networks Limited (ABN 19 078 551 685); and any entity which is part of the group known as the Australian Gas Infrastructure Group of companies from time to time.

**Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in Western Australia; or, if applicable, has the meaning given in the Building and Construction Industry (Security of Payment) Act 2021 (WA).

**Confidential Information** means any information or documentation which relates to a party, its Personnel or Related Bodies Corporate, the Purchase Order, patterns, drawings, specifications, samples and information relating to the Goods, Services or the Purchaser's premises, property or operations which is not already known by the other party or in the public domain.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Data** means: (a) bulk customer data; (b) bulk Personal Information; and (c) data as to quantum of gas delivered (both historical and current load demand) from or to any one or more sites (or their connection points), relating to or obtained in connection with AGIG's operations.

**Defect** means any aspect of the Goods or Services not in accordance with the Purchase Order, or any damage, inadequacy or fault in design, workmanship, quality, performance, composition or appearance of the Goods or Services.

**Defects Rectification Period** means 24 months from the date of delivery of Goods or 12 months from the date on which a Service was last performed.

**Delivery Date** means the dates for delivery of Goods or completion of Services as set out in the Purchase Order.

**Delivery Point** means the location specified in the Purchase Order.

**Goods** means the goods, materials, supplies, plant and the like described in the Purchase Order and includes the performance of any services which are ancillary to and required for the supply of the Goods.

**GST** means the goods and services tax imposed under A New Tax System (Goods & Services Tax) Act 1999. Words defined in that Act have the same meaning in the Purchase Order.

**Law** means (a) laws, statutes, regulations, by-laws, orders, ordinances, proclamations and decrees; (b) the terms and conditions of any licence, permit, consent, certificate, authority or approvals; (c) any binding requirement, direction or order of a governmental agency; and (d) judicial, administrative or regulatory decrees, judgments or orders.

**Liabilities** means damages, losses, costs, expenses (including legal costs), claims or actions.

**Personal Information** has the meaning given in the Privacy Act 1988 (Cth).

**Personnel** means directors, officers, employees, servants, agents and subcontractors and their personnel.

**Policies and Procedures** means the AGIG Sustainable Procurement Standard, and any other

policies and procedures provided by the Purchaser to the Vendor from time to time or published on the AGIG supplier website, here:  
<https://www.agig.com.au/suppliers>

**Purchase Order** has the meaning given in clause 2.1.

**Purchase Order Price** means the aggregate amount payable by the Purchaser, as specified in the Purchase Order.

**Purchaser** is the AGIG entity specified on the Purchase Order and includes, as the context requires, AGIG's Personnel and Related Bodies Corporate.

**Related Body Corporate** has the meaning given in the Corporations Act and in the case of Purchaser includes AGIG.

**Sanctions Laws** includes laws concerning the import, export or re-export of goods, services, or technology and economic or trade sanctions or restrictive measures, including such laws or measures enacted, administered, imposed, or enforced by Australia, the European Union, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the U.S. Department of State or the United Nations Security Council.

**Services** means any work or services described in the Purchase Order to be performed by the Vendor.

**Special Conditions** means the Special Conditions (if any) recorded on the Purchase Order.

**Specifications** means the specifications (if any) attached to the Purchase Order or agreed between the Vendor and the Purchaser.

**Vendor** is the entity specified on the Purchase Order.

## **2. GENERAL**

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2.1 The Purchase Order consists of the following documents (and to the extent of inconsistency, will be interpreted in the following order of precedence): the Purchase Order form generated by the Purchaser, these Purchase Order Terms and Conditions, any Specifications and Policies and Procedures.

2.2 The Purchase Order commences on the earlier of the date that the Vendor accepts the Purchase Order or commences supply or delivery of any of the Goods or Services.

2.3 The Purchase Order is not exclusive and the Purchaser is not required to procure a minimum quantity of Goods or Services from the Vendor. The Purchaser may contract for the same or similar Goods or Services with other parties.

2.4 The Vendor's terms and conditions or any other terms and conditions provided by or referred to by the Vendor on any documentation are of no force and effect.

2.5 Any variation to the Purchase Order must be agreed in writing by both parties.

2.6 Neither party may make any public announcements in any way relating to the Purchase Order without the other party's prior written consent (not to be unreasonably withheld).

2.7 The Vendor is an independent contractor. Nothing in the Purchase Order creates a relationship of joint venture, trust, employment, agency or partnership. The Vendor must not hold itself out as an agent of the Purchaser.

2.8 Any formal notice given or made under these terms or conditions must be given by an authorised representative, in writing, and is taken to be given when delivered to the address or email address notified by the intended recipient from time to time.

2.9 The Purchase Order contains the entire agreement between the parties.

2.10 The Purchase Order will be governed by the Laws of the state of Australia specified in the Purchase Order, or if not specified, Western Australia. The parties submit to the non-exclusive jurisdiction of the courts of that state.

2.11 Clauses 8, 9, 12, 13 and 14 survive termination or expiration of the Purchase Order.

## **3. SUPPLY OF GOODS AND SERVICES**

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3.1 The Vendor will supply the Goods and/or Services in compliance with the Purchase Order.

3.2 The Vendor will deliver the Goods to the Delivery Point or complete the Services on or before the Delivery Date.

3.3 The Vendor and Vendor's Personnel must:

- (a) comply, and ensure the Goods or Services comply, with all Laws and Australian Standards applicable to the Goods or Services;
- (b) comply with all Policies and Procedures and any of the Purchaser's applicable site-specific policies, inductions, medical or drug and alcohol testing requirements (as notified by the Purchaser from time to time);
- (c) at its expense, obtain and hold all licences, permits, endorsements and other certificates which may be required to perform its obligations under the Purchase Order;
- (d) pay all fees, deposits and taxes (other than GST);
- (e) ensure that Australian vendors or subcontractors are given full, fair and reasonable opportunity to supply goods or services that comprise part of or all of the Goods and Services;
- (f) perform in a safe manner and in a way that does not prejudice safe work practices, safety and care of property and not impede work being performed by the Purchaser's Personnel;
- (g) act with due care, skill and diligence expected of a skilled and experienced professional contractor providing similar services.

3.4 The Vendor warrants that:

- (a) the Goods or Services will be suitable in all respects for their intended purposes, equal in all respect to the descriptions, demonstrations, samples, patterns and specifications supplied, and will be new and free of Defects;
- (b) it has good title to supply the Goods to the Purchaser, and it will hold the Purchaser free and harmless against any liens, attachments or other claims to the

Goods or arising out of the Purchase Order;

- (c) the Goods and performance of the Services will comply with all relevant Laws, Australian Standards and good safety practices;
- (d) it and its' Personnel are suitably skilled, trained, qualified and competent to supply the Goods and perform the Services and will exercise the standards of diligence, skill and care normally exercised by a similarly qualified and competent person supplying comparable Goods or Services.

3.5 The Vendor must ensure that the Purchaser has the full benefit of all manufacturer's warranties that may be applicable.

#### **4. TESTING AND INSPECTION**

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4.1 The Purchaser, or Purchaser's Representative, may at any time (on reasonable notice to the Vendor) inspect, test or witness tests on all or any part of the Goods or Services, or of any materials used in manufacturing of Goods or performance of Services.

4.2 The Vendor must provide sufficient, safe and proper facilities for any inspection, testing or witnessing of any testing carried out in accordance with clause 4.1.

4.3 The Vendor will advise the Purchaser a minimum of 24 hours before the time of any testing or commissioning in relation to the Goods or Services and will adhere to proper industry practices and manufacturers' recommendations in respect of that testing or commissioning, including providing opportunity for the Purchaser to attend.

4.4 Inspection, testing or attendance by the Purchaser is not deemed acceptance of any Goods or Services and does not relieve the Vendor of any of its responsibilities or liabilities under the Purchase Order.

#### **5. GOODS**

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5.1 Title to, and property in, the Goods will pass to the Purchaser on the earlier of payment or delivery of those Goods to the Delivery Point.

5.2 Where any part payment is made by the Purchaser title to and property in the partly completed Goods will pass to the Purchaser at the time of part payment; and

5.3 Risk in the Goods remains with the Vendor until delivery to the Purchaser, in accordance with the Purchase Order.

5.4 Unless otherwise specified in the Purchase Order, all Goods shall be delivered free of charge to the Delivery Point.

5.5 The Goods must be appropriately marked and identified as the property of the Purchaser and the Vendor is responsible for all costs associated with delivery (including but not limited to freight charges).

5.6 Two copies of a delivery note quoting the Purchase Order number and part numbers (if any) of the Goods must be sent with each delivery. The Vendor must enclose one copy with the Goods and attach the second copy in an envelope on the outside of the Goods' crate or package.

5.7 Goods shall be adequately cased, crated or otherwise packed, using packaging materials and pallets supplied by the Vendor free of charge, to ensure safe arrival, having regard to road and climatic conditions.

5.8 Packages and loose items shall be clearly marked in accordance with the Purchase Order and shall indicate gross weight.

5.9 Dangerous Goods delivered to the Purchaser shall be clearly marked with all appropriate information.

5.10 The Vendor must ensure that all Dangerous Goods are transported in accordance with the provisions of the Dangerous Goods Safety Act 2004 (WA) (or other applicable legislation in the relevant state), applicable regulations and the then current Australian Code for the Transport of Dangerous Goods by Road or Rail or any equivalent replacement code.

## **6. DEFECTS**

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6.1 If, during the Defects Rectification Period, the Purchaser considers that any part of the Goods or Services are Defective, the Purchaser may reject the Goods or Services with the Defect and return

them to or notify the Vendor of the Defect, in which case the Vendor must replace, remediate or reperform the Goods or Services at its cost as soon as practicable.

6.2 Acceptance by the Purchaser of any Defective Goods or Services does not operate as a waiver of the Purchaser's rights under this clause 6 or prevent the Purchaser from subsequently enforcing any right under this clause 6.

6.3 Where the Vendor has corrected any Defect under this clause, those Goods or Services will be subject to the Defects Rectification Period, recommencing from the date that the Vendor corrected the Defect.

6.4 If the Vendor has not corrected the Defect within a reasonable time (to be agreed by the parties), the Purchaser may engage another contractor to correct the Defect, in which case the Vendor must reimburse the Purchaser for all expenses incurred.

## **7. PAYMENT & GST**

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7.1 Unless otherwise stated, all amounts payable under the Purchase Order are expressed on a GST exclusive basis. If GST is payable in relation to a Taxable Supply, the amount payable for that Taxable Supply will be the amount specified in the Purchase Order plus GST.

7.2 On delivery of the Goods or completion of the Services, the Vendor must provide to the Purchaser an invoice for the Purchase Order Price which includes the Purchase Order number, the Goods and/or Services supplied and date of delivery, the Delivery Point, if Services are charged by time, the time spent by the people; and any other details reasonably required by the Purchaser. If applicable, the invoice must state that it is an invoice issued pursuant to the Building and Construction Industry (Security of Payment) Act 2021 (WA) (the **Act**).

7.3 Subject to clause 7.4, the Purchaser will pay the Vendor the Purchase Order Price within 20 Business Days of the date of the invoice. The Purchase Order Price is not subject to adjustment or escalation and is inclusive of all taxes (other than GST) and all Vendor costs including (without limitation) overheads, materials, mobilisation or

demobilisation, transportation, storage, packaging, premiums of insurance.

7.4 If the Purchaser disputes all or part of an invoice, the Purchaser may withhold payment for the disputed item until settlement of the dispute. However, if the Act is applicable to this Purchase Order, the parties will resolve the disputed invoice in accordance with the Act, and appoint the Institute of Arbitrators and Mediators Australia (West Australian Chapter) as prescribed adjudicator.

## **8. LIABILITIES, INDEMNITIES, INSURANCE**

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8.1 The Vendor must, at its sole expense, hold and maintain the following insurance policies, for the minimum amounts specified:

- (a) Worker's Compensation insurance in compliance with applicable laws and including cover for common law claims for not less than \$5,000,000;
- (b) Public and Product Liability insurance for not less than \$20,000,000 in respect of any one occurrence and unlimited in the aggregate for public liability claims but limited in the aggregate to \$20,000,000 for products liability;
- (c) if professional services are provided under the Purchase Order, Professional Indemnity Insurance for not less than \$5,000,000 per occurrence and in aggregate, to be maintained for 5 years after the expiry or termination of the Purchase Order;
- (d) comprehensive motor vehicle insurance and motor vehicle third party liability insurance for not less than \$30,000,000 to cover all motor vehicles, mechanical propelled machines and other mobile plant used at the Purchaser's site;
- (e) insurance in respect of the Goods, and the transportation of the Goods, for a full replacement amount, and insurance for its own constructional plant and equipment used in the supply of the Goods and Services for its full insurable value; and

- (f) any additional insurance required by any applicable Law.

8.2 The Vendor must provide certificates of currency for all required insurances on request.

8.3 The Vendor's insurances must, to the extent allowed at law, provide that the Purchaser is recognised as an additional insured or principal.

8.4 The Vendor must ensure that its subcontractors have the benefit of or maintain insurances similar to those set out in this clause.

8.5 No party will be liable to any other party for any indirect or consequential loss or damage, including loss of profit, loss of use, loss of revenue or loss of opportunity.

8.6 Other than in respect of indemnified or insured claims, the Vendor's liability under the Purchase Order is capped at the Purchase Order Price.

8.7 The Vendor indemnifies and holds harmless the Purchaser, its Personnel and Related Bodies Corporate and any other relevant third party from and against all Liabilities arising out of, incidental to, or in connection with the Vendor's performance, non-performance, acts, omissions or breach of its obligations under this Agreement.

8.8 Without limitation, clause 8.7 applies to Liabilities in respect of any injury to or death of any person or any damage to or destruction of any real or personal property.

8.9 The parties agree that Part 1F of the Civil Liability Act 2002 (WA) is expressly excluded from application to the Purchase Order pursuant to section 4A of that Act.

## **9. RECORDS AND CONFIDENTIALITY**

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9.1 The Vendor will maintain, and ensure its subcontractors maintain, full and correct records in connection with the Goods and Services and all related transactions for at least 2 years (or such other period required by Law).

9.2 The Purchaser may, upon reasonable notice to the Vendor and for reasonable cause, conduct audits of the records kept by the Vendor in relation to the Purchase Order.

9.3 The Vendor must create and maintain written records of all information reasonably requested by the Purchaser relating to greenhouse gas emissions, energy production; and energy consumption from or as a result of the operation of any activities carried out by Vendor and its Personnel under the Purchase Order.

9.4 The Vendor will provide the Purchaser with any other information reasonably requested by the Purchaser in relation to the provision of the Goods or Services.

9.5 Subject to clause 9.6, the parties must not disclose Confidential Information to any third party or use or reproduce it other than for purposes directly associated with performance of the Purchase Order.

9.6 The Purchaser may disclose Confidential Information as required in compliance with law.

9.7 The parties must protect the Confidential Information and, on completion, termination or expiration of the Purchase Order, return or destroy it on request.

## **10. FIRB COMPLIANCE**

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10.1 The Vendor acknowledges that the Purchaser is subject to conditions imposed under section 74(4) of the Foreign Acquisitions and Takeovers Act 1975 (Cth) and undertakes to ensure, within its power and control, that all Data:

- (a) is stored only within Australia;
- (b) is accessible and maintained only from within Australia; and
- (c) will not be taken outside of Australia,

except in circumstances where it is:

- (d) required to comply with any law of the Commonwealth of Australia or any of its States and Territories; or
- (e) aggregated (with removal of Personal Information) before being accessed for any corporate and financial reporting purposes.

10.2 The Vendor will notify the Purchaser as soon as possible of any circumstances which cause the Vendor to rely on the exceptions in clauses 10.1(d) or (e).

## **11. BUSINESS ETHICS**

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11.1 In the performance of its obligations under this Agreement, the Vendor must, and must ensure that each of its subcontractors, comply with the AGIG Sustainable Procurement Standard, all applicable Modern Slavery Laws and has policies and procedures to ensure compliance.

11.2 The Vendor represents and warrants that neither the Vendor nor any of its officers, employees or other persons associated with it:

- (a) has been convicted of any offence involving Modern Slavery; and
- (b) is not the subject of and has not been the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with Modern Slavery.

11.3 The Vendor represents and warrants that it has not violated and will not violate, in connection with the Purchase Order, any Anti-Bribery & Corruption Law.

11.4 The Vendor represents and warrants that it will comply with all applicable Sanctions Laws in connection with the Purchase Order.

11.5 The Vendor must notify the Purchaser as soon as it becomes aware of any actual or suspected Modern Slavery in a supply chain which has a connection with this Agreement, or any conduct or alleged conduct amounting to a breach of any Anti-Bribery & Corruption Law or Sanctions Law.

## **12. PATENTS**

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12.1 The Vendor will pay all royalties and fees on patented articles processes and registered designs in respect of the Goods and Services.

12.2 The Vendor warrants that supply or use of the Goods and Services does not and will not infringe any patent, copyright, trademark or trade secret of any country related to the Goods or Services and will indemnify the Purchaser and its successors in title from all actions, demands, damages or claims (including legal costs) arising from or incurred by reason of any such infringement.

### **13. PRIVACY AND DATA SECURITY**

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13.1 The Vendor must comply, with the Privacy Act 1988 (Cth) and any other applicable laws and codes dealing with privacy or obligations in relation to any Personal Information collected, used, disclosed and stored in relation to this Agreement.

13.2 The Vendor must implement and maintain appropriate technical and organisational measures to secure Purchaser's Confidential Information and Personal Information.

13.3 The Vendor must promptly report to the Purchaser any unauthorised access, disclosure, loss or destruction of Confidential Information or Personal Information, or any data security breach of systems used in relation to the Purchase Order that may impact security of Purchaser's Confidential information or Personal Information. The Vendor must mitigate, to the extent possible, impacts of such disclosure or access and must cooperate with Purchaser in providing any notices to individuals or investigations into the incident.

### **14. INTELLECTUAL PROPERTY**

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14.1 To the extent that any intellectual property is created by the Vendor or the Vendor's Personnel in the supply of the Goods or the performance of the Services (including in documentation relating to the Goods or Services), property in the intellectual property will vest in the Purchaser.

14.2 To the extent that the supply of the Goods or Services uses or incorporates any pre-existing intellectual property of the Vendor or the Vendor's Personnel, the Vendor grants the Purchaser a complete, permanent, assignable, non-exclusive, royalty-free licence to use such intellectual property.

14.3 The Vendor hereby waives to the fullest extent of the Law all moral rights or similar rights in any intellectual property created by the Vendor or the Vendor's Personnel in supplying the Goods or performing the Services, or in any of the Vendor's pre-existing intellectual property used or incorporated in supplying the Goods or performing the Services and will procure that the Vendor's Personnel do the same.

14.4 The Vendor warrants that to the extent that it uses or proposes to use the intellectual property of any third party in the supply of the Goods or performance of the Services, it has obtained, or will obtain, from the relevant third party all necessary licences to use, or assignments of, such intellectual property; and that it will not breach any of the licences or assignments.

### **15. TERMINATION**

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15.1 The Purchaser may terminate the Purchase Order immediately by written notice if:

- (a) the Vendor is in breach of the Purchase Order and the Purchaser has notified the Vendor of the breach and requested that it be remedied within a reasonable time and the Vendor has failed to remedy the breach;
- (b) the Vendor is unable to pay its debts when they are due or is, or may become, insolvent, or otherwise ceases its business;
- (c) the Vendor or its Personnel, in the Purchaser's reasonable opinion, would endanger health and safety if they were to continue performing the obligations under the Purchase Order.

15.2 If the Purchase Order is terminated, the Vendor must:

- (a) cease supply of the Goods and performance of the Services in accordance with and to the extent specified in the relevant notice;
- (b) immediately take all possible action to mitigate any Liabilities incurred by it as a result of such termination; and
- (c) take any other action reasonably required by the Purchaser in relation to the termination.

15.3 If the Purchase Order is terminated, the Purchaser will pay the Vendor for Goods or Services delivered (and for which title has passed) in accordance with the Purchase Order up to the date of termination.

15.4 The Purchaser will not be liable to the Vendor for any compensation or damages, including

damages for loss of profit or any consequential, special, or other damages, in respect of or associated with termination.

15.5 Termination of the Purchase Order does not affect the Purchaser's accrued rights or remedies.

## **16. ASSIGNMENT AND SUBCONTRACTING**

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16.1 The Vendor may not assign or subcontract any of its rights and obligations under the Purchase Order without the prior written consent of the Purchaser.

16.2 Notwithstanding any approval to assign or subcontract given by the Purchaser, the Vendor is liable for actions of its subcontractors and remains subject to all duties and obligations in accordance with the Purchase Order.