



**Title: Approved User Agreement for the GasMark Certification Trade Marks**

---

THIS AGREEMENT IS DATED: .....

BETWEEN

Name: IAPMO R&T Oceana Pty Ltd ABN 78 121 986169  
Short form name: IAPMO R&T Oceana  
Notice details: Address: 249 Hawthorn Road, CAULFIELD NORTH, VIC 3161  
Fax No.: (+61) 03 9523 1891  
Attention: Glenn Tate

AND

Name: ABN  
Short form name: (Approved User)  
Notice details Address:  
Fax no.:  
Attention:

BACKGROUND

- A IAPMO Oceana Pty Ltd (ACN 121 986 169) is the owner of the certification trade mark known as the 'GasMark' (the Mark). Trade Mark registration has been applied for and is pending under the Commonwealth *Trade Marks Act 1995*.
- B The Approved User wishes to be able to use the GasMark on certified and specific gas products.
- C Oceana, as the Approved Certifier, agrees to grant the Approved User a certificate to use the GasMark in accordance with the terms of this agreement.

**AGREED TERMS**

**1. DEFINED TERMS**

In this agreement (including its attachments):

**Applicable Standards** means those documents utilised by the certification body and recognised by the Regulatory Authority that contain detailed safety and performance requirements for assessment of Gas Products. In addition to the routine Standards, the certification body may apply alternative Standard(s) or requirements, as agreed by the Regulatory Authority. Refer by IAPMO R&T Oceana 'Governance Rules' for further details

**Commencement Date** means the date of execution of this agreement by the parties.

**Gas Products** means new 'Type A' appliances (up to 500MJ/hr) and gas components as covered under the scope of the Standards listed in the IAPMO R&T Oceana GasMark 'Governance Rules', Appendix 1.

**GasMarks** means each or all of the GasMarks lodged with the Registrar of Trade Marks for each or all of the GasMarks, as the context may be and are attached as UMA-204.

**Term** means the term of the agreement as set out in Clause 3.

## **2. GRANT OF CERTIFICATE**

### **2.1 Certificate**

IAPMO R&T Oceana grants the Approved User a non-transferable, non-exclusive certificate to use the GasMark (as set out in the 'Governance Rules') as a certification trade mark in Australia and New Zealand for the Term in connection with the Gas Products on the terms and conditions set out in this agreement and the additional terms and conditions stipulated by IAPMO R&T Oceana in UMA-202 and the "Continuous Compliance Inspection Agreement", to the extent that they are not inconsistent with the terms and conditions set out in this agreement or the Rules.

### **2.2 IAPMO R&T Oceana remains the owner**

- (a) The Approved User acknowledges and agrees that IAPMO R&T Oceana Pty Ltd is the owner of all rights, title and interest in the GasMark and the associated goodwill.
- (b) IAPMO &R&T Oceana Pty Ltd will have the sole right to institute any infringement proceedings in respect of the GasMark.

### **2.3 Protection of GasMark**

The Approved User must not at any time during or after the Term:

- (a) register or attempt to register or use as a trade mark the GasMark or any device or word substantially identical with or deceptively or confusingly similar to any of the GasMark; or
- (b) oppose or contest the validity of any application for registration or registration of the GasMark by IAPMO &R&T Oceana Pty Ltd or any of its Related Bodies Corporate.

## **3. TERM**

- (a) This agreement will start on the Commencement Date and continue for a period of [three (3) years] unless terminated or extended in accordance with its terms (Initial Term).
- (b) Unless a party terminates this agreement by giving at least [30] days written notice prior to the expiration of the Initial Term or any anniversary of that date, this agreement will automatically continue for further periods of 12 months commencing on the expiration of the Initial Term or each anniversary of that date.

## **4. APPROVED USER'S OBLIGATIONS**

### **4.1 Compliance with Rules, Requirements, etc.**

The Approved User must comply with:

- (a) the terms of this agreement and the Attachments;
- (b) the Rules as they relate to an Approved User or the use of the GasMark (including ensuring that Gas Products comply with Applicable Standards and local Regulatory Authority requirements and compliance with the dispute settlement procedures set out in the Rules);
- (c) any instructions, requirements, directions and specifications of the Regulatory Authorities or IAPMO R&T Oceana from time to time with respect to the use of the GasMark; and
- (d) the terms and conditions of the certificate.

### **4.2 Conditions of use**

The Approved User must:

- (a) Inform IAPMO R&T Oceana about any certification changes such as intended modification to the product design, materials, manufacturing process, changes in the certificate ownership, manufacturing location, certificate holders location or, if relevant, its quality system, which may affect the conformity of the product. IAPMO R&T Oceana shall determine whether the announced changes require further investigations. If such is the case, the Approved User shall not be allowed to release certified products resulting from such changes until IAPMO R&T Oceana has notified the Approved User accordingly.

- (b) only apply the GasMark on Gas Products that comply with applicable Standards;
- (c) not apply the GasMark in a way that might be misleading or deceptive;
- (d) if requested by IAPMO R&T Oceana or Regulatory Authorities, promptly submit for inspection samples of the Gas Products and materials on which it has applied the GasMark;
- (e) keep and maintain accurate records and documents to show that it is complying with its obligations under this agreement;
- (f) if requested by IAPMO R&T Oceana or Regulatory Authorities, promptly grant them access to its premises and/or records and documents (including copies of the records and documents) to see if it is complying with its obligations in relation to the use of the GasMark;
- (g) provide all assistance and information as may be required by IAPMO R&T Oceana or Regulatory Authorities in relation to the GasMark. and
- (h) use the GasMark only in accordance with the terms and conditions of the Certificate.

## **5. FEES AND PAYMENT TERMS**

The Approved User must pay IAPMO R&T Oceana the annual GasMark 'Continuous Compliance Inspection' fees and Marking fees in accordance with the schedule of fees issued by IAPMO R&T Oceana from time to time. IAPMO R&T Oceana will provide the Approved user with not less than 30 days written notice of an increase in the schedule of fees where it will affect the fees payable by the Approved user.

## **6. TERMINATION**

- (a) The Approved User may terminate this agreement by giving IAPMO R&T Oceana 30 days' written notice of its intention to do so.
- (b) IAPMO R&T Oceana may terminate this agreement immediately by giving notice to the Approved User if the Approved User breaches any of the provisions of this agreement and if the breach is capable of remedy, fails to remedy the breach within 15 days after receiving notice from IAPMO R&T Oceana requiring it to do so.
- (c) The certificate terminates on the termination of this agreement or upon the expiry date specified in respect of the certificate.

## **7. CONSEQUENCES OF TERMINATION**

- (a) The Approved User must stop using the GasMark on any Gas Products and stop representing itself as having any certificate to use the GasMark immediately once this agreement is terminated.
- (b) In the event that this agreement is terminated under clause 6(a), IAPMO R&T Oceana must repay the Approved User any unused portion of the fees paid by the Approved User under clause 5.

## **8. REVIEW PROCEDURES**

If the Approved User is dissatisfied with a decision of IAPMO R&T Oceana to refuse to certify products or allow the use of the GasMark and wants the decision reviewed, it must apply for a review of the decision in accordance with the Review Procedures as issued by IAPMO R&T Oceana from time to time.

## **9. GOVERNING LAW AND JURISDICTION**

This agreement is governed by the laws of the State of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of that State.

EXECUTED as an agreement.

By a duly authorised officer of  
IAPMO R&T Oceana Pty Ltd  
in the presence of

\_\_\_\_\_  
Signature of director

← \_\_\_\_\_ ←  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director (print)

← \_\_\_\_\_ ←  
Name of director/company secretary (print)

By a duly authorised officer of  
the Approved User  
in the presence of

\_\_\_\_\_  
Signature of director

← \_\_\_\_\_ ←  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director (print)

← \_\_\_\_\_ ←  
Name of director/company secretary (print)