

## URBAN REPUBLIC

### Standard Terms of Sale

Unless otherwise agreed in writing with Urban Republic (ABN 77 133 990 306) (**Urban Republic**), and its associated or related entities, these Standard Terms of Sale apply to all transactions between the Customer and Urban Republic relating to the supply of Goods and associated services, including any Credit Application, quotations, invoices or other similar documents (collectively, the **Terms**). The Customer acknowledges that these Terms constitute a Security Agreement for the purposes of the PPSA and that a Security Interest may arise in all previously supplied, and future supply, of Goods by Urban Republic to the Customer.

#### 1. DEFINITIONS

Unless the context otherwise requires:

**ACL** means the Australian Consumer Law contained in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) as amended from time to time;

**Business Day** means any day that is not a Saturday or Sunday or a public holiday in the place concerned;

**Credit Application** means a credit application submitted to Urban Republic by the Customer;

**Customer** means the person shown on the relevant Credit Application or Invoice as the customer purchasing the Goods, and includes such person, contractors, servants, agents, business, partnership, trust or corporate entity (jointly and severally if there is more than one), their agents or assigns and/or other person claiming through, under or in trust for such person;

**Goods** means the goods supplied by Urban Republic pursuant to any order accepted by Urban Republic;

**GST** means the goods and services tax imposed by or under GST Law;

**GST Law** means the same as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**GST Rate** means the rate of GST under the GST Law;

**PPSA** means the *Personal Property Securities Act 2009* (Cth);

**Security Agreement** means the security agreement under the PPSA created between the Customer and Urban Republic by these Terms;

**Security Interest** has the meaning as defined under the PPSA;

**Subcontractor** includes any other person who pursuant to a contract or arrangement with any other person (whether or not Urban Republic) provides or agrees to provide the Goods or any part of the Goods;

**Supply** means the same as in the GST Law;

**Taxable Supply** means any Supply under these Terms in respect of which Urban Republic is or may become liable to pay GST; and

**Urban Republic** means Urban Republic Pty Ltd (ABN 77 133 990 306).

#### 2. TERMS

2.1. These Terms constitute the entire agreement between Urban Republic and the Customer.

All prior negotiations, representations, understandings, arrangements and agreements (whether oral and/or in writing), may be superseded by these Terms.

2.2. These Terms cover each and every supply of Goods from Urban Republic to the Customer.

2.3. Urban Republic may vary these Terms from time to time. Any orders placed after the variation date will be deemed an acceptance of such varied Terms.

2.4. In the event of any inconsistency between these Terms and any other terms and conditions (of the Customer or otherwise), these Terms prevail.

#### 3. SUPPLY OF GOODS

3.1. If Urban Republic provides the Customer with a quotation with respect of Goods, that quotation is an invitation to treat only, only valid in writing and valid for 30 days from the date of the quotation.

3.2. The Customer may order Goods by submitting an order to Urban Republic. All orders made by the Customer must specify the type and quantity of the Goods required.

3.3. Urban Republic may, for any reason in its absolute discretion, refuse to accept an order made by the Customer.

3.4. Urban Republic is under no obligation to supply Goods which are the subject of an order by the Customer, unless and until Urban Republic has accepted the order.

- 3.5. Urban Republic will, prior to or upon supplying the Goods to the Customer, provide the Customer with an invoice in respect of the Goods supplied.
- 3.6. If there is any variation to any of the information supplied by the Customer to Urban Republic (including as to the structure or nature of the Customer's business) the Customer must notify Urban Republic in writing as soon as practicable.

#### **4. DELIVERY**

- 4.1. The Customer will, unless Urban Republic and the Customer otherwise agree, bear the cost of delivery of the Goods.
- 4.2. Urban Republic is authorised to deliver the Goods at the address given to it by the Customer.
- 4.3. Urban Republic will make all reasonable efforts to deliver the Goods to the Customer by the date agreed between the parties. However, any times quoted for delivery are estimates only and Urban Republic will not be liable for:
  - (a) any failure to deliver, or delay in delivery, of Goods due to a force majeure event outlined in clause 17;
  - (b) any damage or loss due to the unloading or packaging of Goods; or
  - (c) any damage to property caused upon entering premises to deliver Goods.
- 4.4. The Goods will be deemed delivered in accordance with the Terms if they are delivered to the address given by the Customer and Urban Republic obtains a receipt or a signed delivery docket.
- 4.5. If no-one at the specified address agrees to take delivery or the Goods are unable to be delivered for another reason, the Customer authorises Urban Republic to deal with the Goods as Urban Republic thinks fit.
- 4.6. Any dealings by Urban Republic in accordance with clause 4.5 are at the Customer's sole expense and risk and without liability to Urban Republic.
- 4.7. Upon delivery or collection and prior to installation or use of any Goods, the Customer will inspect the Goods as appropriate as to the type, quantity, quality, appearance, shade, colours, suitability of purpose and any other characteristic of the Goods. The Customer acknowledges that the Goods may contain, display or be subject to any one or more of the characteristics set out in clause 6.
- 4.8. If any Goods are damaged, wrongly supplied or not in accordance with the Terms, the Customer may return those Goods in accordance with clause 7.
- 4.9. The Customer will be deemed to have accepted delivery of the Goods in the following events:

- (a) failure by the Customer to return the Goods in accordance with clause 7 (and within the time periods specified in that clause); or
- (b) installation or use of the Goods in any way by the Customer.

- 4.10. Urban Republic reserves the right to deliver Goods by instalments.
- 4.11. The Customer indemnifies Urban Republic against any loss or damage incurred by Urban Republic, its sub-contractors or employees as a result of delivery, except where excluded by law.
- 4.12. The Customer will indemnify Urban Republic against any losses, costs or expenses incurred by Urban Republic due to any failure by the Customer to accept the Goods at the time of delivery or collection.

#### **5. PRICING AND PAYMENT**

- 5.1. The price for the supply of Goods is the price specified in the invoice or account provided to the Customer by Urban Republic. Any other price indications are subject to alteration as at the delivery date.
- 5.2. Unless otherwise stated, the price for the supply of Goods excludes GST.
- 5.3. Urban Republic may vary the purchase price for the Goods if the Customer requests any variation to an order.

#### **6. CHARACTERISTICS OF GOODS**

- 6.1. The Customer acknowledges that Goods may contain, display or be subject variations in colour, shade, surface and finish, and may change colour over time.
- 6.2. The Customer acknowledges that Goods which contain, display or are subject to any one or more of the characteristics referred to in clause 6.1 are not defective or of unacceptable quality by reason of any of those characteristics.

#### **7. RETURN OF GOODS**

- 7.1. The Customer must obtain a return authorisation number from Urban Republic's customer services.
- 7.2. The Customer may return Goods to Urban Republic provided that:
  - (a) the Goods are damaged, wrongly supplied, defective or not in accordance with these Terms;
  - (b) the Goods must be returned within two (2) weeks of the date of the invoice or account issued by Urban Republic to the Customer in respect of the Goods;
  - (c) the Customer notified Urban Republic of the invoice or account number in respect of the Goods to be returned;

- (d) the Goods are returned in the original state or condition in which they were supplied, and remain in original boxes together with all packaging and any instruction material; and
  - (e) the Goods are in as new condition as is reasonably possible.
- 7.3. All Goods returned by the Customer are subject to assessment by Urban Republic, and Urban Republic may, if permitted by the ACL or any other law, refuse to accept the return of the Goods at its sole discretion.
- 7.4. Unless Urban Republic and the Customer otherwise agree in writing, the Customer will bear the costs of delivery when returning Goods.
- 7.5. Subject to the Customer's rights under the ACL, the following Goods cannot be returned by the Customer to Urban Republic under any circumstances:
- (a) those that were specifically made, sourced, ordered or purchased for the Customer;
  - (b) those that were used, installed, laid, damaged or altered in any way by the Customer;
  - (c) those that were sold by the Customer at wholesale or discounted prices, or as second grade or quality; or
  - (d) those that are no longer in stock by Urban Republic or have been discontinued.

## **8. ACCOUNT TERMS**

- 8.1. The Customer must pay for all Goods delivered in accordance with the terms of the relevant invoice, or otherwise as specified by Urban Republic, and acknowledges that time is of the essence in respect of any amounts to be paid to Urban Republic by the Customer.
- 8.2. Credit extended to the Customer for all Goods sold will be made in accordance with the Credit Terms, or as otherwise agreed in writing with Urban Republic.
- 8.3. Urban Republic may withdraw the Customer's credit facilities at any time or vary the Customer's credit limit, without notice to the Customer.
- 8.4. Urban Republic may allow the Customer to purchase and continue to purchase Goods as long as the total of the Customer's account does not exceed its pre-approved account limit.
- 8.5. The Customer acknowledges that Urban Republic may revoke any credit granted to the Customer at any time.
- 8.6. The Customer acknowledges that a Security Interest may arise in each and every previously supplied, and future supply, of Goods by Urban Republic to the Customer.

## **9. DEFAULT**

- 9.1. If the Customer defaults in payment by the due date of any amount payable to Urban Republic, then all money which would become payable by the Customer to Urban Republic at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Customer, and Urban Republic may, without prejudice to any of its other accrued or contingent rights:
- (a) charge the Customer interest at the annual rate of 3% above the Reserve Bank of Australia's Cash Rate, calculating daily and compounded weekly from the due date until the date of payment in full;
  - (b) charge the Customer for, and the Customer must indemnify Urban Republic from, all costs and expenses (including without limitation all legal costs and expenses, collection costs, dishonour fees and stamp duty) incurred by it resulting from the default or in taking action to enforce compliance with these Terms;
  - (c) withhold for such period as Urban Republic thinks fit, any further deliveries of Goods to the Customer; and
  - (d) by written notice to the Customer, terminate any credit arrangement and these Terms.
- 9.2. Urban Republic is entitled to set off against any money owing to the Customer by amounts owed to Urban Republic.

## **10. PROPERTY AND RISK**

- 10.1. The Goods will be at the sole risk of the Customer from the time they are delivered or deemed to be delivered.
- 10.2. The Customer assumes all risk and liability for loss, damage or injury to persons or to property of the Customer, or third parties, arising out of the use or possession of the Goods sold by Urban Republic, unless recoverable from Urban Republic on the failure of any statutory guarantee under the ACL.
- 10.3. Until Urban Republic receives full payment in cleared funds for all Goods supplied by it to the Customer, as well as all other amounts owing to Urban Republic by the Customer:
- (a) property in and title to the Goods remains vested in Urban Republic and will not pass to the Customer;
  - (b) the Customer holds the Goods as bailee for Urban Republic;
  - (c) the Customer must store the Goods separately from its own Goods and retain Urban Republic's labelling and packaging;

- (d) the Customer must hold the proceeds of sale of the Goods on trust for Urban Republic, however failure to do so will not affect the Customer's obligation to deal with the proceeds as trustee;
  - (e) Urban Republic may, without notice, enter any premises where it suspects the Goods are and remove them, and for this purpose the Customer irrevocably licenses Urban Republic to enter such premises and indemnifies Urban Republic from and against all costs, claims, demands or actions by any party arising from such action.
- 11. PERSONAL PROPERTY SECURITIES ACT**
- 11.1. The Customer acknowledges and agrees that these Terms are an accepted and adopted Security Agreement between Urban Republic and the Customer for the purposes of the PPSA and that a Security Interest exists in all Goods supplied to the Customer (and their proceeds).
  - 11.2. To secure payment of the secured money and performance of the Customer's obligations to Urban Republic, the Customer charges all of its legal and equitable interest (including as beneficial owner, both present and future) of whatsoever nature held in any and all real property in favour of Urban Republic.
  - 11.3. The Customer acknowledges, agrees and grants to Urban Republic, a Security Interest in:
    - (a) all Goods and any proceeds previously supplied by Urban Republic to the Customer;
    - (b) all Goods and any proceeds that will be supplied in the future by Urban Republic to the Customer; and
    - (c) all present and after acquired property (AllPAAP) of the Customer.
  - 11.4. The above Security Interest secures all moneys owing by the Customer to Urban Republic under these Terms or otherwise.
  - 11.5. The Customer acknowledges and agrees the Security Interest is a continuing and subsisting interest in the Goods with priority over any registered or unregistered general (or other) Security Interest and any unsecured creditor.
  - 11.6. The Customer acknowledges that the Security Interest over Goods or their proceeds arising under these Terms as and where applicable will be a purchase money Security Interest (PMSI) and deemed to be inventory to the extent that it secures payment of amounts owing in relation to the Goods.
  - 11.7. The Customer will do everything reasonably required of it by Urban Republic to enable Urban Republic to register its Security Interests with the priority Urban Republic requires and to maintain those registrations, including to correct a defect in a financing statement.
  - 11.8. The Security Interests arising under this clause 11 will be perfected by Urban Republic prior to the Customer obtaining possession on delivery of the Goods and the parties confirm they have not agreed that any Security Interest arising under this clause 11 attaches at any later time.
  - 11.9. Urban Republic does not need to give the Customer any notice under the PPSA (including notice of the financing statement or verification statement) unless required by the PPSA.
  - 11.10. Any time the Customer makes a payment to Urban Republic, irrespective of whether the payment is made under or in connection with this Agreement, Urban Republic may apply that payment:
    - (a) first to satisfy an obligation that is not secured;
    - (b) second, to satisfy an obligation that is secured, but not by a PMSI;
    - (c) third, to satisfy an obligation that is secured by a PMSI for that obligation and using proceeds from the sale of the collateral subject to that PMSI; and
    - (d) fourth, to satisfy an obligation that is secured by a PMSI using funds or proceeds from any source.
  - 11.11. For the avoidance of doubt and without prejudice to Urban Republic's rights under the PPSA, the Customer:
    - (a) may process the Goods supplied by Urban Republic to the Customer and accession or commingle them with other property in which case Urban Republic will have a Security Interest in any processed, accession and commingled Goods;
    - (b) may sell the Goods to its customers, provided that any customer or third-party purchase is given notice of Urban Republic's security interest in the Goods, and if it does so, then Urban Republic will have a Security Interest in the proceeds of sale; and
    - (c) will, where and when applicable and instructed by Urban Republic, implement, maintain and comply in all material respects with, procedures for the perfection of Security Interests, including taking all steps under the PPSA to perfect continuously any such Security Interest.
  - 11.12. The Customer agrees that sections 95, 120, 121(4), 125, 128, 129, 130, 132, 134, 135, 142, 143 and 157 of the PPSA will not apply to the enforcement of those Security Interests.
  - 11.13. The Customer agrees not to disclose to an 'Interested person' (as defined in section 275(9) of the PPSA) or any other person, any Information of the kind described in section 275(1) of the PPSA including these

- Terms as the security agreement between the Customer and Urban Republic.
- 11.14. The Customer will notify Urban Republic immediately in writing if the Customer changes its name or address for service, contact details or if there are any changes required under the PPSA in respect of these Terms.
- 11.15. The Customer agrees to keep and maintain all Goods free of any charge, lien, or Security Interest except as created under these Terms and not otherwise to deal with Goods in a way that will, or may, prejudice the rights of Urban Republic under these Terms or the PPSA.
- 11.16. The Customer's right to possession of Goods still owned by Urban Republic under these Terms will cease if:
- (a) the Customer being an individual, commits an act of bankruptcy; or,
  - (b) the Customer being a corporation, circumstances arise where a receiver, manager, administrator or controller becomes entitled to take possession of any of the Customer's assets, any proceedings are instituted for winding up, or the Customer enter into a deed or scheme of arrangement; or
  - (c) the Customer ceases or threatens to cease conducting business in the normal manner or apply for deregistration or receive a deregistration notice; or
  - (d) any cheque the Customer provides to Urban Republic is dishonoured for payment; or
  - (e) the Customer fails to comply with any demand for payment issued by Urban Republic; or
  - (f) the Customer is in breach any of these Terms or is in default of any other agreement with Urban Republic.
- 11.17. The Customer agrees that Urban Republic is entitled to exercise the rights contained in section 123 of the PPSA and enter any premises where the Goods supplied by Urban Republic are still unpaid for, repossess and sell such Goods. The Customer agrees to indemnify and keep Urban Republic indemnified in respect of any claims, actions and costs that may arise against Urban Republic in relation to the removal, repossession and sale of the Goods pursuant to these Terms including any claims brought by third parties.
- 11.18. The Customer agrees that repossession and retention of the Goods pursuant to the PPSA will only satisfy so much of the monies which may become payable to Urban Republic by the Customer, as is equivalent to Urban Republic's estimation of the market value of the Goods as it is at the date of repossession and the repossession and retention will immediately extinguish any rights for interest the Customer has in relation to the Goods.
- 11.19. Until any obligations owed to Urban Republic by the Customer are discharged in full, the Customer must not give Urban Republic a written demand or allow any other person to give Urban Republic a written demand requiring Urban Republic to register a financing change statement under the PPSA or enter into or allow any other person to enter into the PPSR, a financing change statement.
- 12. LIMITATION OF LIABILITY**
- 12.1. Except as specifically set out in these Terms, or as contained in any express warranty provided in relation to the Goods, the agreement between Urban Republic and the Customer with respect to particular Goods does not include by implication any other term, condition or warranty in respect of the quality, merchantability, acceptability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the Goods or any contractual remedy for their failure.
- 12.2. If the Customer is a consumer as defined in the ACL, nothing in these Terms restricts, limits or modifies the Customer's rights under the ACL.
- 12.3. Our Goods come with guarantees that cannot be excluded under the ACL. The Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. The Customer is also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 12.4. Except as expressly provided in this clause and to the extent permitted by law, Urban Republic is not liable to the Customer (and any third party) for:
- (a) any claim made after installation or use of the Goods;
  - (b) any claim made without the Warranty Job Number issued by Urban Republic;
  - (c) any claim made with respect to or in connection with any of the matters referred to in clause 6;
  - (d) any claim made under, or in connection with, the Terms, in tort, under statute, in equity or otherwise in respect of any defects whatsoever in Goods for the loss or damage to person or property arising from or caused from such defects; and
  - (e) any indirect, special or consequential loss or damage of any nature whatsoever resulting from or caused in any way by the Goods where indirect, special or consequential loss or damage includes:
    - (i) any loss of income, profits or business; or
    - (ii) any loss of goodwill or reputation.

12.5. These Terms do not exclude or limit the application of any provision of law which cannot be so excluded or limited.

### **13. INDEMNITY**

The Customer will indemnify and keep indemnified and hold Urban Republic harmless from and against all liabilities, losses, damages, costs or expenses incurred or suffered by Urban Republic, and from and against all actions, proceedings, claims or demands made against Urban Republic, arising from one or more of the following:

- (a) the Customer's failure to comply with any laws, rules, standards, regulations or instructions applicable in relation to the Goods or the use of the Goods; and
- (b) any negligence or breach of duty by the Customer and its employees, agents or contractors in relation to the Goods or the use of the Goods.

### **14. TERMINATION**

14.1. Either Party may terminate the Terms at any time with immediate effect by giving the other Party written notice of termination if:

- (a) the other Party commits a material breach of the Terms which is not remediable; or
- (b) the other Party, having breached a term of the Terms which is remediable and having been given a notice which specifies the breach that has occurred and requires rectification, fails to remedy the breach within the time specified.

14.2. Notwithstanding the provisions in clause 14.1, either party may terminate the Terms upon giving 30 days' written notice of termination to the other.

14.3. Upon termination of these Terms under clause 14.1 or 14.2, the Customer must immediately pay all invoices in full.

### **15. GST**

15.1. This clause 15 applies if Urban Republic is or becomes liable to pay GST in relation to any Supply under these Terms.

15.2. Unless expressly stated otherwise, all consideration to be provided under this contract is expressed as exclusive of GST.

15.3. In addition to such charges, the Customer must pay GST on the Taxable Supply to Urban Republic of an amount equal to the GST exclusive consideration multiplied by the GST Rate.

15.4. GST will be payable by the Customer without any deduction or set off for any other amount at the same time as the GST exclusive

consideration is payable. In all other respects, GST will be payable by the Customer to Urban Republic upon the same basis as the GST exclusive consideration is payable by the Customer under these Terms.

15.5. Urban Republic will issue an Invoice or Invoices to the Customer for the amount of GST referable to the Taxable Supply. Urban Republic will include in any such Invoice such particulars as are required by the GST in order that the Customer may obtain an input tax credit for the amount of GST payable on the Tax Supply.

15.6. If any party of the consideration is referable to both a Taxable Supply and anything that is not Taxable Supply, the amount of GST payable by the Customer will be determined by Urban Republic and will be the same amount of GST that would be payable if the Taxable Supply were the only Supply made to the Customer.

15.7. If the Customer makes default in the payment on the due date of any amount payable pursuant to clause 9 then without prejudice to any other remedies of Urban Republic, the Customer will pay Urban Republic upon demand an amount equal to the amount of any damages or interest or additional GST that may become payable by Urban Republic arising out of the default of the Customer.

### **16. PROVISIONS SEVERABLE**

The Parties acknowledge and agree that if any provision or part of any provision of these Terms is unenforceable, it will be read down to be enforceable or, if it cannot be read down, the term will be severed from the Terms without affecting the enforceability of any part of such provision or any other provision.

### **17. FORCE MAJEURE**

17.1. Urban Republic will not be liable to the Customer for any breach or failure to perform its obligations under these Terms or any damage or loss to Goods resulting from causes beyond Urban Republic's control including but not limited to acts of God, fires, floods, adverse weather, strikes, lockouts, factory shutdowns or alterations, wars, riots, delay or shortage in transportation, government regulations or directions, epidemics, pandemics and other such health-related events, or any other cause arising beyond the reasonable control of Urban Republic, without the actual fault of Urban Republic and without the actual fault of the agents or servants of Urban Republic.

17.2. If any of the events contemplated above causes a delay of over three (3) Business Days in any obligation of Urban Republic, then Urban Republic may terminate the Terms by notice in writing. All costs, charges and expenses already incurred by Urban Republic prior to the termination or arising in connection with the disposal or return of the Goods will be paid by the Customer.

**18. GENERAL**

- 18.1. All rights under these Terms are in addition to and do not abrogate, limit or reduce any other rights that Urban Republic may have.
- 18.2. Urban Republic's failure to enforce any of these Terms will not be construed as a waiver of any of Urban Republic's rights.
- 18.3. Urban Republic is not bound by any agreement purporting to waive or vary these Terms unless such agreement is in writing and signed by a duly authorised representative.
- 18.4. A notice must be in writing and handed personally or sent by fax, email or prepaid mail to the addressee. Notices sent by mail are deemed to be received five (5) days after posting. Notices sent by fax or email are deemed received on confirmation of transmission or otherwise in accordance with applicable Laws.
- 18.5. Where a person uses or authorises the use of his or her signature in whatever form, including approving an authorised person (including any employee) to apply his or her signature to a document, leaving an authorised person with his or her email address and password, that person agrees that they:
  - (a) have full knowledge of these Terms and all material circumstances related to or as stated in the relevant document;
  - (b) have provided the requisite authority in whatever form for the use of their signature for the express purpose of entering into legally binding arrangements;
  - (c) acknowledge that Urban Republic has relied on this clause and any signature as being applied with full and complete authority (express, implied or ostensible) by person whose signature is used; and
  - (d) understand the nature and effect of these Terms.

18.6. Urban Republic and the Customer consent to these Terms being produced, signed and retained solely in an electronic form, provided that the production, signing and retention complies with the requirements of the relevant Electronic Transactions Acts.

18.7. The rights and obligations of Urban Republic and the Customer under these Terms will be binding on, and will be of benefit to, each of the party's successors, permitted assigns, heirs, executors and administrators.

**19. GOVERNING LAW**

The Terms are governed by the laws of Victoria, Australia.

**20. ENTIRE AGREEMENT**

- 20.1. These Terms constitute the entire agreement (including Security Agreement) between Urban Republic and the Customer. All prior negotiations, representations, understandings, arrangements and agreements (whether oral and/or in writing), may be superseded by these Terms.
- 20.2. No amendment or variation will be of any force and effect unless in writing and signed by both Urban Republic and the Customer.

Full Name : \_\_\_\_\_

Position : \_\_\_\_\_

Signature : \_\_\_\_\_