

# Streetlife B.V. General Terms and Conditions

9 January 2017

**STREETLIFE®**

## ARTICLE 1. Application

- 1.1. These terms and conditions apply to all offers made and all agreements entered into by or on behalf of Streetlife B.V., except where this stipulation is expressly deviated from in writing by the parties.
- 1.2. Streetlife B.V. will be referred to as "Streetlife" in these terms and conditions. Streetlife's contract parties and potential contract parties will be referred to as "the Client".
- 1.3. Any General Terms and Conditions adopted by the Client shall not apply, unless accepted in writing by Streetlife.

## ARTICLE 2. Creation of orders

- 2.1. Offers are based on the information, drawings etc. provided by the Client, and Streetlife may rely on their accuracy.
- 2.2. Until such time as an order becomes binding in the manner described in Article 2.3, offers shall not obligate Streetlife in any way, regardless of the form in which the offer was made.
- 2.3. An offer shall be binding upon Streetlife only to the extent that it has been accepted by Streetlife without reservation, by means of a written confirmation of order. The foregoing shall also apply to further orders and to modifications to existing orders.

## ARTICLE 3. Prices

- 3.1. Prices of goods to be supplied are based on delivery from the workshop, factory, site or stores, this at the option of Streetlife, including packaging and excluding VAT, unless otherwise expressly agreed.
- 3.2. Where Streetlife arrange for the transport of the goods to be delivered the associated costs may be quoted for separately in the offer.
- 3.3. Where Streetlife carry out installation works the price offered for such works is based *inter alia* on the information provided by the Client relating to the substrate and the accessibility of the installation location. Where such information is subsequently found to be inaccurate then Streetlife shall be entitled to charge the associated additional costs to the Client.

## ARTICLE 4. Modification/cancellation by the Client

- 4.1. Cancellation by the Client of an order which has become binding is possible only following the written permission of Streetlife.
- 4.2. Where following the acceptance of an order modifications are proposed unilaterally by the Client, while Streetlife cannot reasonably be expected to accept these modifications, or where the order is cancelled in whole or in part, then all the costs already incurred as well as the

profit lost by Streetlife shall be at the expense of the Client.

- 4.3. The wishes of the Client in relation to delivery (the precise location, time etc.) must be communicated in writing to Streetlife in good time prior to the time of delivery. Where such wishes are not agreed to prior to the confirmation of order and these lead to significant additional costs for Streetlife, Streetlife shall be entitled to charge the additional costs to the Client, in whole or in part.

## ARTICLE 5. Client-specific articles

- 5.1. Client-specific articles are articles manufactured or supplied on the orders of the Client, where the design of the articles is based on instructions, data, drawings and/or recommendations provided by the Client.
- 5.2. A "drawing for approval" will be prepared for client-specific articles, which will be binding upon the Client (following its approval by the Client) apart from any deviations determined upon during joint consultation.
- 5.3. Streetlife shall not be liable for the consequences of inaccuracies in instructions, data, drawings and/or recommendations provided to Streetlife by or on behalf of the Client.
- 5.4. Streetlife shall not be required to test the instructions, data, drawings and/or recommendations received from the Client or from third parties on behalf of the Client, and will rely upon their accuracy.
- 5.5. The Client hereby indemnifies Streetlife against any claims by third parties directly or indirectly flowing from inaccuracies as referred to in Article 5.3.
- 5.6. Streetlife will commence the production of Client-specific articles following the approval by the Client of the drawing for approval.

## ARTICLE 6. Installation work

- 6.1. Where it is stipulated in the order that Streetlife will carry out installation work or have such work carried out, then the Client shall be responsible for ensuring that the installation location is not freely accessible to third parties, in part with a view to the safety of such third parties.
- 6.2. The Client shall indemnify Streetlife against any claims from third parties connected directly or indirectly with the fact that a third party has gained access to the installation location.

## ARTICLE 7. Place and manner of delivery and fulfilment of order

- 7.1. Unless otherwise expressly agreed, delivery shall be from the workshop,

factory, site or stores, at the option of Streetlife.

- 7.2. The following additional conditions shall apply where it is agreed that Streetlife will arrange for the transport of the articles to a location indicated by the Client:
  - I. Streetlife shall be entitled to deliver an order in its entirety or successively in parts. In the latter case Streetlife shall be entitled to invoice the Client separately for each part delivery, and to require interim payments on that account. Where the Client fails to fulfil this payment obligation Streetlife shall be entitled to suspend or to cancel the remaining partial delivery or deliveries.
  - II. Streetlife shall be unrestricted in their choice of appropriate packaging and despatch methods. Packaging for articles which is intended for repeated use shall remain the property of Streetlife. The Client shall retain this packaging on behalf of Streetlife and return it to Streetlife at their first request. The Client shall be liable to Streetlife for damage to or loss of the packaging intended for repeated use during the period when the Client is retaining this on behalf of Streetlife.
  - III. The Client shall be obligated to provide or arrange for assistance with the unloading and receipt of the articles. Where such assistance is inadequate or absent and delay occurs as a result, Streetlife shall be entitled to recover the associated costs and damages from the Client.
  - IV. The Client hereby guarantees that the location indicated by him is accessible to freight traffic.
- 7.3. Streetlife shall be free to engage third parties in the fulfilment of an order.

## ARTICLE 8. Delivery times and default on the part of Streetlife

- 8.1. Delivery times shall be taken to be approximate only.
- 8.2. Without prejudice to the requirements of Article 8.1, the Client may not legally place Streetlife in default before such time as (i) agreement is reached in relation to all technical details, (ii) all the necessary data, drawings etc. are in the possession of Streetlife, (iii) the order has become binding, as specified in Article 2.3, (iv) Streetlife have received any agreed partial payment(s) and (v) the agreed delivery deadline has elapsed.
- 8.3. Where Streetlife fail to deliver the products or fail to deliver these in good time and the other conditions in Article 8.2 are met, then the Client may place Streetlife in default in writing. The Client must then allow Streetlife a reasonable period to deliver the articles. Streetlife may be placed in default only where Streetlife continue to culpably fall

short in meeting their obligations towards the Client.

- 8.4. Where articles have not been taken by the Client following the elapsing of the delivery deadline and/or delivery to the Client cannot take place due to circumstances attributable to the Client, then the articles may be stored by Streetlife, at the Client's expense and risk.

#### **ARTICLE 9. Unforeseen circumstances and force majeure**

- 9.1. Where following the acceptance of an order circumstances arise which significantly affect the price or cost price, such as changes in prices of raw materials, wages, exchange rates, tax, import duties and the like, then Streetlife shall be entitled to charge those price changes on to the Client. The Client will be informed about this in advance by Streetlife, and to the extent reasonably practicable, in advance.
- 9.2. Streetlife shall be entitled to dissolve an agreement in whole or in part, or to suspend its fulfilment where as a result of force majeure Streetlife cannot reasonably be deemed to be in a position to fulfil the order, without any liability on the part of Streetlife to pay compensation for damages. Force majeure affecting Streetlife shall in any event be taken to mean all external circumstances which impede or unreasonably hamper the fulfilment of the Agreement, even where the circumstances were foreseeable at the time of the coming into effect of the Agreement.
- 9.3. Where as a consequence of force majeure the extension of the delivery period will exceed three months, then Streetlife shall be entitled to dissolve the Agreement in whole or in part, without any obligation to pay any remuneration or compensation for damages to the Client. In the event that the Agreement is already partially fulfilled at the time of its dissolution on grounds of force majeure, then the Client shall be liable to pay a proportionate amount of the total price.

#### **ARTICLE 10. Security**

- 10.1. Prior to the delivery or continued delivery of articles, Streetlife shall be entitled at any time to require the Client to provide security for compliance with the Client's payment and other obligations, which is adequate in the view of Streetlife. This stipulation shall also apply where delivery on credit is stipulated.
- 10.2. Streetlife shall be entitled to suspend the provision of services and/or the delivery of goods until such time as the security specified in Article 10.1 has been provided. Refusal on the part of the Client to provide the required security shall entitle Streetlife to immediately dissolve the agreement, without prejudice to Streetlife's entitlement to compensation for their costs and lost profit.

#### **ARTICLE 11. Payment**

- 11.1. Except where otherwise stipulated by a mandatory legal requirement, payment must be made within 30 days of invoice date. In the event that this final deadline is overstepped the Client shall be legally in default.
- 11.2. From the moment the Client is in default the Client will incur contractual interest of 1.5% of the invoice amount for every month or part of a month in which the Client is default.
- 11.3. All claims to discounts shall lapse from the moment the Client is in default.
- 11.4. Streetlife may require full or partial payment in advance before a start is made on the production of goods.
- 11.5. The Client hereby waives any entitlement to offset his claims against Streetlife against Streetlife's claims against the Client.

#### **ARTICLE 12. Default, demandability and dissolution by Streetlife**

- 12.1. Without prejudice to those cases where the default on the part of the Client flows from the law and/or additional stipulations in the agreement or these General Terms and Conditions, the Client shall be in default with force of law if the Client fails to fulfil his payment and other obligations towards Streetlife fully and in good time.
- 12.2. Where and as soon as the Client fails to fulfil his payment and other obligations towards Streetlife, all claims which Streetlife have against the Client shall immediately be payable on demand.
- 12.3. Where and as soon as the Client is in default, Streetlife shall be entitled to dissolve the Agreement in whole or in part with immediate effect, without any requirement for notice of default or judicial intervention. The Client hereby assents now for then to this dissolution.

#### **ARTICLE 13. Retention of property**

- 13.1. As long as the Client has not fully fulfilled the payment and other obligations flowing from agreements for the sale and purchase of goods by Streetlife and/or for the delivery of services by Streetlife, then Streetlife shall retain ownership of the goods delivered to the Client by Streetlife, wherever these goods may be located.
- 13.2. The Client shall be required to keep the goods delivered to him properly insured at his own expense, also where property rights in the goods rest with Streetlife. The Client shall also be obligated to take proper care of the goods so as to prevent damage, wear or loss of value, even where the property rights in the goods rest with Streetlife.
- 13.3. For as long as the Client has not fulfilled his obligations as specified in Article 13.1 the Client shall allow Streetlife and third parties unhindered access to the sites and storage areas used by the Client, so that Streetlife can achieve or have others achieve actual control over the goods, and/or

can reclaim the goods or have others reclaim them.

- 13.4. Where and as soon as (i) the Client is granted cessation of payments, (ii) the Client is declared bankrupt or (iii) the Client's assets are seized, then the Client and the Client's Directors if any shall be obligated to inform the Administrator, the Receiver or the Bailiff respectively of the retention of property imposed by Streetlife.

#### **ARTICLE 14. Guarantee**

- 14.1. Without prejudice to what is stipulated elsewhere in these General Terms and Conditions, Streetlife hereby guarantee the soundness of the articles supplied and for the materials used therein.
- 14.2. Streetlife provide a five year guarantee on the construction and the materials used in metal components, with the exception of type 304 stainless steel. The Conditions of Guarantee adopted by ION, the Netherlands association for Industrial Surface Treatment as published at the time of the making of the Agreement shall apply to painted or powder-coated metal components.
- 14.3. Streetlife provide a two year guarantee on the construction and the materials used in timber components, where variations due to the natural character of wood fall outside the guarantee provisions.
- 14.4. Streetlife provide a five year guarantee on the construction and the materials used in composite components, where colour fastness falls outside the guarantee provisions.
- 14.5. Where the Client wishes to appeal to a guarantee the Client shall without delay provide Streetlife at their first request with the opportunity to assess the goods for inter alia the risk of injury and the location and extent of the defect, on penalty of the lapsing of the guarantee. Minimal defects are not covered by the guarantee.
- 14.6. Defects arising from normal wear, inexpert handling or inexpert or improper maintenance or defects arising following modification or repair by or on behalf of the Client or by third parties fall outside the guarantee provisions.
- 14.7. Guarantees as well as any additional guarantees provided by means of separate guarantee provisions shall apply only where the Client has fulfilled all obligations towards Streetlife, or where adequate security has been arranged for this.

#### **ARTICLE 15. Delivery and complaints handling**

- 15.1. Upon delivery of the goods the Client or a third party acting on the Client's behalf will sign a consignment note. Where Streetlife or the carrier acting on their behalf have used packaging materials and the Client or the third party acting on their behalf have not indicated on the consignment note that the packaging materials are damaged, then the

consignment note shall qualify as conclusive evidence for the fact that the goods were received in undamaged packaging.

- 15.2. The Client is required to inspect the goods delivered or to have them inspected, as soon as possible after receipt. Any complaints about quantities, suitability, dimensions, colour, materials etc must be submitted to Streetlife in writing, stating reasons, within a reasonable period and at the latest within eight working days following receipt of the goods. Where the Client does not make use of this opportunity, then any entitlement to claim against Streetlife for rectification, redelivery and/or compensation for damages shall lapse.
- 15.3. Where the Client has complained in good time, in writing, stating reasons, about the quantities or properties of the goods delivered, Streetlife shall be entitled to repair the goods or to redeliver the goods, following the return by the Client of the goods delivered. To the extent that this is not already the case, Streetlife will in that event become owner of the components and/or goods to be replaced.
- 15.4. Where in the judgement of Streetlife it is necessary to introduce a technical modification to the goods or their original design in order to properly rectify matters, then the Client will not withhold his assent to the implementation of this technical modification on unreasonable grounds. A technical modification shall also be taken to include the application of alternative materials.
- 15.5. In the event that the Client carries out repairs or has these carried out, Streetlife shall not be obliged to contribute to the costs unless Streetlife have declared in advance that they are willing to make such a contribution. Streetlife shall be free to determine the form of any contribution, with discounts on subsequent deliveries among the possibilities.
- 15.6. Where repair or redelivery of the goods following a complaint is not reasonably practicable, Streetlife shall be authorised to dissolve the agreement. The delivered goods will then be taken back by Streetlife and, following the receipt of the delivered goods in the condition in which they were delivered by Streetlife to the Client, Streetlife will repay to the Client any amounts already paid by the Client, possibly by means of offsetting or credits relating to unpaid invoices).

#### **ARTICLE 16. Intellectual property rights**

- 16.1. All drawings, sketches, diagrams, samples, models and the like produced by Streetlife are and shall remain the property of Streetlife, also following full implementation of the agreement. Drawings and the like may not be reproduced in whole or in part or shown or provided to any third party for whatever reason, without the written permission of Streetlife.

16.2. The Client shall be liable to Streetlife for any damages arising from the display or handing over to third parties of drawings and the like.

16.3. The Client is obligated to immediately return to Streetlife at their first request all drawings etc or copies thereof held by the Client.

16.4. Intellectual property in documents, drawings, samples, models, products or other items will rest at all times with Streetlife.

16.5. The Client is obligated to inform Streetlife immediately as soon as the Client becomes aware of any breach of Streetlife's rights.

16.6. Where Streetlife produce goods on the basis of drawings, samples, models or other indications from the Client or from third parties on behalf of the Client, the Client hereby guarantees that no patents or user rights or rights to models or any other third party rights are breached through the manufacture and/or supply of those goods.

16.7. The Client hereby indemnifies Streetlife against all claims flowing from a breach of rights as specified in Article 16.6.

16.8. Where a third party objects to the production and/or supply of the goods on the grounds of a claimed entitlement as specified in Article 16.6, Streetlife shall be entitled to immediately suspend production and/or supply, and to require compensation from the Client for the costs incurred, without prejudice to any claim by Streetlife for compensation for damages and without any liability on the part of Streetlife to pay compensation for damages to the Client. Streetlife shall be required to inform the Client as speedily as possible in the event that a third party objects to the manufacture and/or supply of goods intended for the Client.

#### **ARTICLE 17. Liability**

17.1. Streetlife may only be held liable for damages suffered by the Client where these are exclusively and directly a consequence of a shortcoming attributable to Streetlife, on the understanding that the following forms of damage do not qualify for compensation:

- a. Damages not covered by Streetlife's insurer;
- b. Consequential loss (operational disturbance, demurrage and other costs, loss of income etc.);
- c. Damages caused to items being worked on or worked with during the completion of the order, or to items in the vicinity of the working location, except to the extent that these damages are covered by Streetlife's insurer.
- d. Damages arising from intentional acts or negligence on the part of persons assisting Streetlife or subcontractors to Streetlife;
- e. Damages caused by inaccuracy or defects in recommendations and data provided by Streetlife, except (i) in the event of intentional acts or negligence on the part of Streetlife or (ii) where the Client has expressly purchased recommendations, in

which case the General Terms and Conditions of the Beroepsorganisatie Nederlandse Ontwerpers (the Association of Netherlands Designers) as published at the time of making of the Agreement shall apply to that separate advisory assignment.

17.2. Any damages to be recompensed by Streetlife shall be reduced where the price paid or yet to be paid by the Client is minor in relation to the extent of the damages suffered by the Client.

17.3. Any damages to be recompensed by Streetlife shall be reduced where the damages significantly exceed the price of the goods and/or services supplied.

17.4. The processing or modification of supplied goods by the Client or a third party shall have as a consequence that any liability on the part of Streetlife relating to defects in the goods supplied shall lapse, unless (i) the Client has expressly offered Streetlife an opportunity to investigate the defects and (ii) the Client has submitted the proposed processing or modification in advance and in writing for the approval of Streetlife, and Streetlife have then approved the processing or modification, in writing.

#### **ARTICLE 18. Applicable law**

18.1. All agreements with Streetlife shall be subject exclusively to the Law of the Netherlands.

18.2. The Court at Den Haag shall be exclusively competent to arbitrate in any dispute flowing from offers made by and agreements made with Streetlife.