



# GENERAL TERMS AND CONDITIONS FOR THE SALE AND DELIVERY OF READY-MIXED CONCRETE

## SCOPE OF APPLICATION

These general terms and conditions of sale and delivery (the "Conditions") and the Supplier's price list in effect at any given time (the "Price List") apply to any purchase of ready-mixed concrete between the Supplier and the Buyer, including transportation of the concrete. In the event of conflict between provisions in the Conditions and/or the Price List and provisions in any other written agreement between the parties, the provisions of the other agreement shall prevail. In the event of a conflict between the Conditions and the Price List, the provisions of the Price List shall prevail. The Norwegian Standard NS-EN 206+NA on concrete and NS-EN 13670 on concrete structures apply to all purchases where the Conditions have been agreed. For concrete pumping services, the specific terms and conditions for the sale and delivery of concrete pumping services apply even if the service is related to a purchase of ready-mixed concrete.

## ORDERING AND CANCELLATION

The Buyer's order shall contain a specification of the total quantity, desired delivery time(s), desired unloading equipment, technical data for the concrete and other specifications in accordance with NS-EN 206+NA. When placing the order, the Buyer shall state the unloading location, access, as well as the need for the use of special equipment, safety courses, detours or other circumstances affecting the delivery.

The Buyer may, by written notification to the Supplier, adjust the volume in the order  $\pm$  10% up to 2 days before delivery. The Buyer's demand for adjustment is binding when confirmed by the Supplier. Buyers may cancel the purchase in whole or in part in return for the Supplier being reimbursed for its additional costs as a result of the cancellation and a cancellation fee in accordance with the price list.

## PRICE. TERMS OF PAYMENT

Unless the price of the concrete is stated in another written agreement, the Supplier sets the price in accordance with the Price List. The same applies to remuneration for other services, such as transportation, overtime, waiting, handling of residual concrete, and similar.

The Supplier is entitled to adjust the agreed price when the price of one or more input factors used for the production of delivery, has increased significantly compared to the price at the time of the agreement. The price may not be increased more than necessary to compensate for the cost increase of the input factor(s). For the delivery of concrete with a special composition ("Special

Concrete"), the Supplier may demand a necessary surcharge, for example for non-stocked input factors and residues of Special Concrete and/or input factors that the Supplier cannot use or sell.

The Buyer shall pay no later than the due date specified in the invoice. The Buyer may only withhold payment if the Buyer has made a specified and justified claim and a complaint has been submitted in time. The Buyer may only withhold as much of the invoice amount as is necessary to cover the specified claim. In the event of delayed payment, the Buyer shall pay default interest in accordance with the Norwegian Act relating to Interest on Overdue Payments (Forsinkelsesrenteloven).

## DELIVERY LOCATION AND TIME. RISK TRANSFER FOR THE CONCRETE. LIABILITY FOR DAMAGES UPON DELIVERY.

For ex works deliveries, delivery shall be deemed to have taken place when the concrete is produced and ready for collection at the concrete station.

Unless otherwise agreed, the Supplier shall deliver the concrete to the designated unloading point at the stated delivery address (the "Unloading Site"). Delivery shall be deemed to have taken place when the concrete has been unloaded at the Unloading Site.

The Buyer shall bear the risk that the Unloading Site and the access to the Unloading Site from the nearest road open to public traffic (the "Access") complies with NS-EN 206+NA. If the carrier is of the opinion that the Unloading Site does not comply with the requirements, such opinion shall be determinative. If delivery cannot be carried out because the Unloading Site or the Access is not in accordance with the requirements, the Supplier may make a claim against the Buyer in accordance with the Conditions. The Buyer may not make any claims against the Supplier for delayed delivery due to circumstances for which the Buyer bears the risk.

The risk for the concrete transfers to the Buyer upon delivery. The Supplier is responsible for unloading the concrete from the drum into the feed box, skip or similar. If the Buyer wants the Supplier to ensure that the concrete can be pumped or unloaded by conveyor belt or hydraulic chute, this must be specified in the order from the Buyer and the parties shall in such case use the specific terms and conditions for the sale and delivery of concrete pumping services. The Buyer is responsible for receiving the concrete and for placing the skip in the crane. Furthermore, the Buyer is responsible for any excess concrete and shall designate a location for its placement

that complies with applicable regulations. The Buyer is also responsible for providing a compliant washing area for conveyor belts, chutes, and concrete pumps.

#### **BUYER'S CONTROL - CONCRETE VOLUME - CONCRETE QUALITY**

The Buyer's reception inspection shall be carried out in accordance with NS-EN 13670+NA at the time of delivery and shall include checking the specifications in the delivery note before unloading and a visual inspection of the properties of the concrete during unloading and while the casting work is in progress.

At the time of delivery, the quality of the concrete shall comply with the specifications and the two standards NS-EN 13670 and NS-EN 206. Any deviations from the agreement do not give rise to claims from the Buyer if the deviations comply with the tolerances in the standards. Fine aggregate concrete may contain a few stones with a grain size corresponding to the largest stone size for concrete in the Supplier's delivery program. Testing, weighing and other examinations shall be carried out in accordance with the standards.

If a delivery of concrete with a specific temperature is ordered, deviations of between +5 and 3°C shall be deemed to be in compliance with the contract.

#### **COMPLAINTS**

If the Buyer wants to claim that the concrete has been delivered at the wrong time or that there is a defect, he must submit a complaint upon delivery. Complaints must be noted on all copies of the delivery note, and the Buyer must also notify the Supplier in writing. For defects that could not have been detected upon delivery, the Buyer shall submit a complaint within 14 days. The complaint shall state the nature of the defect and the Buyer must provide documentation for the reception inspection, cf. NS-EN 13670, and documentation demonstrating that the concrete does not meet the agreed requirements.

Within a reasonable time after submitting the complaint, the Buyer shall notify the Supplier whether the Buyer wishes to make a claim for rectification, replacement or termination. If the claim is not made within a reasonable time, the Buyer loses the right to make such a claim.

The Buyer may not raise any claims against the Supplier later than three years after delivery.

#### **DELAY AND THE BUYER'S CLAIMS AS A RESULT OF DELAY**

A delay occurs when the concrete is not delivered at the agreed time and this is due to circumstances on the Supplier's side. The Buyer may claim damages for direct losses if the delay is material. The Buyer may only terminate the agreement in the event of repeated material delays on the part of the Supplier and only with respect to future deliveries.

#### **DEFECT AND THE BUYER'S CLAIMS AS A RESULT OF THE DEFECT**

A defect exists if the concrete does not comply with the agreed requirements at the time of delivery and this is due to circumstances on the Supplier's side. The Buyer is responsible for ensuring that the concrete ordered is fit for the purpose of the purchase, and the Supplier shall under no circumstances be liable for the quality of concrete mixed according to the Buyer's instructions.

If there is a defect at the time of delivery, the Supplier is entitled to rectify the defect by using additives, etc. or make a replacement delivery. If rectification or replacement is carried out within a reasonable time, the Buyer may not claim damages or terminate the agreement. If rectification or replacement is not carried out within a reasonable period of time, the Buyer may claim damages for his foreseeable direct loss. The Buyer may terminate the agreement if the defect is material.

#### **THE EXTENT OF ANY LIABILITY FOR DAMAGES UNDER THE AGREEMENT**

The Buyer's claim for damages in the event of delay and/or defect is limited to the Buyer's foreseeable direct loss resulting from the breach, provided that the Buyer has complied with its obligation to mitigate losses.

The Supplier's overall liability for damages under the agreement is limited to the contract sum for the delayed or defective delivery, but never more than NOK 3 million. If deliveries are linked to several agreements between the same parties, and apply to the same construction project, the above limitation shall be linked to the construction project.

The Buyer is not entitled to damages for delay or defect if the Supplier substantiates that the delay or defect is due to an obstacle beyond the Supplier's control which he could not reasonably be expected to have taken into account at the time of the agreement or to avoid or overcome the consequences of. Such obstacles shall include work stoppages, missing or delayed deliveries from subcontractors, traffic obstructions, failure in the supply of fuel or materials, power outages and unforeseen failure of equipment, machinery, etc.

#### **THE SUPPLIER'S CLAIMS AGAINST THE BUYER FOR BREACH OF THE DUTY TO COOPERATE, WAITING TIME, ETC.**

The Supplier may claim damages for losses resulting from the Buyer's failure to fulfill its obligations, e.g. if the Buyer cannot or will not accept the concrete at the agreed time, or if the Unloading Site is not in accordance with the agreed requirements. The Supplier may also claim damages for losses caused by other circumstances for which the Buyer bears the risk. Additionally, the Supplier may claim damages for waiting time and associated consequences in accordance with the Price List.

#### **DUTY OF CONFIDENTIALITY ETC.**

The Buyer undertakes to maintain confidentiality regarding information the Buyer becomes aware of in connection with the agreement, including recipes, prices, mixing ratios, conditions, etc. The Buyer further undertakes not to use such information for any purpose other than that for which it was disclosed.

#### **DISPUTES**

Any dispute between the parties concerning the contractual relationship shall be settled by ordinary court proceedings unless the parties agree to have the dispute settled by arbitration. The parties agree that the courts with jurisdiction at the place of delivery shall have exclusive jurisdiction over all disputes arising out of the agreement. All disputes shall be resolved in accordance with Norwegian law.