



## General terms and conditions of sale and delivery for Norsk Stål AS



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*Effective from 1. October 2017*

## 1. Application

These general terms and conditions of sale and delivery apply to all products (Products/the Products) supplied by Norsk Stål AS (the Supplier) to the purchaser (Purchaser/the Purchaser), jointly referred to as the Parties, unless otherwise explicitly agreed in writing in every case. The Purchaser's purchase provisions (if they exist) shall not come into effect.

For conditions not governed by these terms, the NS 8409 General conditions for contracts concerning the purchase of construction products will be applied as they stand at the point in time when the order confirmation is issued by the Supplier.

## 2. Offers and product information

2.1. Written offers, including such sent by e-mail, explicitly termed "offer" by the Supplier, are legally binding for 14 days from the date of the offer, after which they will lapse in their entirety without further notice. Under no circumstances are verbal offers/price communications to be regarded as legally binding offers from the Supplier.

2.2. All illustrations, drawings, and pricing and technical information in catalogues, brochures and other promotional materials, whether available physically or digitally, are to be considered as guidelines unless explicitly stated in the offer.

2.3. Agreement with regard to the delivery of Products is not considered entered into until the issue of written order confirmations, including those sent by e-mail, or the commencement of delivery by the Supplier. The order confirmation is considered to be accepted by the Purchaser upon its receipt.

2.4. The order confirmation shall contain and/or refer to all the descriptions, certificates, and documents necessary for the acceptance or maintenance of the Products.

2.5. The Product prices are as stated in the order confirmation. The prices are subject to change until the time of delivery should the Supplier's own supplier legitimately adjust its prices.

2.6. In the event of contradiction between the provisions in the offer, these terms, the order confirmation, and NS 8409, they shall prevail in the following order of priority:

- a) The Supplier's order confirmation
- b) The Supplier's offer
- c) The general terms and conditions of sale and delivery for Norsk Stål AS
- d) NS 8409 General conditions for contracts concerning the purchase of construction products

### **3. Product characteristics**

- 3.1. Unless otherwise expressly guaranteed in an offer or order confirmation, the Purchaser bears the risk of the Product not being suitable for its intended need.
- 3.2. This does not apply if the Purchaser's needs has been notified in writing to the Supplier and the Supplier has then explicitly guaranteed to deliver Products which meet the Purchaser's specified needs, using words such as "guarantee" or similar in the offer or order confirmation.
- 3.3. The Supplier's documentation, information, and/or other technical specifications, whether given directly to the Purchaser or in generic form, are not to be considered as a guarantee, nor must they be understood as the Supplier guaranteeing in any way that the Products will meet the Purchaser's needs.
- 3.4. Deficiencies exist where the Products do not conform to requirements with respect to the type, quantity, quality, other characteristics, or packaging specified in the order confirmation and offer.

### **4. Quantity**

- 4.1. The order confirmation specifies whether delivery shall be made according to weight, piece/number, length or otherwise.
- 4.2. Unless otherwise expressly stated in the offer or order confirmation, the delivered quantities may, in accordance with prevailing industry standard for the purchase of goods and services from works/subcontractors, deviate by +/- 10% without this being considered a deficiency.

### **5. Trade terms**

- 5.1. Trade terms shall be interpreted in accordance with the international trade term definitions drawn up by the International Chamber of Commerce (English version of Incoterms 2010).

### **6. Payment terms**

- 6.1. The Supplier may require that the Purchaser, within a specified time limit after the issue of the order confirmation, provide a defined guarantee, as specified by the Supplier, as security for payment for the Products before the order is executed. If the guarantee is not provided within this time limit, both the offer and order confirmation shall be considered cancelled without further notice.
- 6.2. The Purchaser is obliged to pay the full purchase price, unless the Products have deficiencies which are clearly considered to be material. In such cases, the Purchaser may withhold a portion of the purchase price corresponding to the cost of remedying/rectifying the deficiency.

6.3. The Purchaser is not entitled to offset the purchase price against claims arising from other contractual relationships between the Parties.

6.4. Upon expiry of the payment deadline, the Purchaser shall pay any and all prevailing interest on overdue payment in accordance with the Norwegian Act Relating to Interest on Overdue Payments etc. (Act no. 100 of 17/12/1976).

## **7. Invoicing and payment deadlines**

7.1. Invoices shall be paid within the stated payment deadline/due date, or when the risk has been transferred, if this occurs earlier.

7.2. When purchasing goods and services from plants/subcontractors, the invoice date and payment deadline are agreed directly in each case.

## **8. Purchase of goods and services from works/subcontractors**

8.1. Purchase of goods and services from plants/subcontractors (plant purchases) shall be agreed in advance., If, when making plant purchases, the Purchaser does not supply specifications for the Products within the time period specified in the offer or order confirmation, the Supplier is entitled, without notice, to terminate the agreement and/or claim compensation for documented expenses/lost profits if the order for this reason cannot be completed by the respective plants/subcontractor.

## **9. Security for unpaid purchase money and ownership**

9.1. Until the purchase price, including interest and other costs, is paid in its entirety, the Supplier retains ownership of the Products.

9.2. The Supplier retains security/pledge in the Products until the purchase price, including interest and other costs, is paid in full.

## **10. Delivery time and transfer of risk**

10.1. Delivery shall take place Ex Works in accordance with Incoterms 2010 at the location specified in the offer or order confirmation. The risk with regards to the Products passes to the Purchaser at the same time. The use of other delivery terms and/or deviations from Incoterms 2010 shall be expressly stated in the order confirmation.

10.2. The estimated delivery time shall be stated in the order confirmation. The Supplier shall update the Purchaser continuously in case of changes to the estimated delivery time. The Supplier may make use of partial deliveries.

10.3. If the delivery time is specified as being within a certain time frame, the estimated delivery time is calculated from the date the order confirmation was issued by the Supplier.

10.4. Delays which are caused by circumstances the Supplier could not reasonably have predicted or overcome the consequences of are the Purchaser's legal or financial responsibility.

10.5. For deliveries from plants/subcontractors, the Purchaser may be invoiced for additional costs that were not known at the time of issuing the order confirmation.

10.6. Modification and supplementary work ordered by the Purchaser may extend the estimated delivery time by a period corresponding to the extra time spent on carrying out the work.

## **11. Delays**

11.1. If the estimated delivery time cannot be met, or where delay appears likely, the Supplier shall inform the Purchaser and, if possible, indicate a new estimated delivery time.

11.2. Cancellation must take place within five working days following the receipt of notification as mentioned under section 11.1. Otherwise, the new estimated delivery time is deemed to be accepted and the right of cancellation will no longer apply. If the Purchaser makes use of the Products, the right of cancellation or other remedies for breach of contract resulting from the delay shall cease to apply with immediate effect.

11.3. In all cases, the Purchaser may cancel the purchase only when the Supplier itself has the equivalent right of cancellation with respect to its own supplier of the Products.

## **12. Force Majeure**

12.1. In the event of a situation arising that is beyond the control of the Parties, and which the affected party may not reasonably have anticipated or overcome the consequences of, and that hinders fulfilment of the party's obligations, the other party shall be notified of this as soon as possible.

12.2. The Parties' obligations affected by the hindrance are suspended as long as the situation persists.

12.3. Each Party has the right to cancel orders if the situation persists, or if it is clear that it will persist, for more than 90 days.

12.4. If the hindrance is at the hand of the Purchaser, the Purchaser shall cover the expenses incurred by the Supplier to secure and protect the Products until delivery can be made.

## **13. Cancellation**

13.1. The Purchaser has the right to cancel the delivery of Products if the Supplier in a corresponding way is able to cancel with respect to its own supplier.

13.2. If the Purchaser cancels the delivery of the Products, all cancellation costs as well as compensation for the Supplier's lost profit (gross margin) and other documented loss incurred by the Supplier as a result of the cancellation, shall be reimbursed by the Purchaser.

13.3. Stock items may be cancelled free of charge if this can clearly be done without any disadvantage or cost to the Supplier, and if the Supplier can be expected to make a quick recovery-sale on the cancelled Products.

## **14. Duty to inspect and claims**

14.1. The Purchaser shall, without undue delay after receipt, review and inspect the Products in accordance with general industry-practice.

14.2. Issues detected during the inspection shall be submitted in writing to the Supplier without undue delay and with specified descriptions of the nature of the deficiency (including deviation from the applicable product standard), its extent, and significance to the Purchaser.

14.3. Under no circumstances can a claim be submitted later than six months after the passing of risk.

14.4. In the case Product defects that can be attributed to damage in transit, complaints shall also be put forth directly to the carrier/freight forwarder and in the manner prescribed in the transport agreement.

14.5. Complaints not put forth in accordance with the description above will result in lapse of the right to claim remedies for breach of contract.

14.6. Complaints pertaining to certificates shall be put forth immediately following receipt of the certificate

14.7. In the event of a claim, the Supplier has the right of unrestricted access to inspect the Products.

## **15. Breach of contract**

15.1. In the event of deficiencies, the Supplier may choose whether to correct/remedy the deficiency or to make a replacement delivery.

15.2. The right to claim deficiencies ceases to apply if the deficiency is remedied by someone other than the Supplier without the Suppliers prior written consent. This does not apply in case waiting for remedial action from the Supplier could cause material damage to the Products.

15.3. If the Products are assembled, embedded, or incorporated into other products, goods, or the like, in such a way that they cannot be detached without damaging the Products, the obligation to replace no longer applies.

15.4. If the Supplier fails to remedy the deficiency within a reasonable time period following receipt of an adequate claim, and if the deficiency is deemed to be material, the Purchaser may cancel, in writing, the relevant part of the delivery. A statement of cancellation must be made without undue delay once it has been established that the deficiency has not been remedied. If this is not done, the right of cancellation will lapse.

15.5. The Supplier is not obliged to reimburse any kind of compensation, price reduction, remuneration, or similar if a deficiency is remedied or remedial action is offered within a reasonable time period.

15.6. Under no circumstances does the Supplier have any liability exceeding the invoice value of the Products subject to cancellation.

15.7. The Supplier is not responsible for any damage or loss suffered by the Purchaser as a result of the Products' further use, or for indirect loss of any kind.

15.8. The Supplier may terminate the agreement without notice if the Purchaser is or could be in material breach of its obligations. Payment defaults made by the Purchaser, whether experienced, expected, notified and/or impaired creditworthiness of the Purchaser, shall always be considered as material breach.

## **16. Returns**

16.1. The Products may be returned only in accordance with prior agreement between the Supplier and the Purchaser. If the reason for the return is not due to deficiencies or other errors on the Supplier's part, the return costs will be deducted from the credit note. The Purchaser shall label returned Products with a return-number obtained from the Supplier.

16.2. Returns are conditional upon the Products being undamaged, and, in the case of factory-packaged Products, on being in their original and unbroken packaging. Processed products are exempt from return unless the return is due to negligence on the Supplier's part.

16.3. In the event of a return, the Purchaser shall pay 20 % of the agreed compensation in order to cover the Supplier's costs.

## **17. Compensation**

17.1. The Supplier is only responsible for breaches of contract due to negligence on its own part or that of someone acting on its behalf, and in any event only for amounts limited to the invoice value of the Products in question.

17.2. The Supplier is only responsible for damage that the Products cause to subjects other than the Products themselves to the extent that the Supplier has manifested gross negligence or intent.

17.3. Under no circumstances can a claim for compensation be submitted later than six months after passing of the risk.

## **18. Disputes**

18.1. Any dispute between the Parties is governed by Norwegian law. The Parties accept the Supplier's court of domicile as the legal venue.