

# Norwegian building and civil engineering contract

Norsk bygge- og anleggskontrakt

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This is a translation of NS 8405:2008. All reasonable measures have been taken to ensure the accuracy of this translation, but no responsibility can be accepted for any error, omission or inaccuracy.

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This translation has not been adopted as Norwegian Standard.

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## Foreword

NS 8405:2008 was adopted in October 2008.

NS 8405:2008 replaces NS 8405 1st edition, February 2004 (including Corrigendum AC 2004). Changes in the 2nd edition largely concern the provisions of Chapters III and IV.

This standard has been prepared and unanimously recommended by a committee appointed by Standards Norway, based on proposals put forward by:

Arkitektbedriftene i Norge (The Norwegian Association of Consulting Architects)  
 Entreprenørforeningen – Bygg og Anlegg (The Norwegian Contractors' Association)  
 Forsvarsbygg (The Norwegian Defence Estates Agency)  
 Helsebygg Midt-Norge  
 Kommunenes Sentralforbund (The Norwegian Association of Local and Regional Authorities)  
 Maler- og byggtapetsermestrenes Landsforbund (The Norwegian Association of Painting Contractors)  
 Maskinentreprenørenes Forbund (The Norwegian Association of Heavy Equipment Contractors)  
 NELFO (The Norwegian Electrical Contractors' Association)  
 Norges Byggmesterforbund (The Association of Norwegian Master Builders)  
 Norges Bygg- og Eiendomsforening (The Norwegian Society for Real Estate and Facilities Management)  
 Norske Boligbyggelags Landsforbund (The Norwegian Federation of Co-operative Housing Associations)  
 Norske Rørleggerbedrifters Landsforening (The Norwegian Association of Plumbing, Heating and Ventilating Contractors)  
 OBOS (Oslo Housing and Savings Society)  
 Oslo kommune (Oslo Municipality)  
 RIF ANS – Organisasjonen for rådgivere (RIF ANS – An organisation for advisors)  
 Statens vegvesen – Vegdirektoratet (The Norwegian Public Roads Administration – Directorate of Public Roads)  
 Statsbygg (Statsbygg – The Directorate of Public Construction and Property)

This standard expresses what the above-mentioned organisations and institutions have agreed on as general contract terms for the execution of major building and civil engineering works. It is the above-mentioned organisations' intention that the standard is to be applied without alterations or deviations other than those for which the standard itself allows, except for those which are necessary on account of special circumstances pertaining to the individual project.

## Chapter I    Introductory provisions

### 1 Scope

This standard has been prepared for use in a contractual relationship in which one party (the contractor) undertakes to carry out building or civil engineering work (including installations, new buildings, maintenance, repairs and alterations) for another party (the client), and in which most of the drawings, descriptions and calculations are to be provided by the client.

The standard is suitable for contractual relationships in which the project's scope or organisation indicates a need for formalised notification rules with strict consequences (preclusion of claims) if notification is omitted, or an extensive duty to coordinate the work with all the other participants in the project. In contractual relationships where, due to the organisation or scope of the project, there are no such needs, NS 8406 *Simplified Norwegian Building and Civil Engineering Contract* is much more suitable.

The standard has not been prepared for use in subcontractor relationships. Separate contract standards have been prepared for subcontracts.

### 2 Definitions

For the purposes of this standard, the following terms and definitions apply:

#### 2.1

##### **contractual document**

a document signed by both parties confirming that a contract has been entered into

#### 2.2

##### **client**

the party to the contract for whom the work covered by the contract is to be performed

#### 2.3

##### **day**

calendar day

#### 2.4

##### **contractor**

the party to the contract who has undertaken to carry out the work covered by the contract

#### 2.5

##### **G**

the basic amount that is determined in pursuance of the National Insurance Act of 28 February 1997

#### 2.6

##### **contract work**

buildings, work or installations that are included in the contract between the client and the contractor

#### 2.7

##### **contract assistants**

a supplier, contractor, design engineer, advisor or other person that has undertaken to fulfil some of the contractual obligations of a party

#### 2.8

##### **contract sum**

the originally agreed payment for the contractor's fulfilment of its contractual obligations, including value added tax. The contract sum also includes the originally agreed estimate of the payment for services rendered for which unit rates or payment per account are to apply

**2.9****parallel contractors**

contractors who on the same construction have independent contracts with the client concerning the construction work

**2.10****subcontractor**

a contractor that has undertaken to carry out part of the obligations covered by the contractor's contract with the client

**2.11****payment**

the amount the client shall pay to the contractor for the performance of the contractor's contractual obligations

**3 Contract documents****3.1 Contract documents**

Unless otherwise agreed, the following documents are included in the contract:

- a) the contract document if such a document has been established;
- b) any minutes or written materials from clarifying discussions or negotiations held after the tender was submitted and which have been approved by both parties;
- c) the contractor's tender;
- d) written clarifications and any minutes or written materials from surveys or meetings held before the tender was submitted;
- e) the basis for the tender or the competition;
- f) this standard (NS 8405).

**3.2 Contradictions/disagreements**

If the contractual documents contain provisions that contradict each other, they shall apply in the order indicated in 3.1.

Should there be any contradiction between the documents stated in 3.1 e), description takes precedence over drawings. Work which is only shown in drawings but which should also have been shown in the description or the quantity statement is not part of the contract.

Should there be any contradiction between provisions in the individual document groups stated in clause 3.1, special provisions take precedence over general provisions, and provisions which have been prepared especially for the contract take precedence over standardised provisions.

**4 Transfer of contractual obligations**

Neither the contractor nor the client may transfer its contractual obligations without the other party's consent.

**5 Duty of cooperation and loyalty**

The parties have a duty to cooperate with and show loyalty towards each other during the performance of the contract.

**6 The representatives of the parties**

Each of the parties shall appoint a person to represent it in questions relating to the contract (representative). Unless otherwise notified in writing to the other party, the representative has the authority to make all decisions relating to the contract. The representative shall under all circumstances have the authority to make the decisions that are necessary for enabling the contract work to be performed without undue delay. The representative may by written notification to the other party authorise another party to act on his behalf.

## **7 Meetings**

### **7.1 Site meetings**

Regular site meetings are to be held during the period of execution.

The client shall call site meetings. The contractor may call a site meeting should it believe there is a need for such a meeting. At least seven days' notice of such a meeting shall normally be given.

Those representing the parties at the site meetings are authorised to decide on ordinary issues. Those authorised to issue change orders are listed in clause 22.3, paragraph two.

Minutes shall be kept of the site meetings. The minutes should normally be kept by one of the persons representing the client at the meeting. The minutes should be sent to the other persons attending the meeting and to the parties' representatives in good time before the next meeting. Any objections to the minutes must be put forward without undue delay and not later than the first ordinary site meeting after the minutes have been received.

### **7.2 Kick-off meeting and special meetings**

Before start of the building work, either of the parties may give notice of a kick-off meeting to clarify and review the parties' routines for cooperation and decision-making. The provisions stated in clause 7.1, paragraph four, shall apply correspondingly.

In addition, either of the parties may require separate meetings to be held to discuss special issues.

## **8 Notifications and requests**

All notifications and requests and answers to these that have to be notified pursuant to the provisions of the contract shall be submitted in writing to the parties' representatives, see clause 6, or sent to the agreed addresses.

Notifications and requests that are recorded in minutes kept in accordance with clause 7.1 shall be considered as being in writing. Notifications and requests communicated electronically shall only be considered as being in writing if specifically agreed upon.

A party wishing to maintain that the other party has given notification or replied too late, must do so in writing without undue delay after having received the notification or reply. If it fails to do so, the notification or reply shall be regarded as having been given in time.

## **9 The provision of security**

### **9.1 General provisions**

Unless otherwise agreed, the parties shall for their own account provide security for their contractual obligations, including for interest on overdue payments and the costs of enforcing payment in the case of any default. Such security shall be granted without undue delay once the contract has been entered into and at the latest 14 days after receipt of the other party's security.

The security shall be provided as in the form of ordinary guarantee from a bank, insurance company or other financial institution. The contractor may provide the security in the form of an insurance that is equivalent to such a guarantee provided the client has approved this in advance. The guarantee from the guarantor shall be made directly to the other party and shall not be limited in any way other than that which follows from these provisions.

The guarantor's liability shall not be limited by any proviso regarding the non-payment of premiums or other default by the party providing the security.

The liability of the guarantee cannot be enforced by a party unless the other party has been given a reasonable period in which to rectify the circumstances complained about.

### **9.2 Provision of security by the contractor**

Unless otherwise agreed, the contractor shall provide a total security for the performance of its contractual obligations during the construction period and the defects liability period. If asked, the client



shall confirm to the guarantor that the contract has been awarded to the contractor. The client is under no obligation to pay progress payments until it has received the contractor's bond.

The security for the contractual obligations of the contractor during the construction period, including liability for delayed completion, shall represent 10% of the contract sum. Claims may be made against this security for matters the client invokes no later than at taking over.

After taking over of the contract work, this security shall be reduced to 3% of the contract sum for matters being invoked during the next three years, unless otherwise agreed. Thereafter the security lapses unless the client has made a claim against the contractor that can be covered by the security provided.

Once the security has lapsed and the contractor thereafter so demands, the guarantee document shall be returned.

### **9.3 Provision of security by the client**

Unless otherwise agreed, the client shall provide security for the fulfilment of its contractual obligations for 15% of the contract sum. The contractor is under no obligation to start work until it has received the client's security.

This security covers claims the contractor brings against the client at the latest when submitting the final account, and to claims submitted later in accordance with clause 33.1.

Once the security has lapsed and the client thereafter so demands, the guarantee document shall be returned.

### **9.4 Reduction of security**

No later than one month after taking over, the client shall inform the contractor whether the security for contractual obligations during the construction period may be reduced or lapse. The contractor shall give corresponding notice regarding the client's provision of security no later than one month after the expiry of the client's time limit for submitting objections to the final settlement pursuant to clause 33.2.

If one party insists on an obviously larger security than is necessary to secure its claim, the other party may demand compensation for the extra expenditure incurred on premium payment amounts.

## **10 Insurance**

### **10.1 The contractor's duty to keep the contract work insured**

Unless otherwise agreed, the contractor shall keep insured that part of the contract work which has at any time been performed, materials which the client has paid for in advance, and materials which the client has delivered into the contractor's possession.

The insurance shall be taken out on the same terms and conditions as those which are common for the type of work the contractor or its subcontractors are to carry out and shall include damage such as fire damage, water damage and vandalism as well as any other damage to the contract work. The insurance shall also cover burglary. It shall apply until the entire contract work has been taken over by the client. The parties may agree that the insurance should be maintained until all work relating to the entire building or civil engineering works has been taken over by the client.

The contractor shall take out insurance covering the cost necessary to bring the contract work to same condition as it was in prior to the damage. The insurance shall be taken out as a first loss insurance.

The client shall be co-insured. The insurance contract shall contain a provision stating that the insurance company cannot invoke the circumstances referred to in chapter 4 or section 8-1 of the Norwegian Act no. 69 of 16 June 1989 concerning insurance contracts (Insurance Contracts Act) as a basis for reducing compensation.

The insurance contract shall state that the insurance company cannot negotiate with the policyholder concerning the settlement or pay the policyholder without the client's consent.

### **10.2 Liability insurance**

Unless otherwise agreed, the contractor shall have a liability insurance on the terms and conditions usually taken out for the type of work the contractor or its subcontractors carry out. The insurance shall

cover liability for any damage the contractor and its subcontractors may cause the client's person or possession or the person or possession of any third party in connection with the performance of the contract work. The coverage of the subcontractor's liability under the insurance shall not prevent the insurance company from claiming recovery against the subcontractor. The sum insured shall not be less than 150 G. Should payments be made under the contractor's liability insurance during the contract period, the contractor is obliged to take out an additional insurance so that the sum insured may never be less than 150 G.

The insurance contract shall not contain provisions which reduce the injured party's rights towards the insurance company compared to those set out in the Insurance Contracts Act's provisions.

### **10.3 Examination**

Certificates showing each insurance that has been taken out shall be presented to the client for examination upon request. A certificate in accordance with clause 10.1 shall state that the client is co-insured. The client may also demand to be presented with relevant documentation of the specific insurance.

The client's examination does not exempt the contractor from risk if the insurance proves to be inadequate.

### **10.4 Insurance for alteration work**

In the case of alterations, the client shall ensure that the part of the building that is not included in the alteration work is insured to the extent stipulated in clause 10.1. If the contractor so demands, the client shall produce documentary evidence of such insurance.

### **10.5 Handling of settlement**

The client shall notify the contractor if it claims liability under the contractor's insurance. The contractor is obliged to give the client reasonable assistance during the insurance company's handling of such claims.

If damage occurs to the contractor's contract work which is covered by its insurance pursuant to clause 10.1, the contractor shall use this insurance to its full extent.

## **Chapter II The contractor's performance**

### **11 Requirements of performance**

#### **11.1 The performance of the work**

The contract work shall meet the requirements stipulated in the contract.

Should no requirements as to the quality of materials or execution of the work be stipulated in the contract, the quality requirements commonly used for similar work apply.

The contractor shall carry out the contract work in such a way that no damage, or danger of damage, arises. Should a danger of damage arise which necessitates measures that are not stipulated in the contract, the provisions stipulated in clause 42 apply.

#### **11.2 Execution of work that in breach of the contract and damage to the contract work during the construction period**

Have the contractor performed parts of the contract work in breach of the contract or damage for which the contractor bears the risk to the contract work is ascertained, the contractor shall notify the client as soon as the contractor becomes aware of the damage. The contractor shall inform the client of how repairs will be performed.

The contractor shall thereafter make repairs and pay for any access costs and other necessary expenses to be incurred by the repairs unless these costs will be disproportionately high compared to the effect that is achieved. In such case the client is entitled to demand a price reduction pursuant to the provisions of clause 36.4. Should the execution of work that is in breach of the contract or the damage lead to damage to parts of the building or civil engineering works that are not covered by the contract, clause 36.5 shall apply correspondingly.

## **12 Conditions on the site**

### **12.1 Laws, public regulations and decisions**

Both parties shall respect laws, public regulations and decisions that apply to their contractual obligations and to the conditions on the construction site.

The contractor is entitled to refuse to carry out work that would contravene public-law requirements stipulated in a law or pursuant to a law.

### **12.2 Site management**

The contractor shall, to the extent necessary, be in charge of the work on the site either itself or represented by a person with sufficient professional knowledge. Should the basis for the tender or the competition require a specific site management, the contractor may not replace this management without the client's consent. The client may not refuse to give consent without reasonable grounds.

### **12.3 Measurement and survey**

Measurement work in addition to the client's instructions pursuant to clause 19.4 is the responsibility of the contractor.

The contractor shall give reasonable notice to the client when important parts of the survey work are finished so that the client can inspect this should it so wish.

### **12.4 Norwegian Standard, regulations**

The contractor shall ensure that the regulations, Norwegian Standard, building detail sheets and other documents referred to in the contract are available on the construction site, in paper or electronic form.

### **12.5 Clearing up**

The contractor shall keep the construction site in a tidy condition as far as the work performed by the contractor is concerned, and shall regularly clear up after its own work and remove all refuse resulting from it.

If the contractor fails to fulfil his obligation to clear up, the client may after written notice implement such clearing up at the contractor's expense.

### **12.6 The use of working scaffolds and lifts**

The contractor shall allow its working scaffolds and unmanned lifts to be used free of charge by other contractors and the client provided that this does not disturb the contractor's work or otherwise constitute an unreasonable inconvenience. Any person wishing to use working scaffolds, etc. shall give the contractor reasonable advance notice.

Cranes and manned lifts shall also be able to be used by other contractors and the client provided that this does not disturb the contractor's work. Payment for such use is to be agreed in advance by the contractor and the user.

The contractor shall notify the client in good time before cranes, work scaffolds and lifts are dismantled.

### **12.7 Working hours**

Unless otherwise agreed or stipulated in public regulations or administrative decisions, the contractor is entitled to work outside ordinary working hours. It must in such case notify the client of this in advance.

## **13 The contractor's design of parts of the contract work**

### **13.1 The contractor's design work**

Should the description or other contractual documents set out that the contractor is to achieve a specific functional requirement for some parts of the contract work, the contractor shall perform the necessary design work to ensure this. Functional requirements that are shown in the drawings shall also be stated in the description.

Otherwise, the contractor shall only carry out design work if this has been agreed on.

If the contractor is to carry out design work, it is liable for all the additional costs resulting from errors and discrepancies in its design work. Should errors or discrepancies in such design work lead to defects in the contract work, these are to be dealt with according to the provisions stipulated in clause 36.

The contractor shall coordinate its design work with that of the other parties carrying out design work in accordance with the first paragraph of clause 18.3.

### **13.2 The client's duty of notification**

The client shall notify the contractor if it becomes aware that the contractor's design work is unsuited, incomplete, contains discrepancies or errors that may lead to the work not being in accordance with what has been agreed upon.

The client shall also notify the contractor if the client discovers that the contractor's design work is faulty.

The contractor's liability pursuant to clause 13.1 shall be diminished or lapse altogether if the client does not give notice when

- a) the client discovers circumstances such as are mentioned in paragraph one, or
- b) the client ought to have understood that the execution of the work was faulty.

## **14 Checking, testing etc.**

### **14.1 The client's right to conduct checks**

The client is entitled to inspect materials, workmanship and the contract work otherwise. Should the client realise that the contract work is not in accordance with the contract, the client shall immediately notify the contractor of this.

If the contract work has not been performed in accordance with the contract, the contractor cannot invoke, however, that the work has taken place under the client's supervision.

### **14.2 The contractor's duty of information**

The contractor has a duty to give the client the necessary information so that the client can assess the execution of the work and the materials. If requested, the contractor shall prove that the materials meet the contract's requirements, state the origin of the goods and, in so far as possible, provide the client with access so that it can inspect the manufacturing process.

### **14.3 Costs of testing**

Tests that are laid down or presupposed in the contract are to be arranged and paid for by the contractor.

If the client demands tests beyond those mentioned above, such tests are to be paid for by the client if the tests show that the contractual requirements have been met. Should the contractor's way of executing the work be in conflict with the contract, tests shall be carried out at the contractor's expense.

Nonetheless, this does not apply if the contractor, prior to the tests, can document in some other way that the contractual requirements have been met.

Any demand for payment from one of the parties pursuant to this provision must be submitted without undue delay.

### **14.4 Inspection of parts of the contract work for notification of any defects**

If parts of the contract work cannot be judged later without extraordinary arrangements or expenses, the contractor may in writing call for inspection of the work. A record shall be kept of the inspection. The client may not subsequently complain of defects which it ought to have discovered by normal careful inspection.

## 15 Use of subcontractors

### 15.1 General

The contractor has the right to let parts of its contractual obligations be performed by subcontractors. Its contractual liability towards the client is not changed by the use of subcontractors.

Before entering into a contract with a subcontractor, the contractor shall inform the client of the parts it wishes to be performed by a subcontractor and of which subcontractors it wishes to use.

Upon request, the contractor shall ensure that the client receives the information on the subcontractor's finances, financial position, capacity and technical expertise that is necessary for the client to be able to exercise its right pursuant to clause 15.2.

### 15.2 The client's right to refuse to approve the contractor's choice of subcontractor after the contract has been entered into

The client may refuse to approve the contractor's choice of subcontractor provided it gives notice of this without undue delay and no later than 14 days after having received the contractor's notification.

Unless the client proves that such refusal is based on the subcontractor's circumstances, the contractor may require that the switch to another subcontractor be regarded as a change, see clause 22.

### 15.3 Subcontractors stipulated in the contract

Subcontractors that are stipulated in the contract are to be regarded as having been approved. Should alternative subcontractors be stated, the contractor shall choose from among these.

The contractor may not replace subcontractors that are stipulated in the contract without the client's approval. The client may not refuse to grant approval provided if replacement is based on circumstances relating to the subcontractor.

## 16 Transfer. Site administration and control of the progress of parallel contracts

### 16.1 Transfer to a subcontract

The client may transfer parallel contracts to the contractor or transfer its contract with the contractor to a parallel contractor when this is stated in the contract or is especially agreed to later on. Should the contract contain a provision stating that the contractor is obliged to enter into a contract with a contractor to be nominated by the client after the contract has been entered into, this is counted as a transferred subcontract.

Should a contract with a parallel contractor be transferred to the contractor, the transfer is to be regarded as an extension of the contractor's contract unless it is agreed that the transferred contract is to be a new, separate contract between the client and the contractor.

The contractor may refuse to agree to a transfer provided it proves there are reasonable grounds for so doing. The client shall give the contractor a copy of the parallel contractor's contract with the client not later than time as the client sends the written demand for a transfer. Upon request, the client shall also ensure that the contractor receives the information on the parallel contractor's finances, financial position, capacity and technical expertise that is necessary for the contractor to be able to exercise its right of refusal.

Should the contractor not wish to agree to the transfer, it must notify the client of this at the latest 14 days after having received the demand, or after it received the copy of the contract or information on the parallel contractor it has requested if this is received later. Should the contractor fail to do so, the contractor shall be regarded as having agreed to the transfer. Should the client not receive objections by the time limit, the transfer is effective from the expiry of the time limit for objections.

Should the contract with the contractor be transferred to a parallel contractor, the contractual relationship between the contractor and the client is terminated while a new contractual relationship is established in which the contractor is a subcontractor to the contractor to which it has been transferred.

Unless otherwise agreed, NS 8415 *Norwegian contract for sub-contracts concerning the execution of building and civil engineering works* or NS 8416 *Simplified Norwegian contract for sub-contracts concerning the execution of building and civil engineering works* shall, if necessary, apply to the

subcontract, adjusted to include the special terms and conditions stipulated in the client's original contract with the transferred contractor. Otherwise, the transfer means that the contractor to which the contract is transferred assumes the transferred contractor's rights and obligations in relation to the client, and assumes the client's rights and obligations in relation to the transferred contractor, so that the transferred contractor becomes a subcontractor to the contractor to which the contract is transferred.

#### **16.2 Liability for transferred contractors**

The contractor's liability for a transferred contractor's obligations does not include a breach of contract caused by the transferred contractor's insolvency or other serious financial problems. However, this does not apply if the contractor prior to the transfer ought to have discovered that there was a risk of a breach of contract due to such circumstances.

#### **16.3 Site administration and control of the progress of collateral contractors**

The client may order the contractor to carry out, or be subject to, site administration and progress control if this is stipulated in the contract or is agreed to separately later on.

Should the contractor be ordered to carry out site administration and progress control, it shall, unless otherwise agreed:

- a) establish a combined progress schedule for its own and the administered parallel contractors' work;
- b) check that the progress schedules are being complied with;
- c) notify the client without undue delay if circumstances relating to an administered parallel contractor threaten to delay the progress on the site;
- d) state the assumed reason for the delay and the expected effect on the progress;
- e) if possible, state measures to remedy or reduce the delay.

Should these obligations not be fulfilled properly, the client may claim compensation for the loss it would otherwise have avoided.

The assumption of the obligation to carry out site administration and progress control of parallel contractors does not mean that the contractor relinquishes its right to demand an extension of the time limit and additional payment for circumstances caused by an administered parallel contractor.

#### **16.4 Mark-up**

Should no payments have been agreed on for a transfer of contract, site administration or progress control, the contractor is entitled to the normal mark-up. The mark-up is to be calculated on the final and total payments, excluding value added tax, payable to the transferred contractor or the administered parallel contractor.

### **17 Risk of damage to the contract work during the construction period**

Until taking over has occurred, the contractor shall bear the risk of damage to the materials and to the contract work that at any time has been performed. The same applies to materials that the client has obtained and transferred to the possession of the contractor.

The contractor is nonetheless not liable for damage caused by the client. The same shall apply to damage caused by the client's contract assistants, while these are carrying out their contractual obligations. Should damage as stated above be covered by the contractor's insurance policy pursuant to clause 10.1 and the contractor's deductible under this insurance is not reimbursed by the party causing the damage or such party's insurance company, the deductible up to the value of 1 G shall be covered by the client.

Nor shall the contractor bear the risk of damage to the contract work or materials due to extraordinary, unforeseeable circumstances such as war, revolt, natural disasters etc.

The client shall pay the deductible in the case of other damage to the contract work for which the client bears the risk and which is covered by the contractor's insurance pursuant to clause 10.1.

## **18 Progress and coordination**

### **18.1 Progress schedule**

Unless otherwise agreed, the contractor shall, within six weeks of entering into the contract, prepare and present a progress schedule for its own work based on the contract and the overview that the client provides pursuant to clause 19.7. The progress schedule shall comply within the frames stated in the contract. It shall state the main activities and the other activities on which these depend, including their relationship to work that is to be performed by parallel contractors and other parties that are helping the client to fulfil its obligations under the contract.

The progress schedule shall be adjusted if coordination pursuant to clause 18.3 or changes make this necessary.

### **18.2 Progress status and notification**

The contractor shall regularly inform the client of the status achieved compared to the progress schedule that has been established pursuant to clause 18.1.

The contractor shall, without undue delay, notify the client if the current progress schedule is deviated from or may be deviated from. Should the contractor wish to demand an additional payment or an extension of time limits that are subject to a daily penalty charge, the demand shall be notified and dealt with in accordance with the provisions stipulated in Chapter IV.

Should the actual progress deviate from the applicable progress schedule to such an extent that the schedule no longer forms a suitable basis on which to report, the client may demand that the schedule be revised. Such a revision of the schedule only means that the basis for reporting and notification is changed.

### **18.3 Duty of coordination**

The contractor has a duty to coordinate its progress with that of parallel contractors, planners and other participants in the project at no extra charge. It shall similarly execute its work in consultation with these same participants. These obligations only apply within the frameworks that are foreseeable according to the contract's stipulation of the nature, scope and progress of the work and the information stated in the contract regarding the number, nature and progress of the parallel contracts.

Should the client's coordination of all participants in the project pursuant to clause 19.7 mean that the contractor has to change the execution of its work to a greater extent than that stated in paragraph one of clause 18.3, the order to make such changes shall be given as a change order, see clause 22.3.

## **Chapter III The client's contribution**

### **19 Composition of the client's duty of contribution**

#### **19.1 Duty of contribution**

Unless otherwise agreed, the client shall supply such deliverables and make such contributions as are stipulated in 19.2 to 19.7.

#### **19.2 Design**

The client shall supply the drawings, descriptions and calculations that are necessary and suitable as a basis for executing the work contracted for.

The client is liable for any losses caused by errors, discrepancies and deficiencies or inadequate guidance in contractual documents and drawings, descriptions and calculations that the client has supplied.

#### **19.3 Physical basis for the work and ground conditions**

The client shall make available to the contractor the physical basis for the work, including other parties' work on the building or civil engineering works, on which the contractor is to build.

The client bears the risk if the physical basis for the work and ground conditions are not such as the contractor had reason to expect, based on the contract, the nature of the commission or other circumstances.

#### **19.4 Permanent measurement and building line marks**

The client shall set out permanent marks for measuring heights, building lines, boundaries to neighbouring properties, etc.

#### **19.5 Materials**

The client shall supply materials and products to the contractor only if this has been expressly agreed upon.

The client is liable for the quality and applicability of the materials and products it has supplied. It is similarly liable for the applicability of materials and named products that it requires to be used.

#### **19.6 Public permits**

The client shall obtain the necessary permits which, according to legislation and regulations, shall be issued to the client or its contract assistants, such as any framework permits, etc.

#### **19.7 The client's coordination of those involved in the project**

The client shall ensure the timely coordination of those involved in the project so that the contractor may carry out its contractual obligations, including the preparation and adjustment of the progress schedule in accordance with clause 18.1 and coordination in accordance with clause 18.3. It shall present a complete, updated overview showing the building contracts and deliveries involved in the project, including their mutual inter-dependence. Unless otherwise agreed, the overview shall be presented no later than four weeks after the contract has been entered into. It shall be updated to take account of changes to the project as well as new deliverables and building contracts.

### **20 The timing of the client's contribution**

#### **20.1 Deadlines for the client's contribution**

If deadlines have been agreed upon for the client's deliverables and other such contribution, said deliverables and contribution shall be supplied on the agreed times. Should the progress schedule for the contractor's activities be altered, the schedule for the client's deliveries and contribution shall be adjusted correspondingly in accordance with clause 20.2.

#### **20.2 Duty of coordination**

The client has a duty to coordinate its deliveries and other such contribution with the contractor's work so that its performance takes place so much in advance that the contractor's planning and progress are not hindered or delayed in relation to the contractor's production system. Should the contractor require a document or other contribution earlier than the client has reason to believe, the contractor shall notify the client of this well in advance. However, the client is not obliged to coordinate its deliverables or contribution to a greater extent than the contractor had reason to expect, based on the nature of the work specified in the contract, the scope and progress of the work, and the information stated in the contract regarding the number, nature, scope and progress of collateral contracts.

#### **20.3 Schedule regulating the client's deliverables and other such contribution**

The contractor may demand that the client prepares, and if necessary revises, a schedule regulating the timing of the deliverables on which the contractor depends, including the design of the contract work. This schedule shall be based on the client's obligations with respect to clauses 19.7, 20.1 and 20.2.

The client shall notify the contractor without undue delay of any material deviation from this schedule.



## **21 The contractor's duty of notification**

### **21.1 The contractor's duty to give notice of a defect in the client's contribution**

The contractor shall, in connection with its production planning, review the client's deliveries and other contributions with respect to production.

The contractor shall, without undue delay, notify the client if the contractor becomes aware that the contract documents, drawings, descriptions or calculations are incomplete, contain discrepancies or other errors, or in some other way do not provide adequate guidance with respect to the performance of the contract. The same applies if the contractor discovers unsuitable design work.

The contractor shall, in the same way, notify the client if the contractor becomes aware that the physical basis for the work, permanent marks, ground conditions, materials supplied or other contribution from the client do not meet the requirements which the contractor has a right to expect under the terms of the contract.

If the contractor wishes to demand an adjustment of the payment or an extension of any time limit, the demand shall be notified and dealt with as stipulated in Chapter IV.

### **21.2 The client's duty to respond**

If the contractor notifies the client of a defect in the client's deliverables or other such contribution, as stipulated in clause 21.1, the client shall, without undue delay, respond to said notification, indicating what the contractor should do. If measures are necessary which result in a change, the client shall issue a change order as stipulated in clause 22.3.

## **Chapter IV Changes. Delays and defects in the client's contribution**

### **22 Changes**

#### **22.1 The right to order the contractor to make changes**

The client may, by means of a change order, instruct the contractor to make changes.

A change means that the contractor provides something in addition to or instead of the originally agreed performance, that the character, quality, nature or execution of the performance is to be altered, or that the agreed performance is to be cancelled.

A change must be related to what the contract covers and not be of a materially different nature to the originally agreed work. Unless otherwise agreed, the client cannot order the contractor to make changes that will represent more than a 15% net addition to the contract sum.

Deviations with respect to the quantities stated in the contract for items that are to be calculated according to unit rates (adjustable items) do not represent a change pursuant to these provisions unless the deviation significantly exceeds the amount that the contractor ought to have taken into consideration when the contract was entered into.

#### **22.2 Change in the form of an order to accelerate**

If the contractor is entitled to demand the extension of a deadline, a change may involve the time limits subject to a daily penalty charge being maintained in whole or in part.

Should the coordination of the work with that of parallel contractors, planners and others involved in the project necessitate that at least one of the contractors changes its execution of the work to a greater extent than that stipulated in clause 18.3, the client may, by means of a change order, demand that the contractor makes such a change, including accelerating the work.

The contractor's duty to accelerate or change the work, as stated in paragraphs one and two, shall apply only to the extent that this can be achieved within the frames of sensible progress, and if it is practically possible without unreasonable sacrifices having to be made by the contractor. If a demand for coordination pursuant to paragraph two results in a time limit which is subject to a daily penalty charge being brought forward to an earlier date, the new deadline is to be regarded as being subject to a daily penalty charge to the extent it can be met by accelerating within the proviso stipulated in the previous sentence.

### **22.3 Change orders**

A change order shall be in writing and shall give notice that a change is required and what this change involves. The client shall take care of the necessary design work in accordance with clause 19.2.

The change order must be issued by the client itself, its representative, see clause 6, or a person with written authorisation to issue change orders.

When the contractor receives a change order as set out in the previous sentence, the contractor is obliged to carry out the change.

## **23 Irregular change orders**

### **23.1 The contractor's duty of performance**

If the contractor receives an instruction to do something and this instruction is not in the form of a change order, the contractor shall implement the instruction even though, in the opinion of the contractor, the instruction represents a change, if the instruction:

- a) has been given by a person who is authorised to issue change orders under clause 22.3, second sentence, or
- b) has been given by a person who is authorised to inspect the contractor's work and the instruction is given in the performance of the person's ordinary work with respect to the project, or
- c) is stipulated in drawings, descriptions, etc, drawn up by the client's project designers.

### **23.2 The contractor's duty of notification**

If the contractor receives an instruction as stipulated in clause 23.1, and the contractor wishes to claim that the instruction represents a change, the contractor shall so notify the client without undue delay. If the contractor fails to do so, the contractor loses the right to claim that the instruction represents a change.

The provision in paragraph one shall also apply if the contractor receives an order from the public authorities to carry out work that, in its opinion, represents a change.

### **23.3 The client's duty to respond**

When the client receives notification in accordance with clause 23.2, it shall either

- a) issue a change order in accordance with clause 22.3, or
- b) reject the contractor's claim

If the client does not, without undue delay, either issue a change order or reject the claim, the contractor's demand for a change order shall be deemed to have been accepted.

The client shall, without undue delay after it has rejected the claim, explain the reason for said rejection.

In the event of disagreement between the parties, the provisions of clause 26 apply.

## **24 Extension of time limits**

### **24.1 The contractor's demand for an extension due to client-related circumstances**

The client is entitled to demand an extension of time limits if progress is prevented by

- a) changes, cf. clauses 22 and 23, or
- b) delays or defects in the client's deliverables or other contribution as stipulated in clauses 19 and 20, or
- c) other obstacles to the contractor's performance for which the client carries the risk.

#### **24.2 The client's demand for an extension due to contractor-related circumstances**

The client is entitled to demand an extension of time limits if the progress in delivery of its deliveries or other such contribution is prevented by circumstances for which the contractor is liable.

#### **24.3 The parties' demand for an extension due to force majeure**

The parties may demand an extension of time limits if the performance of their obligations is prevented by circumstances outside their control, such as extraordinary weather conditions, orders or prohibitions by the public authorities, strikes, lockouts and agreements entered into at national level between employers' organisations and trades unions.

If progress is prevented by a contract assistant, the party may demand an extension of time limits if the contract assistant is prevented from meeting its obligations by such circumstances outside its control as stipulated in the first paragraph.

A party may not demand an extension of time limits with respect to obstacles which the party or the party's contract assistants should have taken into account when they entered into their respective contracts, or could reasonably be expected to have avoided or overcome the consequences thereof.

A party may, moreover, demand an extension of time limits if progress is prevented as a consequence of the other party being entitled to demand an extension of time limits in accordance with the provisions of this clause.

The parties shall not be entitled to an adjustment of the amount payable as a consequence of an extension of time limits pursuant to this provision.

#### **24.4 Notification of extension**

If a party wishes to demand an extension of time limits due to circumstances described in clauses 24.1, 24.2 or 24.3, the party shall notify the other party of the same without undue delay.

The right to demand extension of a time limit is lost if notification is not made before the expiry of said deadline.

#### **24.5 Calculating the extension**

The extent to which the time limit is extended shall correspond to the impact on progress which the circumstances stipulated in clauses 24.1, 24.2 and 24.3 have caused, also taking into consideration any necessary performance interruption or postponement to a more or less favourable period of the year for the party concerned. The overall impact of previously notified circumstances which could give grounds for an extension of time limits shall also be taken into account.

The parties undertake to prevent and limit such damage as may be caused by an extension of time limits, and to cooperate with each other with respect to the measures to be implemented.

#### **24.6 Specifying the demand for an extension**

Should grounds for an extension of time limits exist, the party making the demand shall, without undue delay, provide a detailed and reasoned specification of its demand.

If the party does not provide a detailed and reasoned specification of its demand by the deadline concerned, said party may only demand such an extension as the other party must have understood that the first party was entitled to.

#### **24.7 The parties' duty to respond**

The party receiving a demand for an extension of time limits, including a detailed and reasoned specification of the said demand, cf. clause 24.6, shall respond without undue delay. The right to object to the demand will be lost if notification of the objection is not made by the expiry of said deadline.

#### **24.8 Forcing the pace with respect to an unjustified rejection**

If the client rejects, in whole or in part, a justified demand for an extension of time limits, the contractor may choose to consider the rejection as an instruction to accelerate, issued as a change order. The contractor may not so choose if the consideration payable with respect to acceleration must be considered likely to exceed the daily penalty which would have accrued if the client's rejection were justified and the pace had not been forced, plus an additional 30%.

Before the acceleration has begun in accordance with the first paragraph, the client shall be notified of the amount that forcing the pace is expected to cost.

### **25 Adjustment of the amount payable**

#### **25.1 The client's right to an adjustment of the amount payable**

The client is entitled to such adjustment of the amount payable as the change causes.

#### **25.2 The contractor's right to an adjustment in the amount payable**

The contractor is entitled to an adjustment in the amount payable by the client caused by

- a) changes, cf. clauses 22 and 23, or
- b) delays or defects in the client's deliverables or other such contribution as stipulated in clauses 19 and 20, or
- c) other obstacles to the contractor's performance for which the client bears the risk.

#### **25.3 Notification by the contractor of an adjustment in the amount payable**

If the contractor wishes to demand an adjustment in the amount payable by the client due to circumstances stipulated in clause 25.2 b) and c), the contractor shall, without undue delay, notify the client as soon as the contractor becomes or should have become aware of said circumstances. The right to demand an adjustment in the amount payable is lost if notification is not made by the expiry of the deadline.

When the contractor is entitled to an adjustment in the amount payable by the client due to circumstances stipulated in clause 25.2 a), b) or c), the contractor shall notify the client specifically if the demand for an adjustment in the consideration relates to:

- a) increased expenses relating to capital goods, rigging up, operation and rigging down, which are a necessary consequence of circumstances stipulated in clause 25.2. Rules for the adjustment of the consideration payable by the client may be agreed separately.
- b) increased expenses due to reduced productivity or disturbances to other work that are due to circumstances stipulated in clause 25.2. This applies only to the extent to which such expenses cannot be reduced by other measures, or to which the circumstances are not foreseeable under the contract, cf. clause 18.3, first paragraph. The provisions stipulated in clauses 25.7, 25.8 and 31.4 apply in so far as they are appropriate.

Notification shall be made without undue delay when the contractor becomes or ought to have become aware that expenses would accrue. If the contractor fails to make such notification, the contractor loses the right to invoke the incurring of expenses as grounds for demanding an adjustment in the amount payable.

The contractor shall, thereafter, keep the client regularly informed of the development of the claims mentioned in a) and b).

#### **25.4 The contractor's specified demand for an adjustment in the amount payable**

When grounds for demanding an adjustment in the amount payable exist, the contractor shall, without undue delay, provide the client with a detailed and reasoned specification of said demand.

If the contractor does not provide a detailed and reasoned specification of its demand by the deadline, the contractor may only demand such an adjustment in the amount payable as the client must have understood that the circumstance would entail.

### **25.5 The clients duty to respond**

The client shall respond without undue delay after having received a detailed and reasoned specification of the demand. The right to object to the demand will be lost if notification of the objection is not made by the expiry of the deadline.

### **25.6 Calculating the adjustment in the amount payable – cost limitation**

Any adjustment in the consideration shall be made in accordance with clauses 25.7 to 25.9.

The contractor shall use all reasonable means to limit and prevent the impact of changes ordered in accordance with clauses 22 and 23, or the impact of delays or defects in the client's deliverables or other such contribution in accordance with the provisions of Chapter III. The same applies if other obstacles to the contractor's performance arise, for which the client carries the risk.

### **25.7 Adjustment in the amount payable in the case of applicable unit rates**

#### **25.7.1 Unit rates**

Should the demand for an adjustment in the amount payable relate to circumstances to which the contract's unit rates are applicable, the unit rates should be used.

#### **25.7.2 Adjusted unit rates**

The unit rates shall also form the basis of the settlement if the adjustment in consideration derives from work that is on the whole the same as work for which unit rates have been stipulated. The parties may in such a case demand that the unit rates be adjusted to take the change into account. The adjustment shall reflect the price level of the original unit rates.

Should the underlying assumptions for applying the unit rates be altered due to the extent or quantity of changes, the date of the change or suchlike, the parties may demand that the unit rates be adjusted to take into account the increased costs or savings that this has led to.

#### **25.7.3 Notification of an adjustment in unit rates**

The party demanding an adjustment in the unit rates shall notify the other party without undue delay after the circumstance giving grounds for such an adjustment has arisen. If a party fails to do so, that party may demand only such an adjustment in the unit rate as the other party must have understood the circumstance would entail.

The party receiving notification of such an adjustment shall respond without undue delay. If no response is made by the expiry of the deadline, said party loses the right to object to the demand.

### **25.8 Adjustment in the amount payable when no applicable unit rates exist**

#### **25.8.1 Daywork – notification**

If no applicable unit rates exist, the adjustment in consideration shall be calculated in accordance with the provisions relating to daywork in clause 31. Any reduction in the extent of work performed shall result in a reduction in the amount payable that equals the savings resulting from the reduction in the extent of work, with a corresponding reduction in profit.

The contractor shall, before embarking upon any such daywork, notify the client if the contractor believes that the adjustment in the amount payable should be calculated in accordance with the provisions relating to daywork in clause 31.

#### **25.8.2 The client's duty to respond – disagreement about the use of daywork**

The client shall, without undue delay, make a decision with respect to the contractor's notification in accordance with 25.8.1.

Even if the client disagrees that the adjustment of the amount payable is to be calculated in accordance with the provisions relating to daywork, the contractor shall comply with the provisions of clause 31.4.

### **25.8.3 The contractor's offer**

The contractor may provide, or the client may demand that the contractor provide, a specified offer with respect to an adjustment of the amount payable.

The client shall make a decision with respect to the contractor's offer within a reasonable period of time.

### **25.9 Compensation to subcontractors and suppliers for cancellation**

Should the contractor have to pay compensation for cancellation to a subcontractor or supplier as a result of a change, the contractor is entitled to demand that the client reimburse it for the compensation amount.

## **26 Disputes**

### **26.1 Duty of performance in the event of a dispute**

If the contractor receives a rejection in response to a notification of change as stipulated in clause 23.2, the contractor nevertheless has a duty to perform or continue to perform the disputed change. The same applies if the dispute relates to the extent of a demand for an extension of deadlines or the size of an adjustment in the amount payable.

The client may order the contractor to continue the work until clarification has been achieved with respect to how the situation should be determined.

The contractor may demand that the client provides security for the value of the disputed claim. If the client does not, without undue delay, put up such security, the contractor may, at its own risk, cease performing the work which is in dispute.

### **26.2 Temporary resolution of disputes**

Unless otherwise agreed, one party may unilaterally demand the following matters be resolved by an umpire in accordance with clause 43.2:

- a) the extent to which there exists a change, as stipulated in clause 23;
- b) the extent to which there exists a delay or defect in the client's deliverables or other such contribution, or other obstacle to the performance of the contractor for which the client is liable.

The umpire's decision shall be complied with until such time it is deviated from by agreement or judgement. If, no later than six months after the date of the umpire's decision, the parties have not brought the dispute before a court or arbitration tribunal in accordance with clause 43.3 or 43.4, the decision is binding on both parties.

The provisions in the second paragraph apply correspondingly if the umpire is asked by both parties to determine the impact on the amount payable of circumstances stipulated in the first paragraph a) and b).

### **26.3 The contractor's legal recourse**

If the contractor receives a rejection from the client with respect to a notification in accordance with clause 23.2 or a demand for an adjustment in the consideration payable or an extension of deadlines, the contractor must either:

- a) demand that this matter be determined by an umpire as stipulated in clauses 26.2 or 43.2 prior to taking over, or
- b) take the necessary steps to start ordinary court or arbitration proceedings as stipulated in clauses 43.3 or 43.4 no later than eight months after the taking over of the entire contract work, unless the parties agree on a longer time limit.

Should the contractor fail to do so, these rights shall lapse.

## Chapter V Payments and settlement

### 27 Determination of the payments

#### 27.1 Index-linking

Unless otherwise agreed, the contract sum is to be regulated in accordance with the provisions of NS 3405 – Rules for adjustment of contract sum for buildings and civil engineering works resulting from changes in wages, prices, social charges, etc. – the total index method – using one calendar month as the calculation period.

This shall also apply to daywork and additional work that is to be performed according to the contract's unit rates.

Should tenders be submitted while the work is being performed, the prices in such tenders shall not be price-regulated unless otherwise agreed.

#### 27.2 Quantity control

If the contract stipulates that the contractor shall check quantities, it shall compare the quantities stated in the description with the corresponding quantities stated in the tender basis drawings within a stipulated time limit, which must be reasonable.

The contractor loses the right to invoke any errors in the quantities stated in the description that it has not notified to the client by the time limit.

The client loses the right to invoke any errors in the statement of quantities that it has not notified the contractor of within one month after the contractor's time limit. Should the client's demand for an adjustment of the quantities apply to parts of the description other than the contractor's requirements, the contractor is to have an additional period of one month from the date when it received the client's demand in which it can submit further comments.

Even if the quantities have become binding pursuant to the above provisions, either party may nonetheless invoke errors that will lead to a significant addition to or reduction in the contract sum or errors that could not be expected to be discovered by a normal, careful inspection.

#### 27.3 Public charges and taxes

Should public charges and taxes that the contractor is to pay under the contract be changed after the contractor submitted its tender, the payments shall be adjusted as a result of the change, without the addition of value added tax or any mark-up for indirect costs, risks or profits.

### 28 Progress payment

#### 28.1 Payment of the contract sum and retention

Unless otherwise agreed, the contractor can require payment of instalments of the contract sum as the work is performed. The instalments can be requested on the basis of the work performed and the materials and goods supplied to the site to be built in. The value of these is to be calculated on the basis of the prices stipulated in the contract.

Unless otherwise agreed, instalment invoices shall not be sent more frequently than once a month.

The payment of instalments does not involve any approval of the basis of the invoice in question. Any objections to the basis of the instalment shall be in writing and state the actual circumstances on which the objections are based.

10% of the instalment basis for the instalment invoices is to be retained. The remaining amount is the invoice amount. The invoice amount is subject to value added tax. Once the total retention is 5% of the contract sum, subsequent invoices shall not contain any deduction for a retention.

The retention is to be invoiced in the final account.

## **28.2 Settlement of other payments**

Changes and daywork etc. are to be invoiced in separate invoices once they are completed. The claims are to be invoiced in full. In the case of work of a lengthy duration, the contractor may claim instalments on the basis of the work performed, but not more frequently than once a month.

Agreed changes in wages and prices may be settled each month and are to be invoiced as separate invoices.

## **28.3 Documentation and measurements**

Should the contractor require the payment of an instalment or other payments in accordance with clauses 28.1 or 28.2, it shall send the client a specified invoice that can be checked, if necessary by comparing it to the contractual documents.

Measurements and other documentation that are necessary for the client's checking shall be enclosed.

Measurements and verifications that are necessary for calculating the instalments and the invoice basis shall be made by the contractor. The client is entitled to take part in this work, and shall be given reasonable notice of this by the contractor.

Measurements are to be conducted as soon as the necessary prerequisites exist.

For parts of the work that cannot later be checked, the contractor shall give reasonable notice to the client that it demands to conduct measurements together with the client. Should the client fail to attend such measurement meetings, it is bound by the contractor's measurements unless it is clear that these are incorrect.

Should the contract lack measurement rules, measurements shall be conducted in accordance with the Norwegian Standard that applies when the contract is entered into. Should this standard not have any applicable measurement rules, measurements shall be conducted in accordance with generally accepted measurement rules.

## **29 General terms and conditions of payment**

### **29.1 Time limit for payment**

The client has a duty to pay within 28 days of receiving an invoice.

### **29.2 Encumbrances**

If there are encumbrances on materials supplied, the contractor has a duty to inform the client thereof no later than when claiming payment for the materials. The client may refuse to pay for materials on which there are encumbrances unless the contractor provides separate security.

### **29.3 The client's right of retention**

If a daily penalty has been accruing or if the client has other claims resulting from breaches of contract by the contractor, the client may retain an amount of the payment that will cover the specified claim.

Moreover, the client has a duty to settle undisputed claims within the stipulated time limits for payment.

## **30 The contractor's rights in the case of overdue payment**

### **30.1 Interest**

In the case of overdue payment, including unjustified retention pursuant to clause 29.3, the client shall pay interest pursuant to the Act of 17 December 1976 no. 100 relating to interest on overdue payments.



### **30.2 The contractor's right to stop the work**

The contractor has the right at 24 hours' notice in writing to stop performance in the case of serious default on payments or if it is clear that such default will take place.

In the case of a stoppage, the contractor is entitled to additional payments and extension of time in accordance with the provisions in clauses 24 and 25. The contractor shall give notice of its claim in accordance with clause 23.3.

## **31 Daywork**

### **31.1 Calculating the payments**

When work is to be paid for as daywork, the contractor is to be paid the necessary costs of performing the work plus an agreed or usual mark-up to cover its indirect costs, risk and profit.

Such work shall be conducted efficiently and properly.

### **31.2 Rough estimate of costs**

The contractor shall, if so requested by the client, provide the client with a written estimate of what the work will probably cost.

The contractor shall notify the client in writing without undue delay if there is reason to believe that the rough estimate of costs will be substantially exceeded.

### **31.3 Payment**

Payment for work performed on a daywork basis is made in accordance with the provisions stated in clauses 28 and 29.

### **31.4 Checking and documentation**

Unless otherwise agreed, the contractor shall send the client specified statements each week showing the costs incurred, including those relating to materials used and time spent in relation to staff and machinery. As regards costs and time spent due to delays or defects in the client's deliverables or contribution, etc., the contractor may demand that the statements are not to be sent more frequently than once a month. The statements are to be checked within 14 days of them being received, unless the client asks for further documentation and a further specification of the circumstances the contractor invokes as the grounds for its claim within the time limit. The client shall, in so far as possible, specify its documentation requirements.

The contractor may be given a time limit that is reasonable under the circumstances, but which shall not be less than 14 days, to obtain the additional information and the specifications asked for. The client has a time limit of 14 days to check the additional information.

Should the client believe that the specified statements do not tally with the work that has actually been performed or delivered, or that the statements, and, as the case may be, also the additional information that has been obtained, are based on incorrect information, it shall notify the contractor of this at the latest by the expiry of the 14-day period stated in the first paragraph or by the additional time limit stated in the second paragraph.

Should the client fail to give notice by the time limits stated in the third paragraph, the statements are to form the basis of the settlement. This does not apply if the statements are incorrect due to intent or gross negligence on the part of the contractor.

Should the contractor fail to provide statements in accordance with the first paragraph or exceed the time limit stated in the second paragraph, it is only entitled to have covered the costs the client ought to understand the contractor has incurred plus a mark-up to cover indirect costs, risk and profit.

The client is not prevented from later invoking that the total costs of the daywork have become unnecessarily high due to inefficient operations or other improper circumstances.

## **Chapter VI Taking over and final account**

### **32 Taking over**

#### **32.1 General provisions**

The contract work shall be taken over by the client in taking over proceedings. The entire contract work shall be taken over unless a partial taking over has already taken place.

#### **32.2 Preparations for the taking over proceedings**

The contractor shall, in reasonable time before the contract work is completed, give written notice of the taking over proceedings to the client. A period of notice of 14 days, counted from the date when the notice is received, shall normally be regarded as reasonable.

The contractor shall give reasonable notice of adjustments, tests or the like that are to be carried out on technical facilities. The notice shall state the prerequisites that must be met in order for the tests to be carried out. Should it be necessary for parallel contractors to carry out specific measures or for parallel contractors to participate in the tests, this shall be stated in the notice.

#### **32.3 Taking over proceedings**

The parties are obliged to attend taking over proceedings in accordance with clause 32.2. Should one of the parties fail to attend for no valid reason, the other party may carry out the taking over proceedings alone.

At the taking over proceedings, the parties shall jointly conduct a careful inspection of the contract work. The client shall also have checked the documents it has been sent by the contractor in connection with functional tests and measurements that, pursuant to the agreement, are to be carried out prior to the taking over. These documents shall have been sent to the client well in advance.

#### **32.4 Protocol**

A protocol shall be kept of the taking over proceedings, which shall state

- a) who is present;
- b) any defects which may be discovered;
- c) the time limit for the rectification of defects discovered and the date of any subsequent inspection;
- d) whether the contract work is taken over or taking over is refused.

If the client refuses to take over the contract work, it shall present the grounds for this in the protocol. If the contractor does not accept the refusal, it shall present the grounds for this in the record. The same shall apply if the parties disagree about an alleged defect in the contract work.

The protocol is to be signed by the parties present. The parties shall each be given a copy of the signed protocol.

#### **32.5 The client's right to refuse to take over**

The client may refuse taking over the contract work if during the taking over proceedings such defects are discovered that these, or the rectification of them, will prevent the use of the contract work.

The client may refuse taking over if there are no such adjustments or tests or other documentation that have been agreed to be present at the taking over proceedings and which are necessary for the client to be able to assess whether the contract's requirements have been satisfied in essential aspects.

The client may also refuse to take over the contract work until the agreed final time limit, see clause 34.1.

Should the client wrongfully refuse to take over the contract work, taking over shall be regarded as having taken place.

### 32.6 The effects of taking over

Upon taking over, the following effects occur:

- a) Any daily penalty charges cease to accrue, see clause 34.
- b) The risk of damage to the contract work passes from the contractor to the client, see clause 17.
- c) Unless otherwise agreed, see clause 10.1, the contractor's obligation to keep the contract work insured is terminated.
- d) The period according to clause 36.7 for notification of defects starts.
- e) The contractor shall send a final account and final invoice to the client, see clause 33.
- f) The security that the contractor has provided for its liability during the building period is reduced in accordance with the provisions stated in clause 9.2.

The effects of the taking over come into force when the taking over proceedings end. Should the taking over proceedings last for more than one day, the accruing of any daily penalty charges is interrupted at the start of taking over proceedings.

### 32.7 The client's right to take over parts of the work

The client may take over parts of the contract work provided that this has been agreed separately.

The client is also entitled to take over parts of the contract work through taking over proceedings after having discussed this with the contractor. Should such partial taking over lead to extra costs for the contractor or to the progress of the contractor's work being impeded, this should be regulated in accordance with the provisions stated in chapter IV.

Partial taking over shall be done through taking over proceedings. The provisions stated in clauses 32.2, 32.3, 32.4 and 32.5 apply to partial taking over in so far as they are applicable. In the event of partial taking over, it shall be stated which parts of the building or civil engineering works are to be taken over and the contractual value or proportional value of these.

In the event of partial taking over, the provisions stated in clause 32.6 apply correspondingly to that part of the contract work which is taken over, apart from:

- a) The contractor shall continue to keep the entire contract work insured in accordance with clause 10.1 until the entire contract work has been taken over.
- b) The contractor shall be entitled to send a final invoice in accordance with the provisions stipulated in clause 33 for that part of the contract work which has been taken over. All the claims that are directly linked to the completion of this part of the contract work shall be included in the final account. This does not apply to claims that also include other parts of the contract work.

### 32.8 The client wrongfully starting to use the contract work

Apart from what is stipulated in clause 32.7, the client is not entitled to start using the contract work prior to taking over without the contractor's consent. Should the client nonetheless start to use the contract work, this is a breach of the contract.

The fact that the client itself or contract assistants, start to use parts of the contract work as provided in the contract or progress schedule is not regarded as starting to use the contract work.

The risk relating to those parts of the contract work that the client wrongfully starts to use passes to the client when it wrongfully starts to use the contract work.

Should the client wrongfully start to use the contract work, the contractor shall give the client a short period of notice in which to either ask for partial taking over in accordance with clause 32.7 or otherwise rectify the matter.

Should the client fail to rectify the matter, the risk relating to the entire contract work passes to the client as from the expiry of the period of notice. Any daily penalties cease to accrue. For work that was completed when usage started, the period for notification of defects pursuant to clause 36.6 expires fourteen days after the time limit stipulated by the contractor.

The period allowed for notification of defects pursuant to clause 36.7 starts on the same date.

### **33 Final account**

#### **33.1 Final account with final invoice**

Unless otherwise agreed, the contractor shall send the client a final account enclosing a final invoice within two months of taking over. Corrections to the submitted final invoice and final account shall be permitted until the time limit expires.

The final account shall contain a full overview of the parties' outstanding claims. It shall contain a specification of all the contractor's claims relating to the contract. It shall therefore contain:

- a) all the invoiced and paid claims;
- b) all the invoiced claims that have not been paid, irrespective of whether or not they have fallen due;
- c) claims that have been invoiced and which have fallen due, but which the client has rejected and which the contractor is upholding;
- d) all claims that the contractor considers that he has which have not yet been invoiced, including retention, see clause 28.1.

The contractor may only reserve the right to make later changes to the final account if the basis for calculating a claim has not been ready in time. Such a reservation may only be made for a specifically stated claim basis. The final invoice shall include the claims mentioned in sub-paragraph d) of the second paragraph.

Claims that are not included in the final statement cannot be submitted after the time limit mentioned in the first paragraph. However, this does not apply to claims relating to work that is not to be performed until after taking over, claims regarding retention pursuant to clause 28.1, remaining claims regarding index regulation pursuant to clause 27.1 and claims that have been brought before an umpire, the courts or an arbitration tribunal.

Should the contractor fail to meet the time limit for submitting the final account and final invoice, the client may stipulate in writing a final time limit for sending these. The period allowed according to this time limit shall not be less than 14 days. After the expiry of this period, the contractor loses its rights regarding any claims relating to the contract that have not already been paid or mentioned in the second sentence of the previous paragraph.

#### **33.2 Payment of the final invoice. Objections and claims**

Unless otherwise agreed, the client shall pay within two months of the date when it received the final account enclosing the final invoice. The general payment terms and conditions stated in clauses 29.2 and 29.3 and the provisions regarding interest on overdue payments stated in clause 30.1 shall apply to the payment of the final invoice.

Unless otherwise agreed, any objections the client has to the final account, or claims it has against the contractor in connection with the contract, shall be submitted within the payment time limit. Objections and claims that the client has submitted earlier shall be repeated to the contractor within the time limit if they are being maintained.

Objections and claims that are not submitted within the time limit cannot be submitted later on. However, this does not apply to objections and claims that have been brought before an umpire, the courts or an arbitration tribunal.

The client's objections and claims resulting from defects in the contract work are to be regulated solely by the provisions stated in clause 36.

## Chapter VII Delays. Defects

### 34 Daily penalty charges in the case of delays

#### 34.1 Time limits that are subject to daily penalty charges

The final time limit for the contract work is subject to a daily penalty charge. Should the contract not contain a final time limit, this shall be stipulated based on the contractor starting the work as soon as possible after the contract has been entered into and carrying out the work efficiently and without any undue delays.

Time limits other than the final time limit are subject to a daily penalty charge only when this is expressly stated for the individual time limit in the contract.

Should time limits which are subject to a daily penalty charge be exceeded, the client may not claim damages instead of a daily penalty charge unless there has been wilful intent or gross negligence. The client cannot claim damages for time limits that are not subject to a daily penalty charge being exceeded unless there has been a breach of the duty to coordinate the work, see clause 35.

#### 34.2 When daily penalty charges apply

The client may demand a daily penalty charge if the work is not completed within the time limits that are subject to a daily penalty charge and which apply pursuant to 34.1, if necessary adjusted to take into account the contractor's extension of time. The daily penalty charge ceases to apply upon completion. In the case of the client wrongfully starting to use the contract work, daily penalty charges are no longer applicable in accordance with the provisions stated in paragraph five of clause 32.8.

The work is to be regarded as having been completed on the date when it is taken over by the client or on the date when the contractor has demanded that taking over should take place provided the client cannot then refuse taking over in accordance with clause 32.5. Should a partial taking over in accordance with clause 32.7 have taken place, completion of the taken over parts is to be regarded as having taken place on the partial take over date.

Work that is not to be partially taken over but which is to be completed by time limits that are subject to a daily penalty charge is to be regarded as having been completed on the date when the client would not have been able to refuse to accept taking over pursuant to the provisions stated in clause 32.5.

#### 34.3 The size of the daily penalty charge

Unless otherwise agreed, daily penalty charges per weekday shall comprise:

- 1‰ of the contract sum should the final time limit be exceeded, but not less than NOK 1,500.
- 1‰ of the contract sum for the part of the contract work that is to be completed within a partial time limit that is subject to a daily penalty charge, but not less than NOK 750.

By weekday is meant every day apart from Sundays and public holidays.

The contractor's total liability to pay daily penalty charges is limited to 10% of the contract sum.

This limitation of liability does not apply if the delay was caused by wilful intent or gross negligence on the part of the contractor.

#### 34.4 Duty to notify

If requested in writing by the contractor, the client has a duty without undue delay to inform in writing whether or not it will demand a daily penalty charge because of a time limit being exceeded. Should the client fail to do so, it loses the right to demand such a daily penalty charge.

### 35 Breach of the duty to coordinate

The contractor shall indemnify the client for the expenses the client incurs due to parallel contractors or other of the clients contract assistants being delayed if the reason for this is that the contractor has neglected its duty to coordinate stipulated in clause 18.3. The client cannot claim indemnification if it can impose a daily penalty charge pursuant to clause 34 for the same circumstances. The liability for damages for such a breach of the duty to coordinate is limited to 10% of the contract sum unless the duty has been neglected due to wilful intent or gross negligence.

Should the client wish to claim damages due to a breach of the duty to coordinate, it shall notify the contractor without undue delay once it is aware of the basis for bringing the claim. Should it fail to do so, it cannot submit the claim later on.

### **36 Defects in the contract work. Liability for damages**

#### **36.1 Defects**

There is a defect if the contract work is not in the state to which the client is entitled pursuant to the contract and this is due to circumstances for which the contractor is liable.

Damage to the contract work that arises after taking over and which is an obvious and foreseeable result of the original defect is also counted as a defect.

#### **36.2 Rectification**

The contractor is entitled and obliged to rectify defects that are invoked in time unless the costs of rectifying them will be disproportionate to the benefit achieved. The contractor shall pay the rectification costs, including access costs, costs involved in ascertaining the defect and other costs that are a direct, necessary result of rectifying the defect.

However, this does not apply if the defect has caused damage to other parts of the contract work that are covered by insurances taken out by the client. The contractor shall in such case only indemnify the client for the loss that is not covered by the insurance. Should the defect be due to wilful intent or gross negligence on the part of the contractor, however, the provision in the first paragraph is applicable.

The contractor has a duty to carry out the rectification work even if there is disagreement as to whether a defect exists. The contractor may in such case demand that the client provide security for the contractor's possible claim for payment.

The client shall set a reasonable time limit for the execution of the contractor's rectification work.

The client has a duty to give the contractor the necessary access so that rectification work can be carried out. The rectification work shall take place in such a way that consideration is shown to the client's use of the contract work.

Provided it is not clearly inconvenient to the client, the rectification of defects that are invoked after taking over may take place in one operation within one year of the taking over. Each of the parties may demand that a joint inspection of the contract work be thereafter carried out.

Should it be absolutely necessary for rectification work to be performed more quickly than the contractor is able to do, the rectification work can be transferred to other parties without notice.

#### **36.3 Damages in the case of rectification work that has not been performed**

Should rectification work not be performed within the time limit stipulated in accordance with clause 36.2, the client may demand that the contractor pay the costs of having the rectification work performed by others, provided that the rectification work takes place in a reasonable, proper manner. The client shall notify the contractor before the rectification work is sub-contracted to other parties.

The client may similarly demand that the contractor pay the costs of having the rectification work performed by others in accordance with the last paragraph of clause 36.2.

#### **36.4 Price reduction**

Should the conditions for demanding rectification to be performed in accordance with clause 36.2 not be present, the client may instead demand a price reduction. The same shall apply if the client can only demand a partial rectification.

The size of the price reduction shall be determined on the basis of the reduction in the value of the building or civil engineering works that the defect represents. The price reduction shall be at least the same as the savings the contractor has achieved as a result of the execution of the work not being done as stipulated in the contract.

**36.5 Damages in the case of a defect**

The contractor is liable for the costs of rectifying damage to parts of the building or civil engineering works that are not covered by the contract if the damage is a result of a defect due to negligence on the part of the contractor. The prerequisite for this is that the rectification work must take place in a reasonable, proper manner.

If the defect has imposed a financial loss on the client that is not covered by the previous provisions, the client may only demand that this be covered if the defect was caused by wilful intent or gross negligence on the part of the contractor.

**36.6 Notification of defects on taking over**

The client loses its right to invoke a defect if it does not report, at the latest by the end of the taking over proceedings, any defects it has or ought to have discovered at the taking over proceedings or which it has discovered when checking the documents, see clause 32.3.

The defect shall be stated in the protocol of the taking over proceedings or in an annex to this, see clause 32.4.

Should the client have wrongfully started to use the contract work, the provisions stated in paragraph five of clause 32.8 shall apply.

**36.7 Subsequent notification of defects**

The client loses its right to invoke a defect after taking over if it does not notify the contractor without undue delay after it has or ought to have discovered the defect.

Notification of defects may not be submitted more than five years after taking over. Should the client have wrongfully started to use the contract work, the period allowed for notification of defects starts on the date stated in the last paragraph of clause 32.8.

For those parts of the contract work that have been rectified in accordance with clause 36.2, a new five-year period starts from the completion of the rectification work on the part in question, but does not last for more than one year after the original time limit.

Should parts of the contract work be performed after taking over, the period for notification of defects starts on the date when work on the part in question is completed.

**36.8 Exceptions to the provisions on notification of defects**

Irrespective of the notification of defects provisions stated in clauses 36.6 and 36.7, the client may invoke a defect that has been caused by wilful intent or gross negligence on the part of the contractor.

**37 Direct claims against contract assistants**

The client is entitled to enforce its claims regarding defects, see clause 36, directly against contract assistants to the same extent as the defect could have been invoked by the contractor. The client is only entitled to enforce such a claim if it must be regarded as proven that the claim cannot be enforced against the contractor, or if this has been made extremely difficult due to bankruptcy or other obvious insolvency.

Contract assistants are entitled to offset amounts against this claim to the extent that this is allowed by background law.

The client's claim against the contractor lapses to the extent that settlement from the contract assistant provides coverage for the claim.

Should the client wish to enforce a claim against a contract assistant, it must have notified the contractor in accordance with the provisions relating to notification of defects stipulated in clauses 36.6, 36.7 and 36.8.

The contractor shall notify its contract assistants of the client's claims pursuant to this clause.

## **Chapter VIII Cancellation, termination and rescission**

### **38 Cancellation and termination**

#### **38.1 Cancellation**

The client is entitled to cancel all or parts of the contract work.

Cancellation shall be in writing as far in advance as possible.

If the contractor's overall payments after deductions and additions due to change work are reduced by less than 15% of the contract sum, the reduction shall always be dealt with in accordance with the provisions regarding changes. Should the reduction be 15% or more of the contract sum, the entire reduction is to be regarded as a partial cancellation.

In the case of cancellation, the contractor is entitled to compensation for the financial loss it suffers as a result of the cancellation.

Until taking over has taken place, contract work cannot be performed by other contractors unless the contractor has defaulted on its obligation to rectify pursuant to clause 11.2.

#### **38.2 The parties' right to terminate the contract in the case of a long-lasting work stoppage**

Should the progress of the work be impeded, or if it will be substantially impeded for more than six months as a result of extraordinary and unforeseeable circumstances that are outside the parties' control, such as war, riot, natural disasters etc. or it will be without purpose to carry out the building work due to such circumstances, either party may rescind the contract.

In the case of termination, the contractor shall summon the parties to taking over proceedings without undue delay. The protocol of the taking over proceedings shall state the work that has been performed and what has been provided and any disagreement regarding this.

Otherwise the provisions stated in clauses 32.3 and 32.6 apply in so far as they are appropriate. The contractor may demand that the security provided for its obligations during the period for notification of defects is to be reduced to match the proportionate share of the work that has been performed.

In the case of termination, the contractor is entitled to payment for the work it has performed.

### **39 Rescission on account of breach of contract**

#### **39.1 Right to rescind the contract for breach**

A party is entitled to rescind the contract if the other party has substantially breached its contractual obligations. A party may also rescind the contract if it is clear that a substantial breach will occur. A party may similarly rescind the contract if the other party goes bankrupt or is demonstrably insolvent.

Nonetheless, the client cannot rescind the contract if it is proven without undue delay that the contract work will be completed in accordance with the contract. Nor can the contractor rescind the contract if satisfactory security is provided without undue delay for the timely performance of the remaining part of the client's obligations under the contract.

Before rescission can be initiated in accordance with the first paragraph, the party wishing to rescind the contract must have given the other party written notice of a reasonable period in which to rectify the matter, notifying the other party that the contract will be rescinded if this does not take place. This shall also apply where the contractor has stopped the work in accordance with clause 30.2. Should the contractor wish to rescind the contract due to a substantial default on a payment obligation or due to a lack of security being provided, a period of seven days will normally be regarded as reasonable.

Rescission shall be implemented by a written declaration being sent to the other party or its representative.

The risk relating to the contract work passes to the client once the rescission declaration has been received by the other party or its representative. The contract work shall otherwise be regarded as having been taken over when the registration ends, see clause 39.7.



### **39.2 The implementation of the rescission**

Should the client rescind the contract, the contractor shall finish its work as quickly as possible after receiving the rescission declaration and leave the site by the time limit stipulated by the client.

Should the contractor rescind the contract, it may finish its work at any time after the client has received the rescission declaration and leave the site.

Prior to leaving the site, the contractor shall to a reasonable extent secure the work performed, materials and equipment against damage.

Should the client rescind the contract, it is entitled to use the contractor's work scaffolds, machinery, tools and other facilities and materials that are intended for carrying out the work and which are on the site when the contractor receives the rescission declaration. The client is also entitled to be given drawings and other documents that the contractor is entitled to have at its disposal and to use these to complete the contract work.

### **39.3 Payment for work performed**

The contractor is entitled to payment for the work performed. It is also entitled to reasonable payment for the client's use of equipment etc.

### **39.4 Damages when the client rescinds the contract**

Should the client rescind the contract, it is entitled to claim damages for necessary additional costs, including increased finance costs.

The client may also claim damages for its foreseeable losses that will arise after the termination date if the rescission is caused by wilful intent or gross negligence on the part of the contractor.

The client may not claim daily penalty charges after the termination date.

### **39.5 Damages when the contractor rescinds the contract**

Should the contractor rescind the contract, it is entitled to claim damages for its necessary additional costs resulting from the contract being rescinded and for its loss of profits on the part of the work that is no longer to be performed. The client shall also pay the contractor's rigging down and winding up costs, as well as the contractor's losses due to the contractor's contractual obligations to subcontractors and suppliers.

The contractor may also claim damages for other foreseeable losses that arise after the termination date if the rescission is caused by wilful intent or gross negligence on the part of the client.

### **39.6 Security during the period allowed for notification of defects**

Should the contract be rescinded, the contractor may demand that the security it has provided for its obligations during the period for notification of defects be reduced to match the proportionate share of the work that has been performed.

### **39.7 Registration meeting**

Should the contract be rescinded, a registration meeting shall be held within 14 days to register the work that has been performed. Should no registration meeting be requested by this date, the party that is rescinding the contract shall ensure that a registration meeting is held. A protocol shall be kept of this meeting, stating who is present, what has been performed and any defects in the work performed. Should a party fail to attend such meeting without valid reason, the other party may carry out the registration meeting alone.

## **Chapter IX Other provisions**

### **40 The ownership of the contract work and materials**

#### **40.1 The transfer of right of ownership**

The contract work becomes the property of the client as it is performed. Materials that are brought to the site and which are to be built in become the client's property once the client has paid for them.

#### **40.2 Right of ownership of materials**

Materials that the client has supplied and which are not used in the contract work are the property of the client.

Old materials that are to be removed in the case of alteration or rectification work become the property of the contractor, except in the case of work performed on a daywork basis.

### **41 Use of documents**

Documents handed over by one party to the other shall not be made known to parties other than those which require them in connection with the building work or for the later use of the building or civil engineering works, including alteration work. Nor shall they be used for other transfers without the permission of the party that has supplied the documents.

### **42 Liability for damage**

#### **42.1 Notification of a risk of damage**

The parties shall notify each other if they know of circumstances that may lead to damage to persons, property or the environment which necessitate measures that are not stated in the contract.

Once the contractor has given notice, it shall await the client's written decision unless there is a danger of immediate damage, see clause 42.4.

When the client gives notice, it shall if necessary provide a change order regarding the measure.

#### **42.2 Liability for damage to the other party's person or property**

Should the execution of the contract work lead to damage to the client's person, employees or property that is not covered by the contract, the contractor is liable for damages to the client to the extent that this follows from general rules concerning compensation.

The same shall apply with regard to the contractor if the client or any party for which it is responsible causes damage to the contractor's person, employees, tools, materials, machinery or other property.

Should the damage be due to a defect in the contract work, only the provisions stated in clause 36 shall apply.

#### **42.3 Liability for damage to the environment or a third party's person or property**

In the relationship between the parties, the client is liable for damage to the environment or a third party's person or property if the contractor has complied with the procedures stipulated in the contract or in later instructions from the client. The contractor is nonetheless liable for the damage to the extent that this is due to a failure to give notice in accordance with clause 42.1 or negligence on the part of the contractor.

#### **42.4 Danger of immediate damage**

Should a danger of damage to persons, property or the environment arise which requires immediate measures, the party that discovers the danger has a duty to do that which is necessary to prevent the damage. Should the party believe that it can demand reimbursement of its costs relating to these measures from the other party, the measures shall not exceed that which is strictly necessary until the other party can assess the situation.

The party that has an interest in the measure being implemented shall pay the necessary costs of this.

## 43 Disputes

### 43.1 Amicable solutions

Attempts should be made to resolve disputes amicably between the parties regarding the contractual relationship.

Prior to a dispute being brought before the courts or an arbitration tribunal, either party may request a dispute resolution meeting to be held, attended by representatives of the client's and the contractor's management.

Should one of the parties have asked for such a meeting, the dispute in question should not be brought before an umpire, court or arbitration tribunal in accordance with clauses 43.2, 43.3 and 43.4 until the meeting has been held.

### 43.2 Provisional decision of an umpire

Unless otherwise agreed, either of the parties may, until taking over, demand that a dispute regarding the contractual relationship is to be determined by an umpire, unless the dispute has already been brought before a court or arbitration tribunal in accordance with clauses 43.3 or 43.4.

Should the parties fail to agree on an umpire within 14 days after the claim is submitted, the umpire is to be chosen from Standards Norway's list of umpires according to the procedure stipulated by Standards Norway.

The party petitioning for the dispute to be settled by an umpire shall submit a statement of claim in writing and, to the extent necessary, state the reasons for its view and submit documentation of this. A copy of the petition shall be sent directly to the other party. Within a short period stipulated by the umpire, the other party shall be given the opportunity to state its views in writing and present its evidence. The parties are entitled to submit one further statement to the umpire, with a copy to the other party, within seven days of having received the other party's statement. Should the umpire so wish, the parties may be summoned to a meeting to give a further account of their claims in each other's presence.

Reasons shall be stated for the umpire's decision regarding the dispute, and the decision and reasons for it shall be sent to each of the parties. The decision shall be reached within 14 days of the case preparation work being concluded. Should one party fail to state its views or attend a meeting with the umpire without valid grounds, the umpire shall decide on the dispute without any further postponements.

In cases other than those stated in clause 20.7, the umpire's decision is not binding. The parties shall, within one month of receiving the decision, notify each other in writing of whether or not they wish to accept the decision as being binding.

The party who fully or in the main loses the case shall bear the final costs of the umpire. Otherwise, each party shall be liable for its own costs.

### 43.3 Dispute resolution in the case of disputes in which the claim is less than 100 G

Any dispute between the parties regarding the contractual relationship in which the claim or subject-matter of the dispute is less than 100 G is to be determined by ordinary court proceedings unless the parties agree to allow the dispute to be resolved by arbitration.

Unless otherwise agreed, in the case of ordinary court proceedings the place of the building or construction site's shall be the venue for any actions that arise from the contract.

### 43.4 Dispute resolution in the case of disputes in which the claim is more than 100 G

Any dispute between the parties regarding the contractual relationship in which the claim or subject-matter of the dispute is equal to or more than 100 G shall be finally determined by arbitration proceedings unless the parties agree to allow the dispute to be resolved by ordinary court proceedings.

The provision stated in clause 43.3, paragraph two, shall apply correspondingly.

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