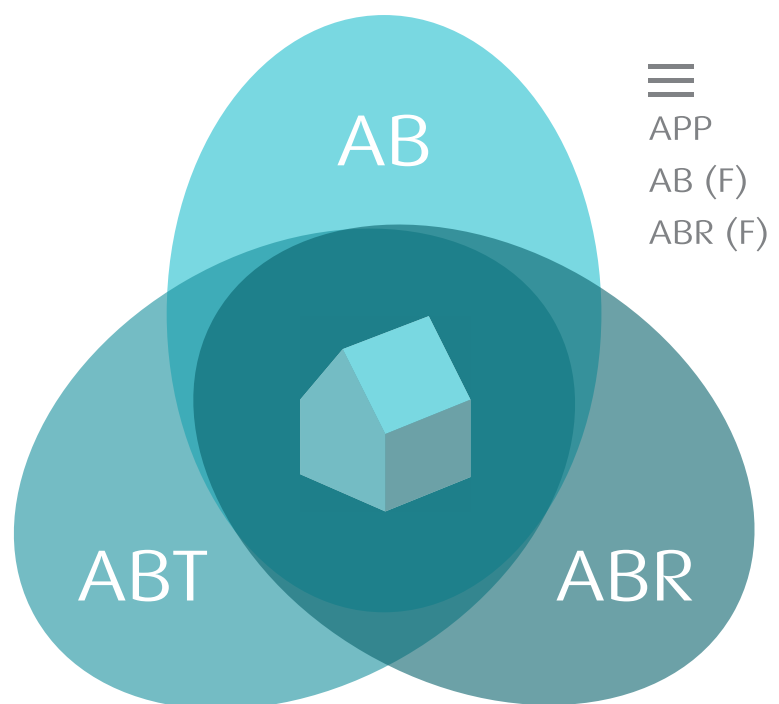


# Abridged general conditions

for building and  
construction works and  
supplies (AB Abridged)



These 'Abridged general conditions for building and construction works and supplies' (AB Abridged) have been prepared by a committee appointed by the Minister for Climate, Energy and Building in accordance with Report 1570 issued on 21 June 2018, comprising representatives of the following organisations:

- **BL, Danmarks Almene Boliger**  
*BL – Danish Social Housing*
- **Bygherreforeningen**  
*Danish Association of Construction Clients*
- **Bygningsstyrelsen**  
*Danish Building and Property Agency*
- **Danske Arkitektvirksomheder**  
*Danish Association of Architectural Firms*
- **Dansk Byggeri**  
*Danish Construction Association*
- **Danske Regioner**  
*Danish Regions*
- **Dansk Industri**  
*Confederation of Danish Industry*
- **Foreningen af Rådgivende Ingeniører**  
*Danish Association of Consulting Engineers*
- **Kommunernes Landsforening**  
*Local Government Denmark*
- **Kooperationen**  
*Danish Cooperative Employers' Association*
- **SMVdanmark (tidligere Håndværksrådet)**  
*SMEdenmark (formerly the Danish Federation of Small and Mediumsized Enterprises)*
- **TEKNIQ**  
*TEKNIQ - Danish Mechanical and Electrical Contractors' Association*
- **Vejdirektoratet**  
*Danish Road Directorate*
- **Voldgiftsnævnet for bygge og anlægsvirksomhed**  
*Danish Building and Construction Arbitration Board*

### **Prevailing Language**

The Danish language version of these general conditions shall be controlling in all respects and shall prevail in case of any inconsistencies with translated versions.

*English version published 17 December 2018*

# Abridged general conditions for building and construction works and supplies (AB Abridged)

## A. Contractual basis

### Clause 1 Application

*Subclause (1)* These abridged general conditions are intended for use in relation to contracts on building and construction works and supplies when the client is not a consumer and when the scope of the work to be performed under the contract is relatively small or simple. The conditions apply once they have been accepted by the parties to the contract.

*Subclause (2)* Deviation from the conditions is only valid if the points to be deviated from are clearly and explicitly specified in the contract.

### Clause 2 Definitions

*Subclause (1)* All amounts are exclusive of VAT unless otherwise stated.

*Subclause (2)* ‘Working days’ are all weekdays from Monday to Friday, with the exception of public holidays, Labour Day (1 May), Constitution Day (5 June), Christmas Eve (24 December) and New Year's Eve (31 December).

### Clause 3 Governing law

*Subclause (1)* The legal relationship in its entirety is to be governed by Danish law.

### Clause 4 The client's call for tenders

*Subclause (1)* Tenders are submitted on the basis of the information contained in the tender documents. The wording of the documents must be unambiguous. Depending on the level of detail of the documents and the requirements made with regard to contractor design, the documents must be drafted in such a way that both the services and the terms and conditions are clear.

*Subclause (2)* The tender documents must include a master programme specifying the start and end dates of the works and any material constraints on the construction site that the contractor must tolerate.

*Subclause (3)* If the contractor is required to submit a tender for unit prices in addition to the total tender sum, the tender documents must specify whether unit prices are to be provided for an estimated quantity and, if so, the schedule of prices must indicate unit and quantity for each item so that the contractor can add the price per unit and the total sum for the item in the tender.

*Subclause (4)* The tender documents must include information about other matters that are considered to be of significance to the contractor's tender.

### Clause 5 The contractor's tender

*Subclause (1)* The tender includes only services that are designated as forming part of the contract according to drawings and models provided to the contractor as a basis for the preparation of the tender, or the services mentioned in the parts of the works description applying to the contract in question. The tender also includes all ancillary professional services needed for the completion of the works; see clause 11, subclause (2).

*Subclause (2)* Any contractor reservations regarding or deviations from the tender conditions must be clearly and collectively stated in the tender.

*Subclause (3)* To the extent that the contractor is to take winter measures in the winter season (1 November to 31 March), seasonal winter weather measures are considered to be included in the tender unless they are common to two or more contracts. Weather-related winter measures are, however, paid for as extra work.

*Subclause (4)* The tender acceptance period is twenty working days from the date of the tender.

#### **Clause 6 The construction contract**

*Subclause (1)* A construction contract is entered into once the tender submitted is accepted in writing or when a construction contract is signed.

*Subclause (2)* The master programme, including any changes agreed upon, is called the agreed master programme.

#### **Clause 7 Subcontracting**

*Subclause (1)* To the extent that it is customary or natural for the works to be executed under a subcontract, the contractor may subcontract the execution of the works, including design, to third parties. The parties may agree, however, that all or specified parts of the works are to be executed by the contractor or by a specific subcontractor, with the effect that the client's approval is required if the contractor desires to subcontract works.

*Subclause (2)* At the client's request, the contractor must submit documentation as soon as possible to prove that a contract has been concluded with a subcontractor and that the subcontractor has acknowledged that the provisions of clause 7 also apply where a subcontractor entrusts others with the work and that the client is entitled to bring a claim for defects directly against the subcontractor in accordance with clause 7, subclauses (3) and (4).

*Subclause (3)* If it is considered to have been substantiated that the client is not able, or is able only with great difficulty, to pursue a claim for defects against the contractor, the client is entitled to bring the claim directly against the contractor's subcontractors and suppliers if their works suffer from the same defect.

*Subclause (4)* Any direct claim is subject to the limitations following from the contracts both between the client and the contractor and between the contractor and the subcontractor and the supplier, including liability exclusions and limitations set out in both contracts. Such a claim is also subject to the provisions of chapter J on dispute resolution. The client waives any claim for non-contractual damages against subcontractors and suppliers in respect of matters covered by the direct claim for defects. If the direct claim has been caused by an intentional or grossly negligent act of the subcontractor or supplier, the first and third sentences do not apply.

*Subclause (5)* The provisions of clause 7, subclauses (1) to (4), also apply where a subcontractor or a supplier entrusts others with the execution of the works.

## **B. Performance bond and insurance**

#### **Clause 8 Performance bond provided by the contractor**

*Subclause (1)* The contractor must provide a performance bond as security for the performance of the contractor's obligations to the client no later than eight working days after the conclusion of the contract unless otherwise specified in the tender documents. If the contract sum is less than DKK 1 million, the contractor must provide a performance bond only if the client has required this in the tender documents. The performance bond must be in the form of an adequate bank

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guarantee, fidelity insurance or some other adequate type of security.

*Subclause (2)* The performance bond serves to satisfy all claims the client has under the contractual relationship, including claims relating to extra work, if applicable, and repayment of contract sum overpayments.

*Subclause (3)* Until handover has taken place, the performance bond must correspond to 15% of the contract sum exclusive of VAT. After handover, the performance bond must be reduced to 10%.

*Subclause (4)* The performance bond ceases one year after handover unless the client has submitted a prior written complaint of defects. In such case, the bond ceases when the defects have been rectified.

*Subclause (5)* If the contractor terminates the construction contract, the performance bond provided by the contractor ceases three months after the date of termination unless a dispute resolution procedure in accordance with chapter J has been initiated before then on the legitimacy of the termination.

*Subclause (6)* If the client requests payment under the performance bond, such request must be made in writing and notified simultaneously to the contractor and the guarantor with a precise specification of the nature and extent of the alleged breach and the size of the amount claimed. The amount claimed must be paid to the client within ten working days after receipt of the notification unless the contractor has filed a request with the Danish Building and Construction Arbitration Board before then, asking the Board to issue a decision on the security provided, in particular with a view to determining whether the payment claim is justified; see clause 53. If the contractor is declared bankrupt, a request for a decision concerning the performance bond may also be filed by the guarantor, who in such case becomes a party to the case.

*Subclause (7)* If the parties disagree on the reduction or cessation of the performance bond, either party – and, in the event of the contractor’s bankruptcy, also the guarantor – may request a decision on the security provided; see clause 53.

*Subclause (8)* If the circumstances warranting a claim in accordance with clause 8, subclause (6) or (7), are already the subject of a dispute between the parties in pending proceedings as set out in clause 54 or clause 55, an introduction of the claim in the pending proceedings replaces the request for a decision on the security provided.

*Subclause (9)* The contractor must ensure that the guarantor has accepted that all disputes concerning the performance bond are resolved in accordance with the provisions of chapter J, except for clause 50.

### **Clause 9 Performance bond provided by the client**

*Subclause (1)* The client must provide a performance bond as security for the performance of the client’s obligations to the contractor no later than eight working days after the signing of the contract unless the client is a public-sector client or a social housing organisation. The performance bond must be in the form of an adequate bank guarantee, fidelity insurance or some other adequate type of security.

*Subclause (2)* The performance bond serves to satisfy all claims the contractor has under the contractual relationship, including claims relating to extra work, if applicable.

*Subclause (3)* The performance bond must correspond to three months’ average payments of the contract sum exclusive of VAT.

*Subclause (4)* The performance bond ceases when the contractor has submitted the final account and has no unsatisfied claims.

*Subclause (5)* If the contractor requests payment under the performance bond, such request must be made in writing and notified simultaneously to the client and the guarantor with a specification of the size of the amount claimed. The amount claimed is payable to the contractor within ten working days after receipt of the notification unless the client has filed a prior request with the Danish Building and Construction Arbitration Board, asking the Board to issue a decision on the security provided under the performance bond, in particular with a view to determining whether the payment claim is justified; see clause 53. If the client is declared bankrupt, a request for a decision concerning the performance bond may also be filed by the guarantor, who in such case becomes a party to the case.

*Subclause (6)* If the parties disagree on the cessation of the performance bond, either party – and, in the event of the client's bankruptcy, also the guarantor – may request a decision on the security provided; see clause 53.

*Subclause (7)* If the circumstances warranting a claim in accordance with clause 9, subclause (5) or (6), are already the subject of a dispute between the parties in pending proceedings as set out in clause 54 or clause 55, an introduction of the claim in the pending proceedings replaces the request for a decision on the security provided.

*Subclause (8)* The client must ensure that the guarantor has accepted that all disputes concerning the performance bond are resolved in accordance with the provisions of chapter J, except for clause 50.

## **Clause 10 Insurance**

*Subclause (1)* The client must take out and pay for usual fire and storm damage insurance from the commencement of works until any defects identified at the time of handover have been rectified. The contractor and any subcontractors must be named as insureds under the insurance policy. The insurance must cover all of the contractors' works on the building or structure covered by the construction contract. In case of alteration or extension works, the insurance must cover any damage to such works and to the building or structure that is altered or extended. Any excess is payable by the client.

*Subclause (2)* A public-sector client may demand to provide self-insurance.

*Subclause (3)* The contractor and, if applicable, the subcontractors must take out usual professional and product liability insurance.

*Subclause (4)* On request, the parties must provide documentation proving that the insurance policies are in force.

## **C. Execution of the works**

### **Clause 11 Services to be provided by the contractor**

*Subclause (1)* The works must be executed in accordance with the contract, good professional practices and the client's instructions. If the nature of materials is not stated, they must be of customary good quality. The contractor must perform quality assurance of its services.

*Subclause (2)* The contractor must supply all materials and perform all ancillary services needed to complete the works.

*Subclause (3)* The contractor must notify the client in writing about any use of methods and materials that are not thoroughly tested, including any associated risks, unless such use is prescribed by the client.

*Subclause (4)* Materials and other supplies intended for incorporation in the works must be supplied by the contractor without any retention of title. Once such materials and supplies have been delivered to the construction site, they belong to the client.

*Subclause (5)* Materials and other supplies to be used in the works must be covered by a five-year supplier liability period for defects in the supply. The liability period is counted from the date on which the works are handed over and limited so that the supplier's liability ends no later than six years after the materials are delivered to a warehouse or sold to a third party. In addition, the supplier must have recognised that the client may file claims for defects directly with the supplier as set out in clause 7, subclauses (3) and (4).

*Subclause (6)* The contractor may refrain from complying with the provision set out in clause 11, subclause (5), if compliance involves considerable additional expenses for the contractor or a substantial delay in the works or if, in the case of relatively small-scale supplies, it would be difficult to check compliance with the provision. In connection with significant supplies the client must be notified of such non-compliance as soon as possible after a quotation has been obtained from the supplier.

*Subclause (7)* The contractor must regularly clear up and immediately remove discarded materials from the construction site.

#### **Clause 12 Start-up review**

*Subclause (1)* Before execution of the work, the client, the contractor and the consultant, if any, must review the contractor's tender and the design the contractor is to execute, with a view to achieving a common understanding of the design and the execution of the work.

#### **Clause 13 Working schedule and detailed time schedule**

*Subclause (1)* By the deadline stated in the agreed master programme, the contractor must prepare a working schedule that meets the deadlines set out in the agreed master programme.

*Subclause (2)* If the client has engaged two or more contractors, the client must prepare an overall working schedule (detailed time schedule) in collaboration with the contractors before the works are commenced. The detailed time schedule must state the sequence of the individual work elements.

#### **Clause 14 Setting out and construction site**

*Subclause (1)* The client sets out the overall grid lines and heights (reference levels), while all other setting out is done by the contractor.

*Subclause (2)* In connection with building works, the client arranges for all necessary establishment of service lines for sewage, electricity, gas, water and heating up to the boundary of the construction site.

*Subclause (3)* The client pays all necessary connection fees as well as any other duties and charges payable as a result of an agreement stating that sheds, containers, skips, scaffolding, etc, are not to be located on the construction site.



### **Clause 15 Contractor design**

*Subclause (1)* The contractor is to carry out design work only if this has been agreed (separate consultancy services). If the contract describes the works to be performed by the contractor in the form of functional requirements, the contractor must carry out the necessary design in this respect. Proposals presented by the contractor and implemented by the client do not imply that the contractor undertakes to carry out the design, bears any risk or assumes any liability in relation to such proposals.

*Subclause (2)* If the contractor is to carry out design work, the client may appoint a design manager.

*Subclause (3)* The contractor's design must comply with the contract, good design practice and the client's instructions.

*Subclause (4)* In connection with the design work, the contractor must notify the client in writing of the use of methods and materials that have not been thoroughly tested as well as of any associated risks.

### **Clause 16 Relations with authorities**

*Subclause (1)* The client arranges for the necessary approval of the design and bears the associated expenses. This also applies to any part of the design prepared by the contractor.

*Subclause (2)* The contractor arranges for notifications, applies for permits, requests inspections and provides certificates relating to the actual execution of the works and pays the associated expenses. Exemptions may only be applied for following agreement with the client.

### **Clause 17 Quality assurance, supervision and rejection**

*Subclause (1)* The client may set out provisions in the tender documents requiring the contractor to perform quality assurance of the work, including the design, if relevant.

*Subclause (2)* During the execution of the works, the client may supervise the progress of the work and may reject non-compliant works or materials. Such rejection must be made as soon as possible.

*Subclause (3)* The client's supervision does not exonerate the contractor from carrying out control.

### **Clause 18 Client instructions concerning execution of works**

*Subclause (1)* The client may issue instructions concerning the execution of works.

*Subclause (2)* The contractor must obtain the client's decision if the contract and the basis for it do not provide sufficient guidance for the execution of the works.

### **Clause 19 Variations to works**

*Subclause (1)* The client may order variations to the works when such variations are naturally linked to the services agreed upon. A variation may be that the contractor supplies a service in addition to or instead of a service originally agreed, that the nature, quality, type or execution of a service is changed or that services agreed upon are omitted.

*Subclause (2)* The contractor is entitled to carry out a variation ordered, unless the client shows that there are special reasons for having others perform the work, including that the payment requested by the contractor is not reasonable.



**Clause 20 Additional payment and cost reductions**

*Subclause (1)* If a variation concerns work to which unit prices apply, the contract sum must be adjusted upwards or downwards accordingly unless otherwise agreed; see clause 21, subclause (4). Adjustment based on unit prices may only be made within an interval of +/- 100% of the individual item in the schedule of prices. In addition, adjustment based on unit prices for extra works may not exceed the contract sum by more than 20%, calculated by adding up together all extra works, while adjustments for reduced work may be up to -10% of the contract sum, calculated by adding together all work reductions. If work is replaced by other work, only the price difference between the two work items is included in the calculation of the sum of either extra work or reduced works.

*Subclause (2)* For extra work to which unit prices apply if the work exceeds the variation limits in clause 20, subclause (1), adjustment is based on unit prices as well unless it is substantiated that the prerequisites for applying the unit prices are not met.

*Subclause (3)* With the exception of situations in which adjustment is made on the basis of unit prices in accordance with clause 20, subclauses (1) and (2), variations to the work are carried out on an on account basis unless otherwise agreed in accordance with clause 21, subclause (4).

*Subclause (4)* For variations to the works carried out on an on account basis, accounts must include specifications of hours of work, materials and equipment.

*Subclause (5)* If the scope of the works is reduced, the contractor must credit the expenses that are saved or should have been saved to the client, the maximum amount being the amount at which the work has been calculated in the contract. If the reduction relates to work for which unit prices apply (see clause 20, subclause (1)), this is only required to the extent that the reduced work leads to a contract sum reduction in excess of 10%.

**Clause 21 Price, time and security after variations**

*Subclause (1)* Any claim by the parties concerning amendments to the contract in terms of price, time and security resulting from a variation to the works or changes in the conditions for executing the works must be submitted in writing or presented at a construction meeting as soon as possible.

*Subclause (2)* At the request of a party, the other party must state in writing as soon as possible whether that party considers specified work to represent a variation that entails requirements for amendments to the contract in terms of price, time and security. The contractor is not obliged to commence the work in question before the client has responded.

*Subclause (3)* If a party submits a claim under clause 21, subclause (1), for amendment of the contract in terms of price, time or security, the other party must state as soon as possible whether the claim is accepted and, if not, the reason why it is not accepted.

*Subclause (4)* The parties must as soon as possible enter into a written addendum to the contract concerning variations as set out in clause 19 and concerning resultant amendments to the contract in terms of price, time and security. Negotiations about such an addendum must not delay the execution of the works.

**Clause 22 Obstacles**

*Subclause (1)* If the contractor finds that the works cannot be performed in accordance with the contract entered into, the contractor must notify the client accordingly as soon as possible and then follow the client's instructions.

*Subclause (2)* If the tender documents do not contain exhaustive information about obstacles, measures must be taken to overcome the obstacles and the associated inconveniences must be paid for as extra work.

### **Clause 23 Transfer of risk**

*Subclause (1)* The contractor bears the risk of damage to or loss of works and materials until the handover date. This also applies to materials supplied by the client, once such materials are in the contractor's possession.

*Subclause (2)* However, the contractor does not bear the risk of damage or loss due to circumstances relating to the client. This also applies to consequences of exceptional external events beyond the control of the contractor (force majeure), including war, riot, acts of terrorism and acts of God.

*Subclause (3)* Damage caused by a contractor to the works, materials or equipment of other contractors is of no concern to the client.

*Subclause (4)* The contractor must maintain the works executed until handover.

*Subclause (5)* For works or parts of works put into use before handover, the provisions of clause 23, subclauses (1) to (4), apply until such works are put into use. In connection with the putting into use of the works, the client may conduct a registration as set out in clause 49, subclause (2).

*Subclause (6)* As regards building works and any connected construction works carried out at locations that are in use during construction, the provisions of clause 23, subclauses (1) to (4), concerning the contractor's risk of damage apply only to damage caused by another contractor where such damage is not due to circumstances relating to the client. Once the works are completed and the contractor has left the location, the works are considered to have been taken into use; see clause 23, subclause (5).

### **Clause 24 Client supervision**

*Subclause (1)* The client may appoint a supervisor to represent the client in relation to the contractor with regard to the organisation and execution of the work. The supervisor may issue and receive notifications concerning the work, approve or reject materials or works, and issue instructions regarding the coordination of the individual contractors' work in their mutual relations.

*Subclause (2)* The supervisor is authorised on behalf of the client to demand or enter into agreements on variations to the works and on resultant amendments to the contract in terms of price, time and security to the extent that the contractor has been notified in writing about the supervisor's authorisation.

### **Clause 25 Construction meetings**

*Subclause (1)* The client may convene construction meetings with the contractor.

### **Clause 26 Duty of cooperation and good faith**

*Subclause (1)* The parties have a duty to work together in good faith so that errors, delays and cost increases are avoided. This duty also applies to the contractor in relations with other contractors and the supervisors.

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## D. Payment

### Clause 27 Price and indexation

*Subclause (1)* The contract sum is a fixed price for the part of the works executed within twelve months of the date of tender (fixed-price period).

*Subclause (2)* For the part of the works executed more than twelve months after the date of tender, the price is adjusted in accordance with the provisions of clauses 34 and 35 of AB 18.

### Clause 28 Payment and retention

*Subclause (1)* On written request to the client, the contractor is entitled to receive payment twice a month for any works and materials executed or delivered on the construction site in conformity with the contract.

*Subclause (2)* Subject to the same provisions as those set out in clause 28, subclause (1), the contractor may also request payment for any materials, etc purchased by the contractor and not delivered on the construction site. If the client so requires, the contractor must provide a performance bond as security for delivery in conformity with the contract; see clause 8. The size of the performance bond must correspond to the payment inclusive of VAT demanded for non-delivered materials.

*Subclause (3)* After handover, the contractor submits a complete and final account to the client, including a specification of amounts receivable for all extra works. Once the client has received the final account, the contractor may not bring further claims – except for claims for which specific reservations have been expressed in the final account.

*Subclause (4)* The final account must be submitted to the client no later than 25 working days after handover. For main contracts, however, the time limit is 35 working days, and for construction works not executed in connection with building works, the time limit is 60 working days.

*Subclause (5)* If the client has not received the final account within the time limit referred to in clause 28, subclause (4), the client may demand in writing that the account be submitted within ten working days. If the contractor fails to submit the account to the client within this time limit, the contractor forfeits any right to claim payment for extra works executed on an on account basis and payment for wage and price increases.

*Subclause (6)* If the client finds that the contractor has requested payment of an amount that has not yet fallen due, the client must immediately provide the contractor with a reasoned written notification.

*Subclause (7)* If the parties disagree on an account, the client must pay the part of the amount which the client does not dispute owing.

*Subclause (8)* The client may retain a reasonable amount as security for the rectification of defects notified at the time of handover; see clause 38. The amount is payable to the contractor as soon as possible after the defects have been rectified.

### Clause 29 Due date, final date for payment and interest

*Subclause (1)* The contractor's claims under clause 28 fall due for payment when the client receives a request for payment and are payable no later than 15 working days after receipt.

*Subclause (2)* Any amount receivable by the contractor carries interest from the due date at the rate of interest provided for in the Danish Interest Act. The time limit set out in clause 29, subclause (1), is the grace period.

### **Clause 30 The contractor's right to stop work**

*Subclause (1)* If the client fails to pay an amount due by the final date for payment, the contractor may stop work after having given written notice of three working days. If the client is a public-sector client or a social housing organisation, the notice is five working days.

*Subclause (2)* In addition, the contractor is entitled to stop work immediately if the client is declared bankrupt or subjected to reconstruction proceedings, or if the client's financial situation in general proves to be of such a nature that the client must be assumed to be unable to fulfil its obligations under the construction contract. This is subject to the condition that the client has not provided adequate security for the performance of the remaining part of the contract. If the client provides such security immediately, the contractor must resume work.

## **E. Extension of time and delay**

### **Clause 31 The contractor's right to extension of time**

*Subclause (1)* The contractor is entitled to extension of time if the execution of the works is delayed as a result of:

- a) variations to the works ordered by the client; see clause 19;
- b) the circumstances of the client or delay on the part of another contractor;
- c) war, acts of God, fire, strike, lockout, picketing, vandalism or similar events that are without the fault and beyond the control of the contractor;
- d) precipitation, low temperatures, strong winds or other weather conditions that prevent or delay the work when such weather conditions occur to a significantly greater extent than is usual for the relevant season and region; or
- e) public enforcement notices or prohibitions which are not due to circumstances of the contractor.

### **Clause 32 The contractor's liability in case of delay**

*Subclause (1)* A delay which does not entitle the contractor to extension of time constitutes an actionable wrong.

*Subclause (2)* If provisions have been made for liquidated damages or other special penalties, no claim for additional damages may be brought as a result of delay.

### **Clause 33 The client's right to extension of time**

*Subclause (1)* The client is entitled to extension of time where the works are delayed as a result of

- a) variations to the works ordered by the client; see clause 19;
- b) war, acts of God, fire, strike, lockout, picketing, vandalism or similar events that are without the fault and beyond the control of the client or another contractor;
- c) precipitation, low temperatures, strong winds or other weather conditions that prevent or delay the works, including the work of another contractor, when such weather conditions occur to a significantly greater extent than is usual for the season or region in question; or
- d) public enforcement notices or prohibitions that are not due to circumstances of the client or another contractor.

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**Clause 34 The client's liability in case of delay**

*Subclause (1)* If the delay is due to

- a) circumstances relating to the client, and the client has committed an error or been negligent; or
- b) another contractor's actionable delay (see clause 32, subclause 1) or actionable delay caused by another party to the contract,

the client must pay compensation to the contractor for the loss sustained.

*Subclause (2)* If the delay is due to

- a) circumstances relating to the client where the client has not committed an error or been negligent and where the matter is not covered by clause 34, subclause (3);
- b) another contractor's delay where the reason for the delay is not covered by clause 34, subclause (1) or (3);
- c) variations to the works ordered by the client under clause 19; or
- d) public enforcement notices or prohibitions that are not due to circumstances of the client or another contractor,

the client must compensate the contractor for the loss sustained by the contractor because of the delay, with the exception of profits lost because the contractor is unable to carry out other work in the delay period and similar ensuing losses.

*Subclause (3)* If the delay is due to

- a) war, acts of God, fire, strike, lockout, picketing, vandalism or similar events that are without the fault and beyond the control of the client or another contractor; or
- b) precipitation, low temperatures, strong winds or other weather conditions that prevent or delay the contractor's or another contractor's work when such weather conditions occur to a significantly greater extent than is usual for the season and region in question,

the contractor is not entitled to compensation.

## **F. Handover**

### **Clause 35 Handover meeting**

*Subclause (1)* Immediately before completion of the works, the contractor must notify the client in writing about the date of completion (notice of completion). The client then calls in the contractor for a handover meeting, which must take place no later than ten working days after the date stated. The provisions in sentences 1 and 2 also apply to work that has been postponed for later handover by agreement with the client.

*Subclause (2)* Works are considered to be handed over to the client once the handover meeting has been held, unless material defects are identified at the meeting, including matters that to a material extent would prevent the works from being put into use. In such a scenario, a new handover meeting is held when the contractor has notified the client in writing that the defects have been rectified; see clause 35, subclause (1).

*Subclause (3)* If the client fails to convene a handover meeting as set out in clause 35, subclause (1), the works will be considered to have been handed over ten working days after the date of

completion stated. The same applies to a new handover meeting as referred to in clause 35, subclause (2), second sentence.

### **Clause 36 Handover protocol**

*Subclause (1)* At the handover meeting the client prepares a handover protocol in which the defects and other matters identified by the client are stated together with the contractor's remarks. Agreements concerning rectification, including methods and deadlines as well as the time for a review of the rectification must be included in the protocol. The parties' positions as to whether the works have been handed over must be stated in the protocol. The protocol must be signed by the client and the contractor.

## **G. Defects**

### **Clause 37 Definition of defect**

*Subclause (1)* If the works do not comply with clause 11, subclauses (1) and (2), there is a defect.

*Subclause (2)* If materials do not comply with the requirements set out in clause 11, subclauses (1) and (2), there is a defect. However, this does not apply

- a) if, when the contract stipulates a free choice of materials, the contractor substantiates that conforming materials do not exist or cannot be provided due to war, import bans or similar; or
- b) if the client has ordered the use of a specific or similar material, and the contractor substantiates that the possibility of providing it in contractual condition must be considered to be ruled out by circumstances that the contractor ought not to have taken into consideration at the signing of the contract.

In these cases, the contractor must notify the client of the obstacles as soon as possible; see clause 22.

*Subclause (3)* However, if materials are not suitable for the purpose for which they have been used, there is no defect

- a) if, when the contract stipulates a free choice of materials, the contractor substantiates that, based on construction knowledge at the time, the material was considered suitable; or
- b) if the client has demanded use of specific or similar material and the contractor has used the material demanded.

*Subclause (4)* In all events, the works must have the characteristics warranted in the contract.

*Subclause (5)* If some materials are to be supplied with a guarantee that involves obligations that go beyond ordinary defect liability under these general conditions, the contractor is bound by them only insofar as it is possible for the contractor to purchase the materials with the guarantee requested and the supplier abides by and complies with the guarantee. If the contractor realises that materials for significant supplies cannot be bought with such a guarantee, the contractor must notify the client accordingly as soon as possible.

*Subclause (6)* The time of the handover is crucial in terms of determining whether the works suffer from defects, irrespective of whether they are latent or patent at that point in time.

### **Clause 38 Defects identified at handover**

*Subclause (1)* The contractor has a duty and a right to rectify defects identified at handover.



**Clause 39 Defects identified after handover**

*Subclause (1)* The contractor has a duty and a right for a five-year period after handover to remedy defects identified after handover.

*Subclause (2)* The client may only present claims concerning such defects if the contractor has been notified in writing of them within a reasonable period of time after the defects were or should have been discovered. However, this does not apply if the contractor has been grossly negligent.

**Clause 40 Lapse of the contractor's right to rectify defects**

*Subclause (1)* If, after expiry of a deadline for rectification, or after having received the contractor's notification that rectification has been done, the client finds that the defects have not been rectified, the client must send a written notice to the contractor within ten working days, stating which defects remain outstanding.

*Subclause (2)* The client is then entitled to have the defects in question rectified at the contractor's expense (compensation for rectification) or to be granted a reduction in the contract sum. However, if the contractor has sought to rectify all defects previously identified, and the outstanding defects only constitute a small proportion of them, the contractor is entitled to rectify such defects regardless of the first sentence of this subclause, provided that rectification is initiated immediately after the client's notification under clause 40, subclause (1).

**Clause 41 Lapse of the contractor's duty to rectify defects**

*Subclause (1)* The contractors' duty to rectify defects and the client's entitlement to have defects rectified at the contractor's expense (see clauses 38 to 40) lapse if rectification involves disproportionately high costs. When assessing whether this is the case, consideration is taken to the client's interest in the performance of the contract. In all events, the client retains the right of reduction; see clause 42.

**Clause 42 Reduction in the contract sum**

*Subclause (1)* If the contractor does not rectify defects as set out in clauses 38 to 40, the client may demand a reduction in the contract sum instead of having the defects rectified at the contractor's expense. The client is also entitled to a reduction in the contract sum if rectification is impossible or would cause considerable inconvenience, as well as in the situations mentioned in clause 41.

*Subclause (2)* The reduction is in principle calculated as the amount it would have cost to rectify the defects.

*Subclause (3)* If rectification of defects is impossible, and in the situations mentioned in clause 41, the reduction is determined on a discretionary basis.

**Clause 43 The contractor's liability for consequential and indirect losses**

*Subclause (1)* The contractor is liable for losses resulting from defects in the works if the defects are due to errors or omissions on the part of the contractor, or if the defects relate to characteristics that must be considered to be warranted under the contract.

*Subclause (2)* The contractor is not liable for any loss of business, loss of profit or other indirect loss.

**Clause 44 The contractor's product liability**

*Subclause (1)* The contractor's liability for damage caused by a defect in a product used in the building or construction works (product liability) is limited to the cover provided by the product liability insurance taken out; see clause 10, subclause (3).

*Subclause (2)* The contractor is not liable for any loss of business, loss of profit or other indirect loss resulting from damage caused by a defect in a product used in the building or construction works.

#### **Clause 45 Expiry of defect liability**

*Subclause (1)* The client's claims against the contractor for defects must be submitted no later than five years after handover of the works. After expiry of this period of time, the client is not entitled to file any claims against the contractor.

*Subclause (2)* If the contractor has rectified defects of which the client has given notice, a new time limit for the submission of claims relating to the defects will apply as set out in clause 45, subclause (1), so that the time limit starts at completion of the defect rectification but ceases after a maximum of three years after the expiry of the original five-year time limit.

*Subclause (3)* If the client's claims for defects against the contractor concern movables and fixtures that are not specially adapted or permanently fixed, the time limit set out in clause 45, subclause (1), is reduced to two years.

*Subclause (4)* Regardless of the provisions of clause 45, subclauses (1) to (3), the client's claims under clause 45, subclauses (1) to (3), are retained in relation to defects if

- a) the contractor has undertaken to extend the warranty period;
- b) it is established at handover that the quality control agreed has failed significantly; or
- c) the contractor has been grossly negligent.

## **H. Inspection**

#### **Clause 46 One-year inspection**

*Subclause (1)* The client calls in the contractor for an inspection of the works, the inspection date being no later than one year after handover.

*Subclause (2)* Notices concerning inspections must be made in writing and issued with a notice period of not more than sixty and not fewer than fifteen working days, however at least twenty working days for main contracts.

*Subclause (3)* During the inspection the client prepares an inspection protocol in which the client states the defects in the works as well as any other issues identified by the client, together with any remarks made by the contractor and any agreements made concerning rectification of defects, including methods and time limits.

*Subclause (4)* If a party fails to attend the inspection, the attending party may conduct the inspection without the participation of the non-attending party and must then subsequently send the protocol to the non-attending party as soon as possible.

## **I. Termination with immediate effect**

#### **Clause 47 The client's right to terminate the contract**

*Subclause (1)* After having provided written notice, the client is entitled to terminate the construction contract in whole or in part with immediate effect

- a) if the contractor causes material actionable delay in the execution of the works where such delay causes substantial inconvenience to the client;
- b) if the contractor causes other material delay with regard to matters of decisive importance to the client;
- c) if the works executed are of such quality that the client has reason to believe that the contractor will not be able to complete the works without material defects; or
- d) if the contractor otherwise commits material breach with regard to matters of decisive importance to the client.

#### **Clause 48 The contractor's right to terminate the contract**

*Subclause (1)* After having provided written notice, the contractor is entitled to terminate the construction contract with immediate effect

- a) in the event of material delay as a result of the circumstances of the client or delay on the part of another contractor where the client does not make reasonable efforts to expedite the works to the fullest possible extent; or
- b) if the client causes other material delay or commits material breach with regard to matters of decisive importance to the contractor.

#### **Clause 49 Common rules on termination with immediate effect**

*Subclause (1)* Notice of termination must be given in writing.

*Subclause (2)* Concurrently with the termination with immediate effect, the party terminating the contract must issue a written notice calling in the parties in writing to attend a registration meeting (status meeting) to be held as soon as possible. Unless otherwise agreed, the status meeting is held not earlier than one working day after receipt of the convening notice. In case of disagreement over the progress of the works, the status meeting may be held in the form of an appraisal by an expert appointed by the Danish Building and Construction Arbitration Board; see clause 52.

## **J. Disputes**

#### **Clause 50 Dispute resolution ladder**

*Subclause (1)* Efforts must be made to resolve and settle a dispute between the parties through negotiation in accordance with the provisions of clause 64, subclauses (1) to (3), of AB 18.

*Subclause (2)* Mediation, conciliation, speedy resolution and arbitration may not be initiated before the negotiation procedure set out in clause 64 of AB 18 has been completed. This also applies to expert appraisal unless the purpose of such appraisal is to secure evidence.

#### **Clause 51 Mediation and conciliation**

*Subclause (1)* At the request of either party, the Danish Building and Construction Arbitration Board appoints a mediator with a view to settling a dispute in accordance with the provisions of clause 65, subclauses (1) and (3) to (9), of AB 18.

*Subclause (2)* Mediation cannot be initiated if a party desires speedy resolution of the dispute and files a request to that effect no later than ten working days after the request for mediation was made.

#### **Clause 52 Expert appraisal**

*Subclause (1)* At the request of either party, the Danish Building and Construction Arbitration

Board appoints expert appraisers to secure evidence of or assess actual conditions in accordance with the provisions of clause 66, subclauses (2) to (8), of AB 18.

*Subclause (2)* If a party has requested a decision concerning the provision of security or speedy resolution, no expert appraisers may be appointed to consider the same matter until the question of the provision of security or speedy resolution has been finally concluded, unless the purpose of expert appraisal is to secure evidence.

### **Clause 53 Decision on security provided**

*Subclause (1)* At the request of either party, the Danish Building and Construction Arbitration Board appoints an expert to make a decision on payment under, reduction of or cessation of security provided (see clause 8, subclauses (6) and (7), and clause 9, subclauses (5) and (6)) in accordance with the provisions of clause 67, subclauses (2) to (12), of AB 18, unless a prior decision has been made under clause 54 or clause 55 or the circumstances on which the claim is based are already the subject of dispute between the parties in a pending case conducted under clause 54 or clause 55.

### **Clause 54 Speedy resolution**

*Subclause (1)* At the request of a party, the Danish Building and Construction Arbitration Board appoints an umpire to make a speedy resolution in accordance with the provisions of clause 68, subclauses (1) and (3) to (12), of AB 18.

*Subclause (2)* Speedy resolution proceedings may not be initiated if there is a pending arbitral case about the same dispute.

### **Clause 55 Arbitration**

*Subclause (1)* Disputes between the parties are finally resolved by arbitration by the Danish Building and Construction Arbitration Board in accordance with the provisions of clause 69, subclauses (3) to (8), of AB 18.

*Subclause (2)* Arbitral proceedings may not be initiated until four weeks after the conclusion of negotiations concerning the dispute as set out in clause 64 of AB 18. Furthermore, arbitral proceedings may not be initiated if mediation, conciliation, speedy resolution or a decision concerning security provided relating to the same dispute is pending.



