

Adopted May 2007 by

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[Swedish Construction Federation \* Rock Blasting Contractors Association \* Association of Diving Contractors \* Electrical Contractors' Association \* Swedish Glaziers' Association \* Swedish Flooring Trade Association, GBR \* Drilling and Sawing Contractors' Association \* Association of Insulation Companies \* Insulating Contractors Association \* Association of Refrigeration Contractors \* Federation of Swedish Metalworking Industries \* Swedish Federation of Painting Contractors \* Association of Tiling Contractors \* Swedish Sheet Metal Workers' Association \* Association of Piling Contractors \* Swedish Demolition and Clearance Contractors \* Swedish Bricklaying and Plastering Contractors' Association \* Swedish Association of Air Handling Industries \* Swedish Association of Master Locksmiths \* Wood and Furniture Industry Federation \* Ceiling Manufacturers' Association \* Association of Heating, Water Sanitation and Cooling System Contractors]

**AB 04**

1. AB-U 07 is intended to be used for performance sub-contracts, i.e. when all or a substantial part of the design and planning work is the responsibility of the employer or his client.

AB-U 07 relates to the relationship between a sub-contractor and the latter's client (normally a general contractor). The terms "the total works", the contractor" and "the employer" therefore refer to the total sub-contract works, the sub-contractor and the sub-contractor's client respectively. "General conditions of contract for building and civil engineering works and building services AB 04" applies to the contract works, together with the amendments and supplements shown below. An *amendment* means that the stated provision (or part thereof) in AB 04 is replaced by the provision below. A *supplement* means that a provision in AB 04 is supplemented with the provision below. It is therefore assumed that the parties have familiarized themselves with AB 04.

**Scope**

AB 04, Chapter 1.

2. Amending AB 04, Chapter 1 § 3, first paragraph, it is prescribed that:  
In case of discrepancies in the contract documents their relative priority shall be as follows, unless the circumstances clearly give occasion for another procedure:

- 1 the contract
- 2 amendments to AB 04 or AB-U 07 which are included in summary in administrative instructions
- 3 AB-U 07
- 4 AB 04
- 5 acknowledgment of order
- 6 order
- 7 tender
- 8 special provisions regarding payment and measurement
- 9 schedule of unit prices or priced schedule of quantities
- 10 supplementary instructions for the total works, given prior to the submission of the tender
- 11 administrative instructions
- 12 schedule of quantities, not priced
- 13 specifications
- 14 drawings
- 15 other documents

3. Supplementing AB 04, Chapter 1 § 7, it is prescribed that:  
The contractor has a duty to obtain, before commencing the contract works, the required knowledge of the conditions that will prevail within the area affected by the total works. This does not limit the employer's responsibility under AB 04, Chapter 1 § 6.

**Organization**

AB 04, Chapter 3.

4. Supplementing AB 04, Chapter 3 § 1, it is prescribed that:  
A party shall notify the other party in writing of the identity of the appointed representative and of any limitations to the representative's authorization.  
If no representative has been appointed the contractor and the employer may assume that the employer's site manager and the contractor's site foreman are authorized on behalf of their respective principals to reach agreements and to give binding instructions concerning the execution of the total works, although not with regard to alterations and additions which are clearly of major financial significance.

5. All persons on the site shall wear a name badge giving the name of the wearer and the employer and have satisfactory identification available, for example, in the form of a driving licence or ID card.

**Commentary on Clause 5**

*The purpose of the rule is to make it simple to identify persons on the site. There is no objection to information concerning the name and employer of a person being made clear by other means than with a name badge, e.g. by marking of clothing.*

**Times**

AB 04, Chapter 4.

6. Supplementing AB 04, Chapter 4 § 7, it is prescribed that:  
The guarantee period shall in no case be longer than has been agreed between the employer and his client at the time of procurement.

**Liability and rectification of defects**

AB 04, Chapter 5.

7. Amending AB 04, Chapter 5 § 3, first paragraph, first sentence, it is prescribed that:  
Unless otherwise agreed the contractor shall pay liquidated damages of 1 % of the contract price, although not less than SEK 5 000, for each week or part of a week by which he exceeds the contract period or the amended time for completion which is to apply under AB 04, Chapter 4 § 2 or 3.

8. Unless otherwise agreed the contractor shall in addition pay liquidated damages on each reported occasion when one of his employees or the employees of sub-contractors or suppliers who have been engaged by the contractor is in breach of the provisions of Clause 5. Liquidated damages shall be SEK 500 per person per day.

**Ocular inspection**

9. When the contractor has completed the total works he is entitled to request final *ocular inspection* regarding the presence of visible damage in the total works.

After final ocular inspection the contractor is free from liability for visible damage which has arisen after the final ocular inspection, if the contractor can show it to be probable that the damage is not due to him.

When the contractor has completed a major and definable part of the total works, for example the body of a building or a storey, which runs a separate risk of suffering damage, he is entitled to request *partial ocular inspection* with regard to the presence of visible damage.

After partial ocular inspection the contractor is free from liability for visible damage which has arisen after the partial ocular inspection, if the contractor can show it to be probable that the damage is due to the employer or has been caused by another contractor or other person engaged by the employer.

Ocular inspection does not limit the contractor's liability for damage which is due to defects in the total works or the contractor's other contractual liability for the total works.

The employer shall carry out ocular inspection without delay on being requested to do so. A written report on the ocular inspection shall be made available to the contractor. The report shall show whether there is any damage to the total works. The contractor shall be given the opportunity to be present at ocular inspection.

Should the employer fail to discharge his obligations under this clause it will be incumbent on him to show at final inspection that any damage found has been caused by the contractor.

Final inspection which has been completed/not been interrupted without the employer's total works being approved shall also be regarded as final ocular inspection.

**Costs and payment**

AB 04, Chapter 6.

10. Supplementing AB 04, Chapter 6 § 8, it is prescribed that:  
The duty to account for and pay value added tax on the total price is governed by the Value Added Tax Act.

A party who has incorrectly invoiced value added tax shall make out a credit invoice for the full invoiced amount and make out a new invoice in accordance with the rules of reverse tax liability.

A party who has incorrectly received payment of value added tax has a duty to refund the amount of the value added tax.

A party who in an invoice has incorrectly failed to include value added tax shall make out a credit invoice for the invoiced amount and make out a new invoice for the originally invoiced amount plus the value added tax thereon.

**Commentary on Clause 10**

*With effect from 1 July 2007, "reverse tax liability" is applied between construction companies in the sale of building services. If these rules are applicable the purchaser/employer of the building service shall account for value added tax to the state and the contractor shall not charge value added tax when invoicing. The invoice shall show the purchaser's value added tax registration number and it shall be stated that reverse tax liability for building services is to apply.*

11. Amending AB 04, Chapter 6 § 19, it is prescribed that the periods of limitation in the first paragraph shall instead be four (4) months and that the periods of limitation in the second paragraph shall instead be 22 months. The contractor is in addition entitled to payment to the extent that the employer is entitled to payment from his client.
12. Amending AB 04, Chapter 6 § 20, first paragraph, it is prescribed that the period of limitation stated therein shall be eight (8) months.
13. Amending AB 04, Chapter 6 § 21, third paragraph, it is prescribed that:  
The surety furnished by the employer shall, unless otherwise prescribed in other contract documents, be in the amount of 10 % of the contract price; however this surety shall be continuously limited to a sum equivalent at any time to the unpaid part of the contract price.

#### **Inspection**

AB 04, Chapter 7.

14. Amending AB 04, Chapter 7 § 2, first paragraph, it is prescribed that:  
Final inspection will be carried out, unless otherwise agreed by the parties, of the contract period for the employer's contract works or, if the employer's total works are completed later, without delay after the employer's total works are reported to have been completed, by corresponding inspection of the employer's total works. The employer shall state in the basis for tender when it is expected that final inspection will be possible.
15. Amending AB 04, Chapter 7 § 2, fourth paragraph, it is prescribed that:  
A party is entitled to request final inspection of a completed part of the total works if the employer's client starts using or requests to start using that part. The guarantee period for the part approved at such an inspection runs from the date of approval of the part until the expiry of the guarantee period for the last part of the total works approved.
16. Supplementing AB 04, Chapter 7 §§ 3 and 5, it is prescribed that guarantee inspection and re-inspection of the total works be carried out by corresponding inspection of the employer's total works.
17. Amending AB 04, Chapter 7 § 6, second paragraph, it is prescribed that:  
Arbitration inspection shall be called for in writing:  
*By the contractor:* within two (2) weeks from his receipt of the inspection report concerned.  
*By the employer:* within four (4) weeks from his receipt of the inspection report concerned.
18. Supplementing AB 04, Chapter 7 § 10, it is prescribed that the contractor shall be called to inspection of his own total works and to meetings in connection with the inspection.
19. Supplementing AB 04, Chapter 7 § 11, it is prescribed that:  
The employer is in addition to the provisions of Chapter 7 § 11 entitled to argue defects complained of by the employer's client within the time stated in the said clause. In order to argue such a defect however the employer must complain of the defect within two (2) months from the date of receiving a claim from his client.
20. Supplementing AB 04, Chapter 7 § 12, it is prescribed that:  
The question of approval of the total works follows approval of the employer's total works.  
If the employer's total works are approved later than the contractor had reasonable cause to expect when entering into the agreement, the contractor is entitled to reasonable compensation for loss caused by the delay if the delay is due to circumstances as stated in AB 04, Chapter 4 § 3, item 1.  
If final inspection has been carried out without the total works of the employer being approved, the contractor – provided that the total works are free from defect or that there are defects of only limited extent and trivial importance – will be entitled to present a final invoice for the total works. If the employer does not accept such a final invoice he shall set out the reasons for this in writing.
21. Supplementing AB 04, Chapter 7 § 13, it is prescribed that a report on the inspection as far as it concerns the total works shall be made available to the contractor and that it shall be clear from the report or other document whether the employer's total works – and thereby the total works – have or have not been approved.
22. Amending AB 04, Chapter 7 § 15, seventh paragraph, it is prescribed that the contractor does not have an obligation to supply assistance.

#### **Cancellation of contract**

AB 04, Chapter 8.

23. Supplementing AB 04, Chapter 8 § 1, it is prescribed that:  
The employer may cancel the contract with regard to outstanding works if the contractor fails to discharge the payment obligations with regard to taxes, social security contributions and other payment undertakings that are the duty of the employer by law or under a collective agreement.

Should in the event of breach of contract on the part of his client the employer choose to suspend the works instead of cancelling the contract the employer has the right to order the contractor to suspend his works for a corresponding time, although not for longer than one (1) month in total. For the period of the suspension the contractor is entitled to compensation only if the works are resumed after the suspension.

24. Supplementing AB 04, Chapter 8 § 3, first paragraph, second sentence, it is prescribed that the contractor has a duty to notify the employer in writing in such time as to enable the latter to discharge his duties under Chapter 8 § 3 of AB 04 on time. Should the contractor fail to give such notice on time the employer is entitled to cancel the contract.
25. The employer may cancel the contract with regard to outstanding works if the employer has cancelled the contract with his client in accordance with the relevant agreement.

In the event of such cancellation the contractor's right to compensation is governed by AB 04, Chapter 8 § 5. The contractor is in this context also entitled to compensation for damage to the extent that the employer has a possibility of receiving equivalent compensation from his client.

#### **Facilities and the works**

Unless otherwise prescribed in other contract documents the following applies to general facilities and general works.

26. The contractor is entitled to use a prepared, drivable approach and open space to the extent that this does not obstruct the work of another party. Maintenance of such an approach and open space will be provided.  
The contractor will be provided with a drivable temporary approach to huts and maintenance of the approach.  
The contractor will on request be provided with other necessary approaches and open spaces against reasonable payment.
27. Work may not be carried on without satisfactory safety precautions in weather which may cause injury or damage.  
The contractor shall ensure that goods laid out or facilities erected by him do not obstruct access to or conceal shut-off and inspection devices, fire hydrants, fire alarm boxes, wells, electrical distribution boards, measuring points etc.
- 28a The contractor will be provided with cleaning of such staff rooms, toilets and time clock rooms as have been made available to him.
- 28b The contractor will clean offices, workshops and store rooms that he uses.
- 28c The contractor will be provided with general refuse collection.  
The contractor will be provided with a collecting point for waste alongside buildings and at workshops and with removal of waste. However the contractor will be responsible for care and removal of his own hazardous waste.  
The contractor will clean his own place of work and collect refuse after his own work. Indicated collection points will be used for waste from cleaning and refuse collection.
- 28d The contractor will be provided with snow clearance and deicing of drivable approaches and open spaces as soon as possible after snowfall.  
The contractor will be provided at a designated place with manual equipment and deicing materials for snow clearance and deicing.  
The contractor will be provided with snow removal if required.  
The contractor will clear snow from and deice his own place of work, storage sites for his own goods and, if required, footpaths to his own place of work.

When drawing up AB-U 07 the Swedish Construction Federation recommended that certain implications for the general contractor arising from the rules on reverse tax liability should be taken into account in AB-U 07. As the Swedish Construction Federation's recommendation was not accepted the Federation has declared that it considers that reasonable conditions in individual agreements that take account of these implications are not contrary to the agreement on AB-U 07.