

Stockholm, June 2, 2025

Statement on the Svea Court of Appeal's ruling in the dispute between Rodamco Projekt AB and Peab over the construction of Mall of Scandinavia

Statement by Rodamco Projekt AB (RPAB) regarding the May 28th, 2025 Svea Court of Appeal judgment in the challenge of the final arbitration award between Peab AB and Rodamco Projekt AB.

- *RPAB welcomes the decision by the Svea Court of Appeal to partially annul the award issued in 2023, acknowledging certain procedural failings in the arbitration court's decision and allowing RPAB to pursue liquidated damages of SEK 617 million plus interest as from 2016*
- *The company is, however, disappointed in the court's decision to uphold the rest of the arbitration court's award, which does not recognize significant additional procedural failings in the award, and that the amount disproportionately exceeds disputed amounts at time of project completion*
- *Partial annulment of the award vindicates RPAB's vigorous pursuit of fair and amicable solution, with company now evaluating future course of action*

Rodamco Projekt AB (RPAB), a project company dedicated to the development of real estate assets in Sweden, welcomes the decision by the Svea Court of Appeal to partially annul the arbitration court's award issued in 2023, acknowledging certain procedural failings in the decision and allowing RPAB to pursue arbitration for liquidated damages of SEK 617 million plus interest as from 2016.

In 2011, RPAB signed with Peab a turnkey contract for the construction of the Mall of Scandinavia for a fixed price of SEK 3.6 billion. Over the course of the contractual engagement, RPAB paid SEK 3.6 billion to Peab as agreed, with an additional sum being withheld temporarily due to RPAB's own claims against Peab for delays, liquidated damages and outstanding defective works.

Despite the limited amounts outstanding between the two parties at the time of completion and clearly defined terms of the turnkey contract, Peab demanded additional compensation amounting to SEK 2.1 billion, and then commenced arbitration in 2017.

As the sole contractual counterparty to Peab, RPAB has been pursuing vigorously a fair and amicable solution to the outstanding balances and is encouraged to continue by the partial annulment of the award.

The company's satisfaction with the Svea Court of Appeal's decision is tempered by their failure to recognize the significant other procedural failings in the arbitration decision. This affirms an award for a claim by Peab for compensation of costs following its failure to meet its internal budget for its fixed price contract with RPAB due to Peab's poor management of the works programme. This claim was based on Peab's own calculations and conjecture, without evidence or specification of actual costs.

In 2021, the arbitral tribunal concluded that Peab cannot do this, but in a surprising reversal nevertheless allowed Peab to do so in its final award. This decision creates a precedent of uncertainty in fixed price construction contracts in Sweden.

Background information:

In 2011 Rodamco Projekt AB (RPAB) entered a turnkey contract with Peab for its investment in Mall of Scandinavia with a fixed price of SEK 3.6 billion.

When entering the contract, Peab's only counterparty in the construction contract was RPAB, and both companies carefully considered and agreed to what risks and financial exposure could be transferred to other entities at that time.

During construction, Peab replaced its entire project management team for Mall of Scandinavia with resulting delays after corruption was uncovered in 2013 within its project management team.

Final inspection was approved 407 days after the contracted opening date and the destination opened in November 2015.

For the project, RPAB paid Peab SEK 3.6 Bn for contracted works and approved change orders, with an additional sum being withheld temporarily due to RPAB's own claims against Peab for delays, damages and outstanding defective works.

Despite these payments, the clear terms of the contract and the limited amounts outstanding between the two parties, after opening Peab demanded additional compensation amounting to SEK 2.1 billion.

Peab commenced arbitration in 2017, and despite attempts by RPAB to settle with Peab at the request of the courts, an award was announced on June 30, 2023.

Out of the three arbitrators in the tribunal who made the judgment, only two were in favor of the award. The third arbitrator has dissented from very significant parts of the June 2023 award.

In his dissenting opinion, he points out serious errors in the award, including that the decision in several parts contradicts the separate arbitration award from March 2021, as well as provisions in the Arbitration Act.

For more information, please contact rpab@kekstcnc.com