

# Termination Issues > Actions > Valuation > any loss and damage > loss of profit > Payment

Reference : Clause 15 and Clause 16

T\_EMP / T\_C / T\_ENG = Termination by Employer / Convenience / Contractor

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
No	Subject / Notices / Actions	SC	T_EMP (SC15.2)	T_Cov (SC15.5 / SC19.6)	T_CON (C16.2)	CON's pay- ables	Partial liable	EMP's pay- ables	Remarks
1	Start								
2	Contractor's documents to hand over	01.11				x			
3	Contractor's Design documents (if part of the Contract)	01.10			x	x			CON's Design costs to reimburse, if the permanent works is outstanding
4	Employer's Claim ... SC15.2	02.5							
5	Eniggeer's Determinations	03.5							
6	Performance Security submitted	04.2				0	0	0	
7	Contractor's Equipment ./ Transport of goods and personnel off site	04.17							vested with EMP, if Advanced Money is not repaid
8	Employer's Equipment and free-issued Material	04.20							return
9	Ordinary Sub-Contractors : approval required SC15.2(d) [lawful inducements !!!] and important SC04.5 Assignment of Benefits of Subcontract!	04.4 /04.5							this will allow the Employer to finish the Works after Termination
10	Nominated Sub-Contractor : icw with Variations SC13.1, Provisional Sum SC13.5 (b) and SC05.4 [Evidence of Payments]	05.1							<b>ENG's Instruction to CON to employ a specific "nominated" Sub-Contractor</b>
11	Contractor's Supervision	06.8							
12	Facilities for Staff and Labour (	06.6							
13	Samples > removal	07.2							Costs
14	Testings	07.4	x			x			
15	Remedial Works	07.6			x				
16	EMP's Ownership of Plants and Materials	07.7			x				already ordered and no chance to repeal the contract
17	Royalties / rents / other payments : natural material obtained from outside the Site, disposal of material, surplus (natural or man-made), except specified areas within the Site.	07.8			x				re-payment if up-front paid

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
No	Subject / Notices / Actions	SC	T_EMP (SC15.2)	T_Cov (SC15.5 / SC19.6)	T_CON (C16.2)	CON's pay- ables	Partial liable	EMP's pay- ables	Remarks
18	Test on Completion : works, sections, parts	09				?	?	?	parts, valuation upon Termination
19	Interference with tests on completion ... Claim	10.3				0	0	0	not applicabel for T
20	Surface requirements Reinstatement ! Clearly stated in the Taking-over Certificate	10.4	x			x			Costs for Re-Instatement
21	Completion of outstanding Works and remedying defects	11.1							
22	Cost of remedying defect with DNP	11.2							
23	Contractor to search > cause of any defect	11.8							
24	Performance Security	11.9							
25	Clearance on site: remove any remaining CON's equipment, surplus materal, wreckage, rubbish, and <b>Temporary Works</b> from the Site	11.11	x			x			Cost to valuate
26	<b>Omissions &gt; indicates "loss + damage" approach</b>	12.4							
27	a _ will incur / has incurred costs, if not omitted, the sum forming part of the Accepted Contract Amount ACA	12.4 a							pre-fabricated components
28	b _ omisson will result in a sum not forming part of the Contract Price	12.4 b							
29	Plant and Material intended for the Works (MOS)	12.4							
30	<b>Provisional Sums 13.5 (b) : Plant, Materials, or services to be purchased by the Contractor from a nominated Sub-Contractor : be aware about &gt; Variation SC13.1, Instruction to Contractor to emply specific sub-contractor (SC05.1 (b))</b>	13.5 (b)							<b>Variations may misused - for insider business - &gt; Engineer's Instruction to CON to employ the specified Sub-Contractor SC 05.1 (b)</b>
31	Advanced payments & Repayments ... The advanced payments should be rolled out with the progress of site establishments Values in line with the proper BoQ - items (Camps / Offices for EMP, ENG, CON), investments for plant and equipment, delivery, assembly of production plants, fuel tanks, bitumen, blasting store, ....)	14.2					x		The Tender Dossier should request a clear table of the expected expenditures for mobilization and investments for
32	Plant and Material intended for the Works (MOS)	14.5							

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
No	Subject / Notices / Actions	SC	T_EMP (SC15.2)	T_Cov (SC15.5 / SC19.6)	T_CON (C16.2)	CON's pay- ables	Partial liable	EMP's pay- ables	Remarks
33	Retention Money / MDB2010 only: Retention Money Guarantee, proportional to estimated Contract Value (Guarantee issue with 50% or difference to Performance Security)	14.9	x			x	x	x	
34	Notice to Correct : CON fails to carry out any obligation under the Contract, require by notice to make good the failure and remedy it within a specified reasonable time.	15.1							
35	Pre-requisite: Notice to Correct for T_EMP	15.2							
36	a _ SC04.2 PS i c w SC15.1	15.2 a							
37	b _ abandon works	15.2 b							
38	c _ proceed works C18 / does not comply with SC07.5 / SC07.6 (remdial works)	15.2 c							
39	d _ subcontracts whole of the works or assign Contract without the required agreement	15.2 d							
40	e _ bankrupt, insolvent, liquidation, administrative order,	15.2 e							
41	f _ gives offer > corrupt or fraudulent practices (ADB-policy) SC15.6 [Corrupt and Fraudulent Practices]	15.2 f							
42	Employer may complete the works	15.2p6							hence SC04.4+SC04.5 is essential
43	Engineer > Valuation at Date of Termination	15.3							
44	Employer Payment issues	15.4							
45	a _ proceed with SC02.5 Employer's Claim	15.4 a							
46	b _ withhold furtehr payements > untill the costs have been established : execution, completion and remedying of any defect, damages for delay in completion and all other costs incurred by Employer	15.4 b							
47	c _ recover from Contractor any lossess and damges incurred by the EMP and any extra cost of completing works minus the Contractor's allowance of Valuation upon Date of Termination. The Balance shall be paid to Contractor.	15.4 c							

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
No	Subject / Notices / Actions	SC	T_EMP (SC15.2)	T_Cov (SC15.5 / SC19.6)	T_CON (C16.2)	CON's pay- ables	Partial liable	EMP's pay- ables	Remarks
48	Termination by Convenience i.c.w. 16.3 and 19.6 > <a href="#">The Contractor shall receive the Performance Security within 28 days</a> after the effective date of Termination by Convenience.	15.5							
49	Contractor's Entitlement to Suspend Work	16.1						x	
50	A _ ENG fails to certify SC14.6 [IPC]	16.1						x	
51	B _ EMP fails to comply with SC02.4 [Fin Arrangement]	16.1						x	
52	C _ EMP fails to pay with SC14.7 [Payment]	16.1						x	
53	D _ CON's action shall not prejudice his entitlements to financing charges under SC14.8 [delayed payment] and SC16.2 [Termination by Contractor]	16.1						x	
54	E _ CON suffers delay and incurs Cost > EoT, CpP [SC20.1] based on grounds of suspension	16.1						x	
55	Termination by Contractor	16.2						x	
56	a _ 14 days' notice : Suspend SC16.1	16.2 a						x	
57	b _ issue an IPC within 56 days SC14.3/14.6	16.2 b						x	
58	c _ payment SC14.7 minus SC 02.5	16.2 c						x	
59	d _ EMP substantially failure to perform his obligations	16.2 d						x	
60	e _ Employer fails to comply with SC01.6 [Contract Agreement] or SC01.7 Assignment	16.2 e						x	
61	f _ immediately: prolonged suspensions affects the whole of works SC08.11 [Prolonged Suspension] - 84 days	16.2 f						x	
62	g_ immediately : bankrupt, insolvent, liquidation, administration order, carries on business	16.2 g						x	
63	Cessation of Works and Removal of Contractor's Equipment : 15.5 ; 16.2 ; 19.6	16.3						x	
64	a _ cease all further work, except instructed by ENG for protection of life and property or for the safety of works	16.3 a						x	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
No	Subject / Notices / Actions	SC	T_EMP (SC15.2)	T_Cov (SC15.5 / SC19.6)	T_CON (C16.2)	CON's pay- ables	Partial liable	EMP's pay- ables	Remarks
65	b _ hand over Contractor's documents, Plant, Material and other work, for which the Contractor has received payment.	16.3 b						x	
66	c _ remove all goods, except as necessary for safety, and leave the site	16.3 c						x	
67	Payment on Termination ... taken effect > EMP shall promptly:	16.4						x	
68	a _ Employer shall return Performance Security to Contractor	16.4 a						x	
69	b _ pay CON in acc with SC 19.6 [OT, P & Release]	16.4 b						x	
70	c1 _ pay to CON the amount of (i) ANY loss of Profit and	16.4 c						x	5% default profit SC01.2p3
71	c2 _ loss and damage sustained by the Contractor as a result of this termination	16.4 c						x	if no opportunity to have a turnover esp in remote areas
72	Indemnities > hold free each other	17.1	x	x	x	0	0	0	
73	Employor's Risks	17.3	x						
74	f _ use or occupation by the Employer of any part of the Permanent Works , except as may be specified in the Contract	17.3 (f)	x						Sections or Part of works - suits to use / suits to purpose ...SC10.2
75	g _ DESIGN of any part of the Works by the Employere's Personnel (Employer's responsibility)	17.3 (g)	x						The Engineer has no authority to change the Contract SC031.p2
76	h _ any operation of force of nature (unforeseeable / experienced contractor not reasonably expected to have taken adequate preventative precautions.	17.3(hi)	x						
77	Employer's Accommodation / Facilities	17.7							
78	Insurance Premiums	C18							
79	Force Majeure (if any issues ahead of Termination)	C19				x	x	x	attributable?
80	Optional Termination, Payment and Release	19.6							
81	Amounts payable for any works carried out, for which a price is stated in the Contract	19.6 a							

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
No	Subject / Notices / Actions	SC	T_EMP (SC15.2)	T_Cov (SC15.5 / SC19.6)	T_CON (C16.2)	CON's pay- ables	Partial liable	EMP's pay- ables	Remarks
82	Cost of Plant and Material, delivered or is liable to accept delivery, become Property of EMP > place the same at the EMP's disposal	19.6 b							
83	costs and liabilities - reasonably and necessarily incurred in the expectation of completing the works.	19.6 c							
84	Costs of removal of temporary works and CON's equipment to return to his country (others as well, but not at greater costs)	19.6 d							
85	Cost of repatriation of CON's staff and labour employed whole in connection with works at date of termination	19.6 e							
86	Optional Termination, Payment and Release	19.6							
87	CON's Claim Resolution up to date of Termination	C20			x			x	Formal Notice of Determination.