



KZN Public Works

Department:
Public Works

PROVINCE OF KWAZULU-NATAL

..... Office
Private Bag X
.....
Tel: (...)
Fax: (...)
Ref:
Date:

Head :Public Works

ZNT NO. W : APPLICATION TO CANCEL*/TERMINATE* CONTRACT

* = Consult relevant Clause of the Contract for the correct word terminology

GENERAL PARTICULARS

WIMS NO.	ZNT No.
CONTRACT NO. :	
CONTRACT DESCRIPTION	LOCATION INSTITUTION SERVICE
CONTRACT PRICE INCLUSIVE OF VAT	R
CONTINGENCY (#%)	R
PERIOD OF CONSTRUCTION	MONTHS
CONTRACTOR'S NAME	

= insert %

1. OBJECT :

To obtain approval from Head : Public Works (The Employer) to cancel/terminate the Contract between the KZN Department of Public Works and(The Contractor).

2. BACKGROUND INFORMATION

The following points are given as guidelines to use in explaining the circumstances that have led to request the Head : Public Works to cancel/terminate the Contract:

- Describe the circumstances of the case, giving exact details that have led to the Contractor defaulting;
- give details of the steps taken in attempting to get the Contractor to remedy the situation;

- refer to and attach, if necessary, evidence such as letters issued to the Contractor appealing to remedy the situation, minutes of Site Meetings that record dissatisfaction and requests for the Contractor to rectify faults;
- attach evidence and describe events where legal advice or opinions were sought from either the Departmental Legal Services or the South African Institution of Civil Engineering or the Joint Building Contracts Committee;
- include discussions/evidence of any dissatisfaction that has been expressed by the Client Department in delays that have occurred due to the defaulting Contractor;
- provide details of the Performance Guarantee held by the Department, e.g. name of Guarantor, value of Performance Guarantee and expiry date of Performance Guarantee. Indicate that the Guarantor has been approached to pay over to the Department the guaranteed sum which is to be used to off-set the debt owed to the Department;
- give details as to the urgency to complete the Works and motivate, if necessary, to apply the Urgent SCM Delegation 5.1 to approach selected Contractors to submit quotations to undertake the completion of the Works.

It is imperative for this matter to be urgently considered as penalties will accrue up and until the date of cancellation of the Contract. Undue delays in this respect will lead to the Contractor declaring a dispute for unnecessary accumulated delays that would be calculated from the date of notification to the date when actual cancellation takes place. In terms of the Contract, the penalty for delay is R_____ per day if the “Practical Completion Date” has passed

As a result of the circumstances described above, and in order to complete the Works as speedily as possible, there is no option other than to approach the Head : Public Works to seek approval to cancel/terminate this Contract.

3. FINANCIAL CIRCUMSTANCES

3.1 The present provisional financial circumstances of this Contract are set out below :

Original Contract Price	R	(Incl. VAT)
<u>Less</u> Payments made to date	<u>R</u>	(Incl. VAT)
Sub-Total	R	(Incl. VAT)
(_____%of Work outstanding)		
<u>Less</u> Sum of Performance Guarantee	<u>R</u>	(Incl. VAT)
Value of Work (excluding Completion Costs) to be recovered R		(Incl. VAT)

N.B. As the “Practical Completion Date” has passed, the daily penalty amount prescribed in the Contract will be added to the sum owing (*Insert only if applicable*).

3.2 The cost to engage another Contractor to complete the Works must still be added to the above Calculations. Once this Contract has been cancelled/terminated the debt will be set up in the books for the Department to ensure that it is eventually recovered should there not be a surplus of funds on the Contract to meet the sum owed.

3.3 Once approval has been granted to cancel/terminate the Contract, the appointed Consultant (or Departmental Professional if documented "in-house") will be approached in writing to prepare urgent "Completion Documentation" to enable tenders to be invited (or by "urgent quotation" from selected approved Contractors, if authorised by the Head :Public Works) from interested parties to complete the outstanding Works. The Consultant (or Departmental Professional if documented "in-house") will be asked to keep careful track of costs to be recovered from the defaulting Contractor. (It is advisable to give details of an "action plan" so as to expedite the award of a "Completion Contract" to minimise delays in having the Works completed.)

4. RECOMMENDATION:

THAT APPROVAL BE GIVEN :

4.1 IN TERMS OF SCM DELEGATION 7.4.4 TO CANCEL/TERMINATE THE CONTRACT BETWEEN THE EMPLOYER (HEAD : PUBLIC WORKS) AND _____(insert name of Contractor) (THE CONTRACTOR) WITH IMMEDIATE EFFECT.

4.2 TO GRANT APPROVAL TO IMMEDIATELY *CALL FOR TENDERS OR *APPLY THE URGENT SCM DELEGATION 5.1 TO APPROACH SELECTED APPROVED CONTRACTORS TO SUBMIT QUOTATIONS TO COMPLETE THE OUTSTANDING WORKS WITHOUT DELAY

* = Select whichever is applicable

PROJECT MANAGER/REGIONAL MANAGER

DATE

RECOMMENDED / NOT RECOMMENDED BECAUSE_____

GENERAL MANAGER : OPERATIONS

DATE

RECOMMENDED / NOT RECOMMENDED BECAUSE_____

CHIEF FINANCIAL OFFICER

DATE

APPROVED IN TERMS OF SCM DELEGATION 7.4.1 /
NOT APPROVED BECAUSE_____

HEAD : PUBLIC WORKS

*** DATE**

- THE DATE OF APPROVAL IS THE DATE TO USE FOR THE CANCELLATION/TERMINATION OF THE CONTRACT. THE DAILY PENALTY SUM TO RECOVER FROM THE DEFAULTING CONTRACTOR WILL BE CALCULATED FROM THE "PRACTICAL COMPLETION DATE" AS SET IN THE CONTRACT DATA TO THE DATE OF AUTHORISATION TO CANCEL/ TERMINATE THE CONTRACT.