

Termination of contract by purchaser.

If (1) the contractor shall (a) become insolvent or bankrupt, or cease, be unable, or admit in writing its inability, to pay its debts as they mature, or make a general assignment for the benefit of, or enter into any composition or arrangement with creditors; or (b) authorize, apply for, or consent to, the appointment of a receiver, trustee or liquidator of the contractor or of a substantial part of its assets, or proceedings seeking such appointment shall be commenced against it; or (c) authorize or take any action under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction, or proceedings under any such laws shall be instituted against it; or (2) the engineers shall certify to the purchaser that the contractor for any reason is neglecting or is unable to provide equipment, apparatus and/or materials or to perform the work required, is careless or incompetent, is not prosecuting the work with promptness and diligence, or is failing in any way to comply with the contract (including without limitation the specifications or drawings), then the purchaser may, effective upon the mailing of written notice to the contractor to such effect, terminate the contract. In the event of termination the purchaser may, but shall not be obligated to, accept such portions of the equipment, apparatus and/or materials covered by the contract as in the opinion of the engineers may be satisfactorily used on the work and for such portions so accepted the purchaser shall pay the contractor such part of the contract price as in the opinion of the engineers is fair and proper.

The purchaser shall also have the right, but shall not be obligated, to enter into other contracts in order to complete the work according to the specifications and drawings, and the contractor and the contractor shall bear the costs of obtaining proposals and letting contracts for completing the work, the increase in cost, if any, as determined by the engineers, resulting from such procedure, and any damages caused by the delays thus occasioned in completing the work. In the event of termination and the taking over of the completion of the work by the purchaser, the contractor shall be entitled to no further payments under the contract until the work is completed. If the cost to the purchaser of thus completing the work, together with any damages caused by delay, shall exceed the balance due the contractor on account of the contract price, the contractor shall immediately pay the excess amount to the purchaser, but if the balance due on the contract price shall exceed the expense incurred by the purchaser in completing the work, together with any damages for delay, the excess shall be paid by the purchaser to the contractor.