

## **Force Majeure Clauses**

### ***Obligations Excused if No Reasonable Control, Notice, Reasonable Endeavors***

A. If either Party can provide evidence to the satisfaction of the other that its performance of any of its obligations under this Agreement is prevented by reason of any event or combination of events beyond its reasonable control, it shall be entitled to relief from performing each such obligation under this Agreement for such period as the event or combination of events continues to prevent performance.

B. Neither Party shall be entitled to claim relief in respect of any period during which it could have complied with any obligation (or any part thereof) by using its best endeavors to avoid, overcome or minimize wholly or partly the effects of the said event or combination of events.

C. The Party prevented from performing any obligation under this Agreement in the circumstances contemplated in paragraph (A) shall notify the other as soon as it becomes aware of the event. Each of the Parties shall use all reasonable endeavors to avoid, overcome or minimize wholly or partly the effect of any event referred to in paragraph (A) upon the performance of its obligations under this Agreement.

### ***Periodic Reports, Reasonable Diligence***

by [Timothy Murray](#), Murray, Hogue & Lannis

i. No party will be liable for nonperformance of any of its obligations under the agreement if its nonperformance was due to a Force Majeure Event as defined in paragraph (B) of this Article, on condition that such party complies with the conditions in paragraph (C) of this Article.

ii. A Force Majeure Event shall mean any act of God, such as but not limited to; war; riot; civil strife; act of terrorism, domestic or foreign; embargo; governmental rule, regulation or decree; flood, fire, hurricane, tornado, or other casualty; earthquake; strike, lockout, or other labor disturbance; the unavailability of labor or materials to the extent beyond the control of the party affected; or any other events or circumstances not within the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing.

iii. Upon occurrence of a Force Majeure Event, the non-performing party shall promptly notify the other party that a Force Majeure Event has occurred, its anticipated effect on performance, including its expected duration. The non-performing party shall furnish the other party periodic reports regarding the progress of the Force Majeure Event. The non-performing party shall use reasonable diligence to minimize damages and to resume performance.

### ***Payment Obligations Not Excused, Notice, Ability to Terminate if Performance is Delayed Certain Length of Time***

Neither Party shall be liable hereunder for any failure or delay in the performance of its obligations under this Agreement, except for the payment of money, if such failure or delay is on account of causes beyond its control, including labor disputes, civil commotion, war, fires, floods, inclement weather, governmental regulations or controls, casualty, government authority, strikes, or acts of God, in which event the non-performing party shall be excused from its obligations for the period of the delay and for a reasonable time

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thereafter. Each party shall use reasonable efforts to notify the other party of the occurrence of such an event within [three (3)] business days of its occurrence. If performance is delayed over [thirty (30)] days, the party not experiencing the delay may terminate this Agreement.

### ***Excessive Delay, Failure to Cure***

Neither Party will be held liable for failure to fulfill its obligations hereunder if such failure is due to a Force Majeure Event. A "Force Majeure Event" means, but is not limited to, an act of war; domestic and/or international terrorism; civil riots or rebellions; quarantines, embargoes and other similar unusual governmental actions; or extraordinary elements of nature or acts of God; provided that such Force Majeure Event is beyond the excused Party's reasonable control, occurs without the excused Party's fault or negligence, is not caused directly or indirectly by the excused Party and could not have been prevented or avoided by the excused Party's reasonable diligence. [Notwithstanding the foregoing, unless agreed to in writing by Customer, any delay that Customer, in its sole discretion, deems excessive will be grounds for termination by Customer if such delay is not cured after ten (10) calendar days written notice of Customer's intent to terminate. [or] In the event a Force Majeure Event continues for more than [#] consecutive days or more than [#] days in any [length of time] period, then Customer may terminate this Agreement upon written notice].

### ***Resulting Loss Apportioned***

If the performance by [name of party] of any of [his or her or its] obligations or undertakings under this contract is delayed or prevented by an act of God or by any other occurrence that is beyond the control of the parties to this contract, then the resulting loss shall be [specify how loss will be apportioned].

### ***Preventative Measures***

by [Timothy Murray](#), Murray, Hogue & Lannis

Vendor shall have in place disaster recovery plans to deal with a loss of electric power or telecommunication services. In the event of a power failure, Vendor shall have adequate backup power sources to immediately continue its operations for at least [#] more hours (the "Back Up Power Period"). The failure of electric power or Vendor's backup power source shall not be considered a Force Majeure Event until it after the Back Up Power Period.