

## Lexington's Fourth of July Festival Concession Vendor Application

Booth space is 10 feet by 10 feet at a cost of \$300 for multi-item and \$200 for single-item vendors. If you need more than one booth space, indicate the number needed.  
Applications are due by Friday, June 12, 2020.

Company Name: \_\_\_\_\_  
Owner Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Day Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_  
Website \_\_\_\_\_ Email: \_\_\_\_\_  
Tax ID Number: \_\_\_\_\_

Are you a multi-item (\$300) or single-item (\$200) vendor? \_\_\_\_\_

Number of spaces needed \_\_\_\_\_ Total due (# of spaces x vendor fee) \_\_\_\_\_

Please make checks payable to **Downtown Lexington Partnership (DLP)**. DLP also accepts Visa, MasterCard, American Express and Discover. A \$2.50 service charge will be assessed. Along with the vendor fee you will need to submit a \$100 cleaning deposit. This MUST be written as a separate check from the entry fee. The \$100 cleaning deposit will be refunded to vendors as long as their designated booth area is cleaned and returned in equal or better condition, no trash, grease spills, etc.

Card Number	Expiration Date	CVV2: (three digit code on back) Code	Billing Zip
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Billing Address	Cardholder Signature
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Have you participated in the Event before? \_\_\_\_\_ When? \_\_\_\_\_

Are you applying to serve beer and/or wine? \_\_\_\_\_

If yes, indicate what you will serve: Beer and Wine \_\_\_\_\_ Beer \_\_\_\_\_ Wine \_\_\_\_\_

Do you need access to water? \_\_\_\_\_ Yes \_\_\_\_\_ No

Will you be using a refrigeration truck? \_\_\_\_\_ Yes \_\_\_\_\_ No

**VENDOR NAME:** \_\_\_\_\_

Do you need electricity? \_\_\_\_\_ Yes \_\_\_\_\_ No

**FOR ELECTRICAL SERVICE, PLEASE COMPLETE THE FOLLOWING INFORMATION. Please be as specific and accurate as possible. Please note that for all rented trailers (Soda, etc.), 20 amps and a cord will be provided. You will need to provide anything over 20 amps.**

Do You Have A Panel Box? YES \_\_\_\_\_ NO \_\_\_\_\_

If Yes, Indicate Panel Size: 110 Volts 220 Volts

How Many Amps Are In The Panel Box? \_\_\_\_\_

Is The Unit Direct Wired? YES \_\_\_\_\_ NO \_\_\_\_\_

What Is The Size of the S.O. Cord? \_\_\_\_\_ What Is The Length? \_\_\_\_\_

(Please List Below – use extra sheet for more)

**110 Volts:** How Many Appliances Will You Use? \_\_\_\_\_

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

(Please List Below – use extra sheet for more)

**220 Volts:** How Many Appliances Will You Use? \_\_\_\_\_

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

What Type of Unit Do You Have?

- ☐ Tent/Booth ☐ Rented trailer - what make? \_\_\_\_\_
- ☐ Beer truck ☐ Home/Factory trailer
- ☐ Push cart ☐ Other (Describe): \_\_\_\_\_

Is Unit Mobile? YES NO

Size Of Unit: \_\_\_\_\_ ft. by \_\_\_\_\_ ft.

Please diagram your unit on the backside of this form, or attach a separate sheet showing the following information:

- Dimensions (Please include dimensions of the unit itself and the length of tongue/hitch, if applicable, and space required to enter and exit the unit)
- Location (front of side) and size of serving window(s). Also, show location of doors
- Location of electrical box inside the trailer.

## RELEASE AND INDEMNIFICATION

In consideration of being permitted to take part in Lexington's Fourth of July Festival, the undersigned participant hereby releases, absolves, holds harmless and waives all claims against Downtown Lexington Partnership, City of Lexington, and/or , for any losses or injuries of any kind whatsoever and further agrees hereby to indemnify, save and hold them harmless from and against all liability, claims, demands, damages, losses, costs and expenses (including reasonable attorney fees) which they, or any third parties, may suffer or incur as a result of the operation of food vendor's booth or business. Furthermore, food vendor has read and agrees to comply with the "Safety Guidelines" and "Temporary Food Service Guidelines".

\_\_\_\_\_  
Signature of Food Vendor

\_\_\_\_\_  
Date

## INSURANCE INFORMATION

### **\*\*Insurance is required for ALL concession vendors\*\***

Liquor Liability Insurance: If the vendor manufactures, distributes, sells, or serves alcoholic beverages, they must also submit a Certificate of Insurance providing proof of a liquor liability policy or properly endorsed general liability policy. The minimum acceptable limit of liability per claim is \$1,000,000 per occurrence. This requirement applies to the businesses or group that serves or sells the alcohol. The firm that is required to supply the liquor liability policy must list Downtown Lexington Partnership and Lexington-Fayette Urban County Government as Additional Insured on the policy providing the liquor liability insurance. Proof of liquor liability must be submitted along with the signed event contract.

**If you are accepted into the Fourth of July Festival, we will require that you provide two separate Certificates of Insurance for the event. Please do not include those COI forms with your application. Exact requirements will be included in your acceptance packet.**

**CONDITIONS OF PARTICIPATION**

Vendor agrees to the following:

1. To comply with the "Safety Guidelines" as contained in the application packet, which includes having the unit inspected and deficiencies corrected prior to arrival.
2. To adhere to the "Temporary Food Service Guidelines" and secure all necessary permits and licenses.
3. Each concessions vendor agrees to stop selling promptly within the date and time limits set forth in the Agreement.
4. Liquor Liability Insurance: If the vendor manufactures, distributes, sells, or serves alcoholic beverages, they must also submit a Certificate of Insurance providing proof of a liquor liability policy or properly endorsed general liability policy. The minimum acceptable limit of liability per claim is \$1,000,000 per occurrence. This requirement applies to the businesses or group that serves or sells the alcohol. The firm that is required to supply the liquor liability policy must list Downtown Lexington Partnership and Lexington-Fayette Urban County Government as Additional Insured on the policy providing the liquor liability insurance. Proof of liquor liability must be submitted along with the signed event contract.
5. Each vendor will be subject to on-site inspection by the Health Department and the Division of Fire and Emergency Services.
6. Each vendor will only sell items previously approved by the DLP.
7. This event WILL have an official non-alcoholic beverage sponsor, Pepsi. All non-alcoholic beverages, including soft drinks and water as set forth in the Agreement, must be purchased through the sponsor or designee. More information will be provided in your acceptance packet.
8. Each vendor will only occupy space assigned to them.
9. Each vendor will only utilize the amount of electricity requested on the application.
10. Applications will be accepted on a first-come, first-served basis and must be complete to be considered. Vendors who participated in the event the year prior will have first right of refusal on available slots, *not on exact booth locations*.
11. The number of locations available for food concessions is limited, and locations may change from year to year. DLP will assign all locations for concession vendors based on availability of appropriate and safe power supply, order in which complete application packets were received and ability to offer patrons a variety of food items.
12. Private permission for specific locations will be not accepted within the Event area.

13. No vendor will be allowed to set-up seating for patrons. Seating will be provided by DLP.
14. All food vendors must be approved by the DLP and pay an entry fee per individual booth/unit in order to participate in the Event.
15. Any vendor requested to close their booth by the DLP shall immediately begin packing their supplies. All personnel, equipment, and supplies shall vacate vendor booth space within one hour of notification. Security will be strictly enforced. Any vendor having had their booth closed by the DLP may be prohibited from participation in future events.
16. Each vendor will be subject to booth closure at the request of DLP for:
  - Violation of application conditions
  - Rude, vulgar or argumentative behavior towards DLP staff, Festival staff, patrons, or other Festival vendors
  - Selling beverages other than sponsor products
  - Violation of vendor booth space boundaries
  - Selling unauthorized products
  - Sanitary and/or safety violations

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Signature of Vendor & Date

#### **APPLICATION PACKET CHECKLIST**

To be considered for approval to operate a concession booth/unit during the Event, please complete and submit the following:

- \_\_\_\_\_ Application
- \_\_\_\_\_ Diagram of booth/unit containing all information requested
- \_\_\_\_\_ Release form signed and dated, and insurance information completed
- \_\_\_\_\_ "Conditions of Participation" form signed and dated
- \_\_\_\_\_ Payment for booth fee plus separate check for \$100 for cleaning deposit, both made payable to Downtown Lexington Partnership

**Application packets should be mailed or hand delivered to:**

Downtown Lexington Partnership \* 316 West High Street \* Lexington, Kentucky 40507

**Any questions regarding this process should be direct to:**

Laura Farnsworth, Senior Event Director  
(859) 335-8640 \* [laura@downtownlex.com](mailto:laura@downtownlex.com)

### CONCESSION VENDOR SAFETY GUIDELINES

The following are general safety requirements for booth-type mobile units or structures and prefabricated concession units assembled on-site, for temporary use during special events.

1. Construction must be such that sharp edges, attached equipment and drop-down counters will not cause danger to the public.
2. L.P. gas units will be inspected and must be approved for use at each set-up location on the day of the event.
3. No open fires are allowed, but charcoal grills are permissible. **You must have a grease mat under any grill to catch the grease.**
4. **Each unit must be equipped with an approved fire extinguisher**
5. Electrical hookups must be safely connected to appropriate power sources
  - DLP will provide power to approved concession vendors for food-producing appliances only. Power will not be provided for comfort items such as TV's, fans, etc. A 20-amp power cord equipped with a Ground Fault Interrupter (GFI) at the vendor's end of the cord will be provided. If vendor has amperage requirements greater than 20 amps, the vendor must supply the cord.
  - In each pre-wired unit, all interior wiring must be in good repair and at no time be exposed to the public. The vendor is responsible for ensuring the wiring in all trailers/booths, including rented units, is safe and in good repair.
  - Each unit must be equipped with an approved fuse or breaker panel box. Each unit must be equipped with a power cable running from the panel box to the exterior (non-public) side of the unit and equipped with a male-type receptacle with ground. Extension cords shall not be used.
  - On 220 connections, direct wire hookup will be provided. You will be required to provide a female receptacle, short cable and connection box for your equipment if your unit is not wired for such. Units requiring 220 service must have a 4-wire electrical system instead of a 3-wire system. 2-wire electrical systems will be accepted under any circumstances.
  - Adherence to these safety guidelines is the sole responsibility of the vendor. Failure to comply with these guidelines can result in the ineligibility of the vendor to participate in the Festival. In order to minimize the problems at time of setup, each unit should be inspected during the two week period prior to the event. Any problem areas or deficiencies will be identified at this time so they may be corrected prior to setup. An on-site inspection will also be conducted at set-up. Festival representative will not perform on-site repair or installation of wiring inside the booth/unit.

## **VENDOR AGREEMENT AND APPLICATION**

**WHEREAS**, the DLP is a corporation organized for the purpose of improving and promoting downtown Lexington; and

**WHEREAS**, in furtherance of its purpose, the DLP conducts and manages certain events to promote downtown Lexington, including, without limitation, the Lexington Fourth of July Festival ("Event"); and

**WHEREAS**, the DLP chooses to have and allow food and beverage vendors at the Event; and

**WHEREAS**, the Vendor desires to participate in the Event as a food and/or beverage vendor.

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, plus other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

### **1. Term and Termination**

(a) **Basic Term.** Unless sooner terminated as provided herein, the term of this Agreement shall be for the duration of the Event only, which commences on July 4, 2020 and shall end on July 4, 2020 ("Term").

(b) **Early Termination.** DLP may terminate this Agreement at any time for Proper Cause (hereinafter defined) by delivering written notice of such termination to the Vendor. Termination in accordance with this paragraph shall have the effect described in subparagraph (c) of this section. For purposes of this Agreement, "Proper Cause" shall exist if: (A) Vendor defaults in its obligation to perform its duties and obligations under this Agreement, or breaches any representation or warranty made herein; or (B) if Vendor shall have any license or permit necessary for it to conduct its operations or to perform its duties and obligation under this Agreement suspended or revoked and such license or permit is not reinstated with full effectiveness within fifteen (15) days of such suspension or revocation and prior to the commencement of the Event.

(c) **Effect of Termination.** Upon termination of this Agreement (unless otherwise set forth in a written agreement between the parties hereto), Vendor shall have no further right to be participate in the Event as a vendor or be in any way associated with the Event.

### **2. Rules and Regulations**

(a) **Discretion of DLP.** DLP may make such reasonable rules and regulations from time to time, before and during the event, as it shall deem necessary or desirable. The Vendor will be advised thereof to the extent possible prior to the commencement of the Event and will be advised during the course of the Event of any additional rules, regulations and requirements made pursuant thereto. Any violation by the Vendor, its employees, agents or representatives of such rules and regulations or any conduct by the Vendor, its employees, agents or representatives which, in the absolute and sole discretion of the DLP, is objectionable or detracts from the dignity of the Event, shall constitute a breach of agreement and, in any such event, without waiving any other right of account hereof, the DLP may remove

from the Event the Vendor or any or all of its employees, agents or representatives. The decision of the DLP in connection with any action taken by it or on its behalf shall be final and binding.

(b) Participation In Event. A Vendor Agreement executed in full by both parties if required before the Vendor will be granted access to and participation in the Event. The DLP must approve all vendors selling concessions in the designated event/festival area, including those vendors licensed to operate food/beverage concessions throughout the remainder of the year in the event/festival area. Notification of vendors' participation in Event and booth space assignment will be mailed to selected vendors by no earlier than June 1, 2018.

(c) Application Requirements. Vendor must complete and submit the Agreement and Application, including all addendums, in full to be considered for participation in the Event. A Checklist to be used by Vendor in completing and submitting the Agreement and Application is attached. All products to be sold by Vendor must be identified by Vendor in writing and submitted with the Application, and all products to be sold by Vendor must be approved by the DLP in writing prior to the Event. Applications will be accepted in order received by the DLP, except vendors who participated in the Event the immediate year prior will be given priority. If the Agreement and Application are not completed in full, same will be returned to the Vendor and will not be considered by the DLP.

(d) Booth Space. All booth spaces are measured in 10' x 10' dimensions. Vendor shall not erect or otherwise provide tables, chairs and/or other seating arrangements for Event patrons. All patron seating will be provided by the DLP. If Vendor uses any machine, apparatus or equipment (grills, soda machines, etc.) that may soil or stain the booth space or adjacent streets or sidewalks, Vendor is required to place a grease mat under said equipment. Vendors who participated in the Event the immediate year prior will have first right of refusal on available spaces, but not on exact booth locations. Booth space locations for the Event may change from year to year. The DLP will within its sole discretion assign booth spaces for concession vendors.

(e) Submission Deadline. The completed Agreement and Application and payment for all applicable fees must be submitted in writing and received by the DLP no later than the 12 day of June, 2020, at the address below.

Downtown Lexington Partnership  
316 West High Street  
Lexington, Kentucky 40507

(f) Hours of Operation. Vendor shall set up the booth/unit within the booth space designated by the DLP on the 4 day of July 2020, between the hours of 9:00am and 6:00pm. If applicable, Vendor shall limit its hours of operation for alcohol sales during the Event to 9:00am-6:00pm. Vendor shall break down and remove the booth/unit and clean and return the booth space to equal or better condition than originally provided to Vendor, including but not limited to removal of all trash and grease spills, by no later than 7:00pm on the 4 day of July, 2020.

(g) Official Non-Alcoholic Beverage Sponsor. G&J Pepsi-Cola Bottlers, Inc. is the official beverage sponsor of the Event. All beverage products (including carbonated beverage and water) must be Pepsi-Cola products, and must be purchased onsite directly from G&J Pepsi. Any violation of this requirement will result in the closure of Vendor's booth within the sole discretion of the DLP.



(h) Approved Products for Sale. Vendor shall not sell any products not identified by Vendor in the Application and approved by the DLP in writing. Any sale of products not approved by the DLP in writing may result in the closure of Vendor's booth within the sole discretion of the DLP.

(i) Electrical Requirements. Vendor shall identify in writing all electrical requirements in the Application. Electric needs not identified in the Application will not be furnished. Special attention will be paid to the safe hookup and provision of electric supply during the Event. Specific electrical and safety requirements are set forth in the "Safety Guidelines" in Addendum 3. Vendor must comply with all such requirements, and any violation of the requirements may result in the closure of Vendor's booth in the sole discretion of the DLP. Vendor's booth/unit will undergo a final inspection prior to the Event.

(j) Health Department Requirements. The Lexington-Fayette County Health Department will pay special attention to safe storage, preparation, and serving of concessions. Any questions concerning Health Department requirements should be directed to Russell Cantrell, Health Environmentalist with the Lexington-Fayette County Health Department.

(k) Alcohol Service. If the Vendor will serve alcohol, the Vendor shall apply to the Alcohol Beverage Control ("ABC") office for a temporary license no later than June 1, 2020. All vendors must contact DLP prior to applying for a temporary license for a letter of approval.

The procedure for applying has changed drastically from previous years. Any vendor wishing to sell beer during the event should submit this application as soon as possible to ensure the sufficient amount of time to process the Special Temporary License application with Local and State ABC.

### 3. Vendor Fees.

(a) Multi-Item Concession Vendor. The fee for a multi-item concession vendor is \$300 per 10' x 10' space for the duration of the Event. All of Vendor's equipment and supplies, including the entire length of any trailer(s), must fit within the space requested by Vendor and approved by the DLP.

(b) Single-Item Concession Vendor. The fee for a single-item concession vendor is \$200 per 10' x 10' space for the duration of the Event. All of Vendor's equipment and supplies, including the entire length of any trailer(s), must fit within the space requested by Vendor and approved by the DLP.

(c) Cleaning Deposit. A cleaning deposit of \$100 per 10' x 10' space is required and must be submitted as a separate payment at the same time and with the Agreement, Application and space fee. The cleaning deposit fee will be refunded to Vendor if and only if the space(s) designated for Vendor's use are cleaned and returned to equal or better condition than originally provided to Vendor, including but not limited to removal of all trash and grease spills.

4. Insurance.

(a) Proof of Insurance. If accepted, Vendor shall submit the Insurance Information Form along with applicable Certificates of Insurance. The DLP may require additional coverage as to scope or policy limits as it shall deem necessary or desirable within its sole discretion. The Vendor will be advised of any additional coverage required by the DLP within fourteen (14) days of submission of the Agreement by Vendor to the DLP.

(b) Liquor Liability Insurance. If the Vendor manufactures, distributes, sells, or serves alcoholic beverages, Vendor shall submit a Certificate of Insurance providing proof of a liquor liability policy or properly endorsed general liability policy. The minimum acceptable limit of liability per claim is \$1,000,000 per occurrence. This requirement applies to the businesses or group that serves or sells the alcohol. The firm that is required to supply the liquor liability policy must list the DLP and Lexington-Fayette Urban County Government as Additional Insureds on the policy providing the liquor liability insurance. Proof of liquor liability must be submitted along with the signed event contract.

5. Indemnification.

(a) By DLP. The DLP agrees to indemnify and hold harmless Vendor, and its officers directors, agents and employees ("Vendor Indemnified Parties") from and against any and all claims, demands, obligations, damages, recoveries, liabilities, losses or deficiencies, whether accrued, absolute, contingent, known, unknown or otherwise (including without limitation, any and all penalties, interests, reasonable attorneys' fees and other costs and expenses relating to any and all actions, suits, proceedings, demands, assessments and judgments, but excluding and special, incidental or consequential damages) whether brought by the parties hereto or a third party, made against or incurred by any of the Vendor Indemnified Parties, which arise out of, result from or relate to: (i) any actual or alleged infringement or violation of any trademark, copyright, trade secret, right of publicity or privacy (including, but not limited to, defamation), patent or any other proprietary right, with respect to the Event Marks; or (ii) any misrepresentation, breach of warranty, breach of covenant or non-performance on the part of DLP under this Agreement.

(b) By Vendor. The Vendor agrees to indemnify and hold harmless DLP, and its members, officers directors, agents and employees ("DLP Indemnified Parties") from and against any and all claims, demands, obligations, damages, recoveries, liabilities, losses or deficiencies, whether accrued, absolute, contingent, known, unknown or otherwise (including without limitation, any and all penalties, interests, reasonable attorneys' fees and other costs and expenses relating to any and all actions, suits, proceedings, demands, assessments and judgments, but excluding and special, incidental or consequential damages) whether brought by the parties hereto or a third party, made against or incurred by any of the DLP Indemnified Parties, which arise out of, result from or relate to: (i) any actual or alleged infringement or violation of any trademark, copyright, trade secret, right of publicity or privacy (including, but not limited to, defamation), patent or any other proprietary right, with respect to the Vendor Marks or any advertisement prepared by Vendor; or (ii) any misrepresentation, breach of warranty, breach of covenant or non-performance on the part of Vendor under this Agreement.

5. Miscellaneous.

(a) Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations and understandings of the parties hereto with respect to the subject matter hereof.

(b) Modification. No modification or amendment to this Agreement shall be binding unless executed in writing by each of the parties hereto.

(c) Waiver. No waiver of any of the provisions of this Agreement shall be binding unless executed in writing by the party making the waiver.

(d) Assignment: Binding Effect. The rights granted under this Agreement may not be assigned or transferred by the Vendor (whether by operation of law or otherwise) without the express written consent of the DLP, in the DLP's sole discretion. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns (if any)

(e) Notices. All notices, claims, demands and other communications hereunder shall be in writing and will be deemed to have been given if delivered by hand, facsimile, or mailed (registered or certified mail, postage prepaid, return receipt requested), or sent by any other means of express mail with confirmed delivery, on the date (i) personally delivered, (ii) transmitted by confirmed facsimile transmission, or (iii) delivered by a reputable express messenger service or the U.S. Postal Service, and addressed or transmitted as follows:

To DLP	Downtown Lexington Partnership 316 West High Street Lexington, Kentucky 40507
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Telephone: (859) 335-8640

To the Vendor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any parties hereto may change its address for purposes of notice under this Agreement, by delivering to the other party hereto a notice specifying the change delivered in the manner set forth herein.

(f) Severability of Provisions. The invalidity or unenforceability of any provision set forth in this Agreement shall not affect the other provisions of this Agreement, which shall be construed in all respects as if such invalid or unenforceable provisions were omitted or modified (consistent with the expressed intention of the parties hereto) to the extent necessary to make such provision valid and enforceable.

(g) Remedies. The parties hereto acknowledge and agree that there is no adequate remedy at law in the event of a breach or threatened breach of any of the provisions of this Agreement and, therefore, each party hereto shall have (in addition to any other remedy available at law), the right to specific performance of the terms of this Agreement or injunctive relief in the event of a breach or threatened breach of this Agreement.

(h) Governing Law and Venue. This Agreement is executed and delivered, and shall be governed, enforced and interpreted in accordance with the laws of the Commonwealth of Kentucky. Any suit involving any dispute or matter arising under this Agreement may only be brought in the United States District Court for the Eastern District of Kentucky or any state court in Fayette County, Kentucky, having jurisdiction over the subject matter of the dispute or matter. All parties to this Agreement hereby consent to the exercise of personal jurisdiction by any such court with respect to any such proceeding.

(i) Headings. All headings in this Agreement are intended solely for convenience of reference, and such headings shall not be deemed to affect the meaning or construction of this Agreement.

(j) Relationship of the Parties. The parties hereto acknowledge and agree that nothing contained herein is intended to create, or shall be construed as creating an agency, joint venture or partnership between the parties, or between any party and the DLP. The parties further agree not to refer to the other, in promotional material or otherwise, in any capacity which would imply the existence of such a relationship.

(k) Force Majeure. The parties shall not incur any liability or be responsible to the other because of a failure to perform the obligations hereunder due to any cause beyond the parties' reasonable control, including without limitation, any act of God, fire, casualty, accident, labor dispute or strike, riot or civil commotion, act of public enemy, or governmental action.

(l) Confidentiality. The parties hereto shall treat as confidential and proprietary (and will disclose only to its own employees and agents and representatives on a need-to-know basis) the financial terms of this Agreement and all of the Confidential Information (as defined below) of the other parties, provided that if a person becomes legally compelled to disclose another party's Confidential Information, it shall promptly notify such party, and such party may seek a protective order or other appropriate remedy and/or waive compliance with this Section, and provided, further, however, that such Confidential Information shall at all times remain proprietary to such other party regardless of any such disclosure. For purposes of this Agreement, "Confidential Information" shall mean all records, data or information learned by the parties in connection with the negotiation or performances of this Agreement, whether during or after the Term, concerning the other party, other than information in the public domain or any other information that the parties may approve in advance for disclosure.