



COVID 19 CHECKLIST – Agreements & Contracts

- 1 Inform yourself about and comply with all federal government, state government, and local government orders and guidelines regarding operation of fairgrounds and presentation of events.
- 2 Develop a relationship with a contact from your State’s Department of Health, local health offices, and Department of Homeland Security.
- 3 Inform yourself about your community's emergency plan and the details of the fairgrounds role in the plan.
- 4 To put yourself in the best position to defend against a claim by an entertainment act, sponsor or vendor the following force majeure language should be incorporated in all contracts:

“The performance of this Agreement is subject to termination without liability by either party upon the occurrence, or upon the prediction by the National Oceanic and Atmospheric Administration, any agency of the United States Government, or any agency of the Government of the State of (your state) of the occurrence of any circumstance beyond the control of either party—including, without limitation, acts of God, war, acts of terrorism within a fifty (50) mile radius of (your fair) facility, government regulations, disaster, pandemic/epidemic illness, strikes or threat of strikes (except that neither party may terminate this Agreement for situations involving that party’s own employees), civil disorder, or curtailment of transportation facilities—to the extent that such circumstance makes it illegal, impossible or economically impracticable for the (your fair) to provide, or for the (Act, Vendor, Sponsor in general to use, the (your fair) facilities. The ability to terminate this Agreement without liability pursuant to this paragraph is conditioned upon delivery of written notice from one party to the other within 10 days of such occurrence or upon delivery of written notice from one party to the other within 24 hours of the receipt of notice of the prediction of any of the above occurrences.”

- 5 The common law in all states recognizes a theory of law that excuses performance of a contract in the event of “impossibility of performance.” The suggested language above will make the use of that theory easier. However, if your contracts already in existence don’t contain that or similar language you will be forced to rely on the common law theory. To use that law successfully in pandemic/epidemic situations courts will probably require that a government official has issued an order or directive prohibiting gatherings.