



**Dykema Gossett PLLC**  
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November 22, 2023

**Via Email: [chill@collincountytx.gov](mailto:chill@collincountytx.gov)**

The Honorable Chris Hill  
Collin County Commissioner Judge  
2300 Bloomdale Road  
Suite 4192  
McKinney, TX 75071

Re: Dykema Engagement Letter regarding Legal Representation *in Re The State of Texas, ex rel. Brian W. Wice, Relator*

Dear Judge Hill:

We are pleased to confirm the retention of Dykema Gossett, PLLC (“we” or the “Firm”) as legal counsel to Collin County (“you” or the “Client”) in connection with the legal representation *In Re: The State of Texas, ex rel. Brian W. Wice, Relator* currently pending in the Court of Criminal Appeals of Texas and a related filing by the County in Houston Courts of Appeal (the “Matter”). This Engagement Letter and the enclosed Standard Terms of Representation describe the basis on which our Firm will provide legal services to you. Mr. Christopher Kratovil will be your principal contact for this engagement. If you have questions concerning any of the information provided in this letter, I welcome your call or email.

**Clients.** For purposes of this engagement, and for conflicts of interest purposes, our client is Collin County, Texas.

Before accepting this engagement, we have performed a conflict check, and we have identified no conflict that would prevent us from representing the Client.

**Scope of Engagement.** The Firm will prepare a response to the petition for writ of mandamus and for writ of prohibition filed by Relator Brian W. Wice in the Texas Court of Criminal Appeals in the case styled *In Re: The State of Texas, ex rel. Brian W. Wice, Relator* and, in addition, the firm will prepare and file a petition for writ of mandamus in the First or Fourteenth Court of Appeals challenging the Harris County Trial Court’s Order awarding fees to Mr. Wice. The Firm will handle all aspects of proceedings in the Court of Criminal Appeals and the First or Fourteenth Court of Appeals, including oral argument (if any). If the County desires the firm to provide representation in the Harris County Trial Court, the Texas Supreme Court, or any court beyond

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the Court of Criminal Appeals and the First or Fourteenth Court of Appeals, we will require a separate engagement letter for that additional representation. Our engagement does not include any advice or other legal services relating to federal or state tax laws, federal or state securities laws, bankruptcy laws, or the filing of UCC financing statements, unless we otherwise agree in writing.

**Fees; Costs; Payment.** I will be primarily responsible for this matter and may utilize the assistance of other lawyers or paralegals in the Firm from time to time as the need arises. A flat fee in the amount \$50,000 will be assessed and will cover the Firm's work for the County in the Court of Criminal Appeals and the First or Fourteenth Court of Appeals. Specifically, the firm will undertake the defense of the pending matter before the Texas Court of Criminal Appeals and will also initiate and pursue an action in the Houston intermediate appellate courts contesting the propriety of the Houston District Judge's decision to require any additional payments to Mr. Wice. In addition to the \$50,000 flat fee, the Firm will invoice the County for reasonable and necessary expenses incurred in the matter (such as, for example, travel costs to an oral argument).

The \$50,000 flat fee does not apply to any work the County may ask the Firm to undertake in the Harris County Trial Court, the Texas Supreme Court, or any court beyond the Court of Criminal Appeals and the First or Fourteenth Court of Appeals.

Invoices will be sent to the Honorable County Judge Chris Hill for payment within 45 days of receipt. Please note that our hourly rates are adjusted as of January 1 of each year.

The financial terms of our representation are further described in the enclosed Standard Terms of Representation.

**Retainer, Disbursements, and Other Charges.** Our Firm usually requires a retainer fee from all new clients in the amount of \$10,000. We have agreed to waive a retainer in connection with this engagement, however. The financial terms of our representation are further described in the enclosed Standard Terms of Representation.

Unless special arrangements are otherwise made, invoices from third parties may be forwarded to the Client for direct payment. There often is an unavoidable delay in reporting disbursements and other charges, and therefore not all disbursements and charges may be billed at the same time as the related legal services.

Please contact me if you have questions or concerns about our fees or billing procedures.

You agree that we have the right to request prompt payment for services rendered. If you fail to timely pay such payments, we have the right to cease performing further work and to withdraw from the representation.

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**Standard Terms of Representation.** Additional information regarding fees and other important matters appear in the enclosed Standard Terms of Representation, which are incorporated as part of this letter and which the Client should review carefully before agreeing to our engagement.

**Standard Terms of Contract.** Additional information regarding standard terms of contract appear in the enclosed Additional Terms and Conditions, which are incorporated as part of this letter

**Texas Lawyer's Creed and Complaint to State Bar.** Under the Rules of the Texas Supreme Court and the State Bar of Texas, we are required to advise our clients of the contents of the Texas Lawyer's Creed, a copy of which is attached. The State Bar of Texas also requires that we advise you as follows:

The State Bar investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar Office of General Counsel will provide you with information about how to file a complaint. For more information, you may call 1-800-932-1900. This is a toll-free call.

You are encouraged to consult with other counsel on any of the terms of this letter and the attachments, including the waiver provisions thereof.

Please indicate the Client's acceptance of the terms of this letter and the Standard Terms of Representation by signing and returning a copy of this letter to me. If you do not sign and return this letter, but use our services, such use shall be considered your acceptance of this engagement letter and the enclosed Standard Terms of Representation.

We are delighted that you have chosen to refer this Matter to us, and we look forward to working with you.

Sincerely,

**Dykema Gossett PLLC**

*/s/ Christopher D. Kratovil*

Christopher D. Kratovil

***Enclosures: 2***

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**AGREED TO AND ACCEPTED:**

Hon. Chris Hill  
Collin County Commissioner Judge

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Date: November \_\_, 2023

**Dykema Gossett, PLLC**  
**Standard Terms of Representation**

The following standard terms and conditions of engagement are incorporated in and made a part of the engagement letter for each “Matter” for which Dykema (“Dykema” or “Firm”) is engaged to represent the “Client,” as those terms are defined in the engagement letter.

**How We Charge for our Services and Expenses.** Unless some other arrangement has been agreed upon with the Client, Dykema will submit monthly invoices for services and expenses. This ensures that the Client has a current understanding of charges and expenses incurred. The work performed by Dykema on behalf of the Client will be described in the monthly invoice. **Payment is due upon receipt.**

Services. The Client will have an attorney who is responsible for the Matter. In addition to serving as the Client’s primary contact and either performing or overseeing all services provided for the Client, this attorney will review and approve each invoice the Client receives. The basis upon which we will charge for our services is subject to agreement between the Client and the Firm. In the absence of a specific agreement to the contrary, the primary factors in determining our fees include the time and effort required and the experience and skill of the person performing the work (reflected in hourly rates).

Expenses. At Dykema we make every effort to pass through third-party expenses with no mark-up and no surcharge for the cost of carrying the charge until payment is made by the Client. Filing fees, incorporation fees and similar expenses will appear on the Client’s bill at the amount actually disbursed by us on the Client’s behalf. *At times these types of expenses may appear on the Client’s bill well after the work has been completed. This is a result of the Firm not receiving the invoices from the vendor in as timely a manner as the work was performed.* The Client may be asked to pay directly certain larger expenses that are invoiced by third-parties for the Client’s account.

Other Payment Terms. Dykema reserves the right to bill back annual fees and charges levied by third party e-billing providers if e-billing is required by the client. In certain circumstances, we receive and retain discounts from our third-party contractors based on our volume use of their services. We strongly encourage the Client to raise promptly with us any questions or comments the Client may have regarding any invoice. If the Client’s account is not kept current, including attorney fees, we reserve the right to terminate our representation, in accordance with applicable rules of professional conduct. We reserve the right to

charge interest on all past due accounts. If collection proceedings are necessary, the Client agrees to pay for our legal fees and expenses. Dykema reserves the right to update how we charge for our services and expenses without notice.

**Responsibility for Payment.** The Client is responsible for payment. In certain transactions in which we represent the Client, the Client may request that a third party pay the bill for our services. Nevertheless, as our client, the Client, and not the third party, shall be responsible for ensuring that our fees and other charges are paid in a timely manner.

**Confidentiality.** We do not disclose nonpublic information about our clients or former clients to anyone, except as permitted by law and the applicable rules of professional conduct. We will preserve the confidentiality of any confidential information that the Client provides to us in the course of our representing it and will not disclose or use any such information for the benefit of any other client. Conversely, we will not disclose to the Client or use on its behalf any information with respect to which we owe a duty of confidentiality to another client or person.

**Advice about Possible Outcomes.** Either at the commencement or during the course of our representation, we may express opinions or beliefs concerning the Matter or various courses of action and the results that might be anticipated. Any such statement made by any lawyer of our Firm is intended to be an expression of opinion only, based on information available to us at the time, and does not constitute a promise or guarantee.

**Estimates.** As we have discussed, the fees and costs relating to this Matter are not predictable. Accordingly, we have made no commitment to the Client concerning the maximum fees and costs that will be necessary to resolve or complete this Matter. Any estimate of fees and costs that we may have discussed represents only an estimate of such fees and costs. It is also expressly understood that the Client's obligation to pay the Firm's fees and costs is in no way contingent on the ultimate outcome of the Matter.

**Client Responsibilities.** The individual identified in the engagement letter will be our Client contact for this Matter. Client agrees to cooperate fully with us and to provide promptly all information known or available to Client that is relevant to our representation. Client also agrees to pay our statements for

services and expenses as provided in the engagement letter and in these standard terms. We will keep Client informed of significant developments on all assignments through routinely providing the Client contact with copies of incoming and outgoing documents, as well as through having periodic discussions, and we will consult with the Client contact in advance of taking any major actions.

**Insurance.** Unless expressly included in the scope of engagement above, the Client shall be responsible for tendering any claim or suit to the Client's insurer. It is possible that the Client or Dykema may secure the agreement of an insurance company and that Dykema may act as the Client's counsel. Some insurance companies impose restrictions on the type, amount of or hourly rate for legal services for which they will pay and may further refuse reimbursement for various cost items. In addition, some insurance companies may unilaterally impose other restrictions which are different from this Agreement. While Dykema will, of course, work cooperatively with any insurance company defending the Client, and make every effort to minimize the expense not absorbed by the Client's insurance company, Dykema's agreement is with the Client, the Client agrees to pay promptly Dykema's invoices, and the Client will seek such reimbursement from the insurance company as may be appropriate. In the event a billing dispute arises between the Client and the insurance carrier, Dykema will advise the Client and, if the Client wishes, Dykema will represent the Client in connection with that dispute.

**Retention and Disposition of Documents.** Following termination of our engagement, any otherwise non-public information that the Client has supplied to us with respect to such Matter and which is retained by us will be kept confidential in accordance with applicable rules of professional conduct.

Upon the Client's written request, the Client's papers and property will be returned to the Client promptly upon receipt of payment for all outstanding fees and expenses, unless otherwise required by applicable rules of professional conduct. Our own files pertaining to the Matter will be retained by the Firm in accordance with our normal policies. These include, for example, Firm administrative records (such as time and expenses reports, personnel and staffing materials, and credit and accounting records) as well as internal lawyers' work product (such as drafts, agreements, notes, internal memoranda and e-mail, legal and factual research and investigative reports). All records and files will be retained and disposed of in compliance with our policy in effect from time to time without further notice to the Client. Subject to future changes, it is our current policy generally not to retain records relating to a Matter for more than seven years.

**Termination.** Our representation of the Client in this Matter may be terminated by either of us at any time by written notice by or to the Client. Such written notice may be (a) the Client's notification to us of the Client's termination of our representation, (b) our confirmation to the Client of the completion of our representation, or (c) our notification to the Client of our withdrawal. Our representation also will end, regardless of whether or when written notice was sent by or to the Client, as of the date of our final statement for services rendered in connection with the Matter. If our services are terminated for any reason, such termination shall be effective only to terminate our services prospectively and all the terms of the engagement letter and these standard terms shall survive such termination.

We reserve the right to withdraw from our representation as permitted by applicable rules of professional conduct. In the event

that we terminate the engagement, we will be entitled to be paid for all services rendered and costs or expenses incurred on behalf of the Client through the date of withdrawal. If permission for withdrawal is required by a court or arbitration panel, we will promptly request such permission and the Client agrees not to oppose our request.

**Post-Engagement Matters.** Upon cessation of our active involvement in a particular Matter (even if we continue active involvement in other matters on the Client's behalf), we will have no further duty to inform the Client of future developments or changes in law as may be relevant to such Matter. Further, unless the Client and Dykema mutually agree in writing to the contrary, we will have no obligation to monitor renewal or notice dates or similar deadlines which may arise from the Matter for which we had been retained.

**External Electronic Communication Authorization.** The Firm may send documents or other information that is covered by the attorney-client or work product privileges using external electronic communication ("EC") (via the internet or other network). The Client understands that EC is not an absolutely secure method of communication. The Client's execution of the engagement letter will serve to acknowledge and accept the risk and authorize the Firm to use EC means to communicate with the Client or others necessary to effectively represent the Client. If there are certain documents with respect to which the Client wishes to maintain absolute confidentiality, the Client must advise the Firm in writing not to send them via EC and the Firm will comply with the Client's request

**Consent to Use of Information.** In connection with future materials that, for marketing purposes, describes facets of our law practice and recite examples of matters

we handle on behalf of clients, the Client agrees that, if those materials avoid disclosing the Client's confidences and secrets as defined by applicable ethical rules, they may identify the Client as a client, may contain factual synopses of the Client's matters, and may indicate generally the results achieved, unless otherwise agreed to.

**Entire Agreement.** The engagement letter and these standard terms constitute the entire understanding and agreement between the Client and the Firm regarding the terms of our

engagement in this Matter and supersedes any prior understandings and agreements, written or oral, and any subsequent billing requirements, or letters submitted to us by the Client. If any provision of the engagement letter or these standard terms is held by a court or arbitration panel to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect. The engagement letter and these standard terms may be amended only by means of a subsequent, written agreement between the Client and the Firm.

THE TEXAS LAWYER'S CREED  
A MANDATE FOR PROFESSIONALISM

Promulgated by  
The Supreme Court of Texas and the Court of Criminal Appeals  
November 7, 1989

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.

**OUR LEGAL SYSTEM**

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

I am passionately proud of my profession. Therefore, "My word is my bond."

I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.

I commit myself to an adequate and effective pro bono program

I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.

I will always be conscious of my duty to the judicial system.

**LAWYER TO CLIENT**

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred

by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

I will advise my client of the contents of this creed when undertaking representation.

I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.

I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.

I will advise my client that civility and courtesy are expected and are not a sign of weakness.

I will advise my client of proper and expected behavior.

I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.

I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.

I will advise my client that we will not pursue tactics which are intended primarily for delay.

I will advise my client that we will not pursue any course of action which is without merit.

I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.

I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

### **LAWYER TO LAWYER**

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

I will be courteous, civil, and prompt in oral and written communications.

I will not quarrel over matters of form or style, but I will concentrate on matters of substance.

I will identify for other counsel or parties all changes I have made in documents submitted for review.

I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.

I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.

I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

I will refrain from excessive and abusive discovery.

I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.

I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

### **LAWYER AND JUDGE**

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will

refrain from conduct that degrades this symbol.

I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.

I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.

I will be punctual.

I will not engage in any conduct which offends the dignity and decorum of proceedings.

I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.

I will respect the rulings of the Court.

I will give the issues in controversy deliberate, impartial and studied analysis and consideration.

I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

### **ORDER OF THE SUPREME COURT OF TEXAS AND THE COURT OF CRIMINAL APPEALS**

The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession's broader duty to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals are committed to eliminating a practice in our State by a minority of lawyers of abusive tactics which have surfaced in many parts of our country. We believe such tactics are a disservice to our citizens, harmful to clients, and demeaning to our profession.

The abusive tactics range from lack of civility to outright hostility and obstructionism. Such behavior does not serve justice but tends to delay and often deny justice. The lawyers who use abusive tactics instead of being part of the solution have become part of the problem.

The desire for respect and confidence by lawyers from the public should provide the members of our profession with the necessary incentive to attain the highest degree of ethical and professional conduct. These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon re-enforcement by peer pressure and public opinion, and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence.

These standards are not a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed.

We must always be mindful that the practice of law is a profession. As members of a learned art we pursue a common calling in the spirit of public service. We have a proud tradition. Throughout the history of our nation, the members of our citizenry have looked to the ranks of our profession for leadership and guidance. Let us now as a profession each rededicate ourselves to practice law so we can restore public confidence in our profession, faithfully serve our clients, and fulfill our responsibility to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals hereby promulgate and adopt "The Texas Lawyer's Creed - A Mandate for Professionalism" as attached hereto and made a part hereof.

*In Chambers, this 7th day of November, 1989.*

### **The Supreme Court of Texas**

Thomas. R. Phillips, Chief Justice  
Franklin S. Spears  
C. L. Ray  
Raul A. Gonzales  
Oscar H. Mauzy  
Eugene A. Cook  
Jack Hightower  
Nathan L. Hecht  
Lloyd A. Doggett  
Justices

### **The Court Of Criminal Appeals**

Michael J. McCormick, Presiding Judge  
W. C. Davis  
Sam Houston Clinton  
Marvin O. Teague  
Chuck Miller  
Charles F. (Chuck) Campbell  
Bill White  
M. P. Duncan, III  
David A. Berchermann, Jr.  
Judge

## Additional Terms and Conditions for Dykema Engagement Letter

### Additional Terms and Conditions

1. All Additional Terms and Conditions set forth by the County shall take precedence over and supersede any terms from the Firm's Standard Terms of Representation in the event of a conflict.
2. Payments will be made in accordance with VTCA Section 2251.021 Time for Payment by Government Entity.
3. To the fullest extent allowed by law, contractor shall defend, indemnify, and hold harmless Collin County from any third-party claim or action.
4. Collin County is by statute exempt from the State Sales Tax and Federal Excise Tax.
5. The Company shall not assign, sell, transfer, or convey this agreement, in whole or in part, without the prior written consent from Collin County.
6. In the event either party hereto is required to employ an attorney to enforce the provisions of this agreement or required to commence legal proceedings to enforce the provisions hereof, the prevailing party shall be entitled to recover from the other, reasonable attorney's fees and court costs incurred in connection with such enforcement including collection.
7. This agreement will be governed and construed according to the laws of the State of Texas. This agreement is performable in Collin County, TX.
8. Severability: If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
9. Force Majeure: No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: acts of God; flood, fire or explosion; war, invasion, riot or other civil unrest; actions, embargoes or blockades in effect on or after the date of this Agreement; or national or regional emergency (each of the foregoing, a "Force Majeure Event"). A party whose performance is affected by a Force Majeure Event shall give notice to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.