

Understanding Your Rights to “Cure” Quality and Service Issues in Supplier Contracts

Checks and Balances Series

Most of my clients that have a great supplier representative and a really good regional supply distribution center (DC) have a great partnership in place.

However, there are occasions where that may not be the case ... for a myriad of reasons. In those events, understanding how to “cure” those issues or as a last resort ... terminate the partnership can be critical to the success of your operation. It is important to share that I am not a lawyer, nor do I make any such warranties of legal expertise (sounds like a lawyer though). But I have seen my share of supplier contracts and have a very basic understanding of how restaurant operators can protect themselves.

I always believe that reasonable issues and concerns are part of any program ... and it is the supplier’s opportunity to address and resolve them in a timely fashion that solidifies the partnership.

I’ll attempt to break these down into two buckets, that (for lack of better terms) I’ll call ...

- Open contracts – where there may be a time frame or term to the contract, but there is an out clause for either party.
- Closed contracts – again, a specific term but an out for cause with the supplier having an option to “cure” the issue within a specific period of time.

Some awarenesses that may be helpful ...

- “Open contracts – most often a supplier contract where they are providing food and non-food items like paper & disposables. Typical to have an out clause for either party for any reason (30-60 days). Broad-line, meat, produce and other food distributors can have this in place (or typically can be negotiated upfront). If the issues aren’t cured within a reasonable amount of time, then the customer can opt out with a reasonable notice. The customer would have responsibility of helping to ensure that any proprietary inventory is transitioned to the new supply partner at the termination date though.
- Closed – most typical with suppliers that have advised they will need to bring in inventory or have equipment expense (such as rental agreements for linen and waste disposal, chemicals, soft drink programs).
- Taking the issues up the “food chain” of management in the event that resolution becomes difficult does provide the supplier with ample opportunity to correct issues.
- For either contract ... it may be important to have a thorough understanding upfront of what the “cure” period for the supplier will be and how that is implemented. Many suppliers in the “Closed” category mandate in the contract that they must receive written notice by certified or registered mail of the specific deficiencies in their performance sent to their General Manager.



It's been my experience that the vast majority of long-term supplier programs are handled very effectively and pro-actively. However, understanding your contract rights upfront on how to manage ongoing supply issues can help alleviate any continual issues and concerns not resolved down the road.

Thank you for following my "Checks and Balances" series. I hope you find my tips to be helpful. I'm always available for questions and would love to chat with you about your business!

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