

## Strategic Hotel Contract Negotiation

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Contracts can be complicated, but are a “must” to protect your company and to make expectations and responsibilities clear.

Meeting Sites Resource has a proven, methodical system that adds significant value to the site research, hotel evaluation, negotiation and contract process.

Effective negotiations goes beyond “dates, rates and space” and all hotel contract components, value-added concessions, hotel fees & surcharges and performance clauses should be part of the negotiation process. Everything is negotiable; however, it is important to plan, prioritize and to have a specific negotiations game plan for each meeting. Focus on what adds value to your meeting and the bottom line, with an emphasis on risk reduction.

### Create A Custom Master Hotel Contract Template / Amend For Each Meeting *(ready for signature)*

#### Include:

- All hotel contract components and clauses
- Value added concessions *(must have vs. nice to have)*
- Hotel fees and surcharges *(eliminate or reduce)*
- Performance clauses *(do the math and calculate on lost profit, not revenue)*
- Legal department liability language *(indemnification, insurance, successors and assigns, insurance, dispute resolution / arbitration, etc.)*
- Generate a cost savings / risk reduction report for each meeting *(from countersigned contract)*

### Key Contract Components

#### Option Date

- Specific date to execute contract by both parties
- If this date cannot be met, receive extension in writing
- If option date is not met, Hotel can release/resell rooms and meeting space

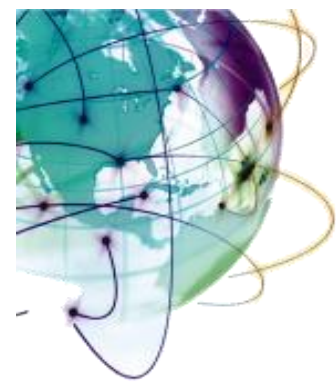
### Sleeping Room Block

The number of guestrooms and suites by day by category

### Guestroom Accommodations/Sleeping Room Categories

Outline all sleeping room requirements by day including:

- Breakdown of rooms and suites by category
- Meeting group rate by category Example of room categories are:
  - Ocean view
  - Golf view
  - Garden view
  - Pool view
  - Single *(one bed)*
  - Double/Double (two beds)
  - King bedded room
  - Suites/categories



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### Guestroom Accommodations/Sleeping Room Categories - continued

- Run of House (*ROH means a combination of all non-suite room categories. Identify exact percentage of each room category in contract*)
- Staff rooms/Concierge Club/VIP suites/Hospitality suites
- Applicable local and state taxes

### Room Rate

Rate charged by hotel for each room category based on single or double occupancy (*negotiate flat rate*)

### Cut-off Dates

Specific date hotel will hold rooms at guaranteed rate

- Specify dates to "review & adjust" room blocks
- Final date to release all unused rooms back to hotel
- Maintain your group rate based on availability
- Adjust room block (*increase or decrease*) as early as possible

### Published Rate Clause (No lower rates offered after contract is signed)

Protects your company if meeting attendees make reservations around group room *block* (*via Internet/discount web sites/telephone call in*)

- No lower rates offered once the contract is signed (excluding airline and wholesale travel rates)
- If the individual is an attendee of the Group's meeting and has a documented reservation in-house at the hotel, regardless of the room rate, the Group will receive credit for attrition purposes.

### Fees/Surcharges

Negotiate eliminate or reduce hotel fees and surcharges

- Resort fee
- Early departure fee
- Parking
- Health Club
- F&B Surcharges
- Maid / Bellman
- Telephone / Internet access
- Meeting room rental / set-up charges (*complimentary based on guaranteed room block / minimum F&B / no sliding scale*)

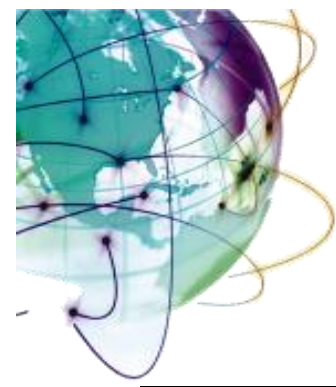
### Hotel Check-in/Checkout

- Hotel policy
- Customer requested times for VIPs / Staff

### Guestroom Attrition (see mitigated vs. liquidated damages / resell)

The number of sleeping rooms you may release without damages

- Percentage of total room block



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### Guestroom Attrition (see mitigated vs. liquidated damages / resell) - continued

- Guarantee 80% of your room block. This will allow 20% guestroom attrition up to your meeting date
- Hotel to mitigate damages by reselling rooms/ credit Customer account
- Hotel to use participants list to include in total room pickup numbers
- If attrition compensation due, hotel entitled to lost profit, not lost revenue (75% guestrooms; 35% food and beverage)
- Method and timetable for compensation to hotel

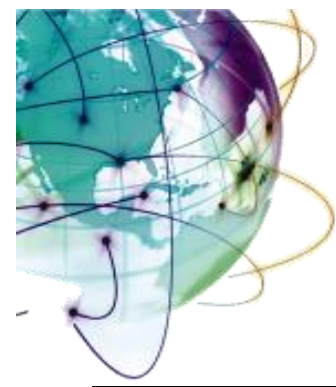
### Room and Space Block Review (if contracting 2 plus years out)

- Never sign a long term contract stating "rates to be negotiated"
- Define a formula in contract to establish a fair rate structure
- Match lowest group rate offered to other groups during same period
- Cancellation without damages if agreement can not be reached at least 18 months out
- Current lowest group rate/maximum percentage increases for future years (2%-5%)
- If hotel quality deteriorates, customer may cancel meeting without penalty

### Value Added Concessions

#### **Prioritize for each meeting based on specific needs and meeting value**

- |  |  |
|--|--|
| <input type="checkbox"/> Group rate honored 3 days prior & post meeting dates                      | <input type="checkbox"/> Complimentary / discounted food & beverage functions  |
| <input type="checkbox"/> Discount on staff rooms   | <input type="checkbox"/> Complimentary / discounted parking  |
| <input type="checkbox"/> Complimentary rooms ration/ cumulative (start 1 per 40)                   | <input type="checkbox"/> Discount off printed banquet menus  |
| <input type="checkbox"/> Complimentary suites  | <input type="checkbox"/> Discount off printed AV prices  |
| <input type="checkbox"/> Suite upgrades by category  | <input type="checkbox"/> Waive / discount resort fee   |
| <input type="checkbox"/> Club floor upgrades at group rate   | <input type="checkbox"/> Complimentary entry to health / fitness club  |
| <input type="checkbox"/> Complimentary/discounted hospitality suites                               | <input type="checkbox"/> Complimentary signage outside each meeting room / meal function / speaker ready room            |
| <input type="checkbox"/> VIP Transportation  | <input type="checkbox"/> No charge for signage, easels, tables, podiums, risers, lecterns, wastebaskets, recycle baskets |
| <input type="checkbox"/> VIP in-room amenities   | <input type="checkbox"/> Complimentary acceptance & storage of boxes / product / materials 3 days prior to meeting       |
| <input type="checkbox"/> Late check-out for VIPs / staff   | <input type="checkbox"/> Complimentary / discount Internet fees  |
| <input type="checkbox"/> Discount off Master Account (for larger meetings or payment at departure) |  |
| <input type="checkbox"/> No early departure fees   |  |



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### Bellman / Maid Gratuities

- Bellman gratuities and maid gratuities will be added to the master account (specify exact amount)
- Bellman and maid gratuities will be made at the discretion of attendees

### Method of Reservation / Cutoff Date

- Agreed upon date to have rooming list to the hotel (*generally two to three weeks*)
- Company to provide rooming list on or before cutoff date (*list payment type, complimentary room assignments, staff rooms, VIP upgrades*)
- Guests call hotel direct/pay via credit card
- Room and tax to master account; guest pays own incidentals
- Guests pays room, tax and incidentals via credit card

### Payment / Deposit / Billing

Determine how and when rooms and services will be paid:

- Individual reservations
- Company Check
- Credit card
- Master account
- Deposit formula (*flat fee, one night deposit, percentage of projected revenue*)
- No deposit due to hotel if guests pay for sleeping rooms via credit card
- Will hotel place deposits in escrow account?
- All advance deposits applied to master account
- Establish timetable for final payment of master account
- Final payment 30 days after you receive corrected master account
- Adjustments for accounting errors
- Billing arrangements
- Interest / late charges

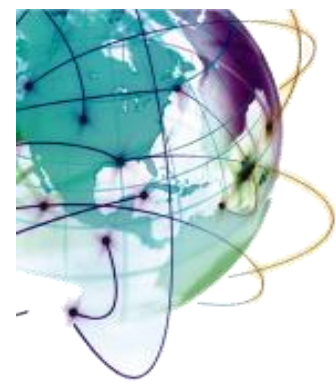
### No Additional Charges

- No fees or mandatory charges to guest folio or Master Account unless specifically stated in contract

### Food & Beverage Guarantee

Outline details for all meal/social function activities:

- Specify all group events/setup and use times/number of guests
- Additional room requirements (AV, head table, dance floor, theme props, etc)
- Allowable percentage reduction/date
- Percentage that hotel will overset for each event
- Guarantee total minimum food & beverage/allowable attrition



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### Audio/Visual Electrical Requirements

- Be sure fees for lighting and other fees that may be incurred for electrician, equipment and other support personnel or equipment is provided in the contract
- Know all fees that could pertain to your meeting
- Ask if hotel is union. If so, ask how union labor will support your meeting and what are the costs involved (*including overtime criteria*)
- No fee if you bring in your own AV / production supplier

### Function Space

Outline all meeting and event space as confirmed in request for proposal (RFP) and/or site inspection

- Detail specific room(s), dates & times
- No room change (without your approval)
- Define "break-out" rooms
- Approval of other social functions in adjoining rooms/foyer areas
- Complimentary meeting/event space based on percentage room pickup and F&B minimum
- No "sliding scale" or room rental based on room block guarantee and F&B minimum

### No Walk/Relocation

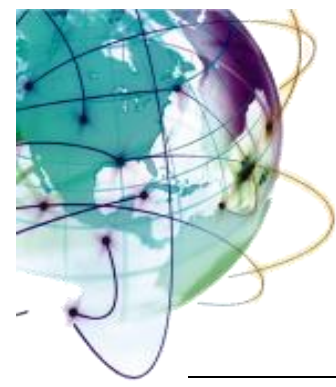
"Walking" confirmed reservations occur when hotel is oversold

- Relocation clause/financial responsibility if your guests are "walked" when hotel over sold
- Guest relocated to hotel of similar/better quality at hotel's expense
- Hotel to provide transportation / priority wait list to return / suite upgrade based on availability

### Cancellation (see mitigated vs. liquidated damages/resell)

In the event meeting is cancelled or postponed:

- Cancellation clause in every contract
- Compensation if reasons are other than termination/ Force Majeure
- Determine a fair formula: Flat fee, percentage of room night revenue or sliding scale or percentage of total revenue
- "Anticipated Lost Revenue" defined, not to exceed the profit margins of the hotel (*75% sleeping rooms, 35% F&B / do the math*)
- Establish criteria and methods that hotel will recoup revenues against the cancellation fee
- Identify a specific timetable for another meeting(s) can be booked without damages
- Define cancellation compensation if hotel defaults and does not honor your contract
- Always include resell clause (*avoid liquidated damages only*)
- Conduct hotel audit to verify rooms resold/credited to account (*eliminate rooms out of service/under renovation*).



## Strategic Hotel Contract Negotiation Strategies

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### Resell Clause

Plan in advance and know how damages are to be eliminated or reduced.

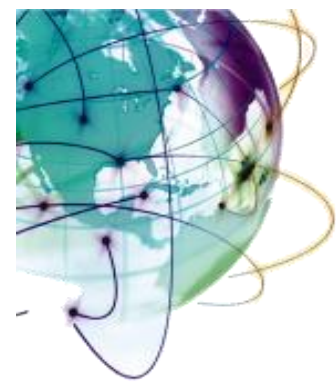
- The issues and details of sleeping room attrition and meeting cancellation are of utmost importance and spelling out specific compensation and responsibilities is a must.
- Generally, when a hotel contract is not honored (breached), the non-breaching party is entitled to lost profit, not lost revenue. Since lost revenue is difficult to calculate in advance, the courts allow the two parties to agree in advance on an amount or formula to be stated in the contract. It is best for damages to be stated on a sliding scale, with the amount increasing as the meeting dates get closer.
- A liquidated damage is a guaranteed dollar amount or specific formula to calculate a dollar amount. Liquidated damages must not be unreasonable or it could be deemed as a penalty if the case goes to court or arbitration (*hotel not obligated to resell rooms / credit company*).
- Mitigated damages hold the hotel accountable to try to resell sleeping rooms, Food & Beverage and other services. This duty to mitigate damages calls for the hotel to immediately try to replace business and minimize (or eliminate) compensation by the customer.
- Although this is the legal requirement, it is recommended placing a resell clause in the contract to make responsibilities clear.
- The other important issues are when compensation to the hotel is due and conducting an audit with the hotel after the meeting dates to determine if there is a credit due to your account.
- Provide provision that the damages due (or part of) can be applied to future meeting (include specific timeline)

### Liquidated vs. Mitigated Damages

Once an organization signs a contract with a hotel, assuming non-performance is not related to Force Majeure (occurrences out of Organization's and Hotel's control), there will be damages due...the key is the language and intent in the performance clauses and specific formula(s) to calculate damages, along with specific dates when damages are due.

Liquidated damages calls for a specific dollar amount or formula to calculate a specific dollar amount to be paid to the hotel in the event of non-performance. Damages collected by the hotel cannot be excessive, or they could be deemed a penalty. As an example, you contract with a hotel for 100 rooms at a \$200.00 room rate (\$20,000) and \$5,000 group Food & Beverage (\$25,000 total contract value), if the hotel seeks \$45,000 in cancellation damages, this would be considered a penalty and not allowed by hospitality law. With liquidation damages, the hotel is not obligated to resell rooms and credit the group.

Mitigated damages are the Hotel's responsibility to resell sleeping rooms, meeting and event space and contracted services, to reduce, or better yet, eliminate damages to the hotel. Back to the example of the 100 contracted sleeping rooms, say the contract called for 15% allowable Attrition (guarantee 85 rooms) and you actually utilize 70 rooms, you must pay for the 15 room shortfall. You would then instruct the hotel to conduct a rooms inventory audit by night, to determine total hotel occupancy (less rooms under renovation/out of service). If the hotel sells all but four rooms, then four rooms are all you are obligated to pay (on lost profit not lost revenue).



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### Indemnification

The agreement by Customer and Hotel to indemnify each other for own negligence

- Reciprocal protection for both the group and hotel
- Both parties mutually indemnify, defend and hold harmless against, claims of negligence/misconduct
- Many indemnification clauses are one-sided and it is a good idea to have your attorney review this clause (*or create one for you*)

### Americans with Disabilities Act

- Required by law – must be stated in contract

### Claims & Disputes

Agreement on procedures if Customer and Hotel cannot agree on performance damages

- Parties attempt to resolve dispute over a period of at least 30 days before resorting to formal dispute resolution
- If parties cannot resolve dispute, they will submit matter to a mutually agreed upon arbitrator with final decision binding

### Construction and Remodeling

Does not allow hotel to conduct renovations that impact your meetings

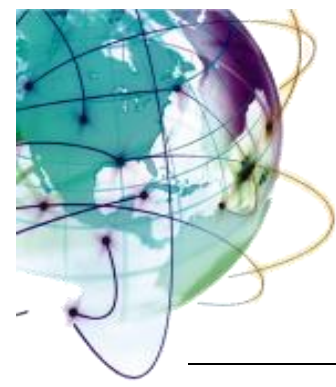
- Hotel to notify group if any construction, maintenance, remodeling, repairs that may be in effect over your meeting/room block dates
- Group has right to cancel without penalty and/or receive compensation if construction, maintenance, appearance or noise affects meeting
- Group reserves right to request construction, maintenance, repairs to be stopped during their meeting dates (state specific meeting dates in contract)
- If group does cancel due to construction, maintenance and repairs, all deposits will be returned to group in full within 30 days

### Change in Management/Termination

- Allows company to terminate contract without liability if hotel changes management company, franchise or if foreclosure occurs

### Breach by Hotel/Termination

- Hotel liable to company all direct and indirect costs (including attorney fees) if hotel fails to provide sleeping rooms, meeting space and services as contracted



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### Force Majeure/Termination

Allows company to cancel meeting based on factors out of your control

- Specific terms and conditions which either group or the hotel can cancel the meeting without financial responsibilities
- Events out of control of parties including but not limited to flood, earthquake, fire, war, terrorist attacks, World Health Organization (WHO) alerts, curtailment of transportation, labor strikes and government regulations
- Anything that makes it impracticable, illegal or impossible to perform
- If Customer still elects to conduct meeting, no attrition, food and beverage guarantees apply

### Bankruptcy/Termination

- Addresses liability issues in the event the hotel or company enters into bankruptcy or foreclosure

### Compliance with Laws

- Verify that the hotel will be in full compliance with all government laws and regulations

### Successors and Assigns

- Identifies commitments in event the company or Hotel is sold; assigns assets

### Key Clauses For Your Legal Department Review

- Indemnification
- Insurance
- Dispute resolution / arbitration
- Successors and assigns
- Bankruptcy

### Hotel Inventory Audit *(in the event of cancellation / attrition / performance damages)*

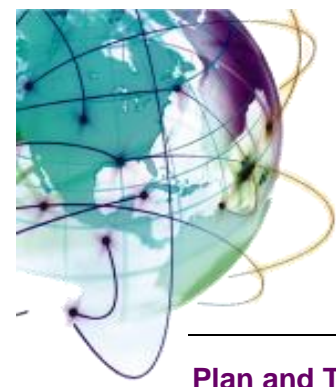
In the event of performance damages, audit process includes:

- Request a hotel room inventory / occupancy report by night
- Verify how many rooms were resold *(individual or group, regardless of room rate)*
- Verify how many rooms by night were out of service due to renovation or repair
- If attendees made their own hotel reservations (versus rooms on master), provide hotel with an electronic registration list to cross reference against all in-house guests over the meeting dates
- Capture any pre or post room nights

### **Plan and Think Before You Ink - Contract Tips:**

- All hotel contracts are negotiable *(plan and prioritize before you negotiate)*
- A thorough and well designed contract is essential for a successful meeting





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### **Plan and Think Before You Ink - Contract Tips: Continued**

- Stay away from vague phrases such as ample, reasonable, to be assigned, appropriate, etc.
- All meeting and event space to be assigned by day (*if a hotel will not assign specific space, they are not considered a candidate*)
- There is no contract until both parties have signed the document
- Written changes on the contract with date and initials represent a counteroffer
- Discuss areas of dispute and counter offers in an open and honest manner
- Negotiate an option date to sign and return the contract
- In the event of changes to the meeting dates, room block, suites, meeting space or hotel services, create a hotel contract addendum, detailing changes and secure mutual signatures.

Planners can add significant value to their meetings and the bottom line when they have a negotiation strategy that includes quality advance planning, a focus on meeting goals and objectives, an understanding of their meeting value and leverage and prioritized their hotel and contract components.

Please contact me if you have questions or if you need a strategic partner for future meeting needs.

### **GOT STRATEGY?**

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#### **MSR Professional Services**

Global Site Research & Hotel Contract Negotiations / Custom Contracts / 24/7 SMM Technology ***(No cost or fee to you)***

#### **Strategic Meeting Management Services (Fee Based)**

- Professional On-site Staffing (SOS)
- On-line Registration & Housing
- Meeting & Event Planning
- Custom Workshops / SMM Consulting
- Advanced Meeting Technology Solutions (*Sourcing, Meeting Consolidation / Leveraged Spend / SMM solutions*)

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