

GARVEY SCHUBERT BARER

GROUP SALES CONTRACTS: CRITICAL CONTRACT PRINCIPLES

GSBlaw.com

Presented by
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Portland, Oregon
December 16, 2013



CRITICAL CONTRACT PRINCIPLES

- Fees
- Group Audits
- Most Favored Nation
- Confidentiality
- Data Security & Privacy
- Gratuities
- Supplier Code of Conduct
- Force Majeure – Labor
- Undisclosed Commissions

FEES

As consideration for Venue's performance of the Services, Group shall compensate Venue as set forth in, and subject to, the terms and conditions of the applicable Event Addendum. Venue acknowledges and agrees that the payment provided for in the Event Addendum constitutes Venue's **entire remuneration for its performance of the Services under this Agreement**. Venue will not be reimbursed for any additional charges or expenses of any kind without the express prior written approval of an authorized Group representative.

GROUP AUDITS

Group shall have the right, at any reasonable time during the term of this Agreement and for a period of three (3) years after expiration or termination hereof, to audit Venue's records pertaining to Venue's obligations under this Agreement. **Venue shall maintain all such records for at least three (3) years after the expiration or termination of this Agreement.** Any such audit shall not relieve Venue of its obligations or liability hereunder or constitute Group's consent or approval to any actions undertaken or methods, systems and/or procedures used by Venue.

MOST FAVORED NATION

Venue represents and warrants that the price offered by Venue to Group for any products or services ordered by Group (the “**Group Price**”) shall not, as of the effective date of such order, exceed the lowest price offered to any other customer for similar products or services, net of any rebates and discounts, and regardless of the amount of products or services provided (the “**Lowest Offered Price**”). If, at any time during the term of the Agreement, the Lowest Offered Price offered by Venue to any other customer is less than the Group Price, Venue will notify Group within thirty (30) days of such offer, and, to the extent permitted by law, offer the Lowest Offered Price to Group for the remainder of the products and services to be provided by Venue under this Agreement.

CONFIDENTIALITY

Venue shall not disclose any Confidential Information to any third party or otherwise, and shall take all reasonable precautions to prevent its unauthorized dissemination, both during and after the term of this Agreement. Venue shall limit its internal distribution of Confidential Information to Venue Personnel who (i) have a need to know solely for the purposes of this Agreement, (ii) have been advised of their confidentiality obligations, and (iii) are under substantially similar obligations of confidentiality as those set out in this Section. Venue shall not use any Confidential Information for Venue's own benefit or for the benefit of anyone other than Group.

DATA SECURITY AND PRIVACY

Venue shall, and shall ensure that any Venue Personnel assigned to perform the Services, collect, access, maintain, use process and transfer Personal Data in accordance with the requirements set forth in this Section and for the sole purpose of performing Venue's obligations under this Agreement.

Venue and Venue Personnel shall at all times comply with Group's instructions regarding Personal Data, as well as all applicable laws, regulations, and international accords, treaties, or accords, including without limitation, the EU/US Safe Harbor program (collectively, "Legal Requirements"), and shall refrain from engaging in any behavior which renders or is likely to render Group in breach of same. Without limiting the generality of the foregoing, with respect to any data received directly or indirectly from the European Economic Area or from Group's European affiliates, Venue shall abide by the Safe Harbor Privacy Principles of the U.S. Department of Commerce, located at <http://www.export.gov/safeharbor>, as may be amended from time to time (the "Safe Harbor Principles"), excluding the Notice, Choice and Enforcement provisions contained within the Safe Harbor Principles.

DATA SECURITY AND PRIVACY (PT. II)

Venue may only disclose Personal Data to third parties (including Venue Personnel), who have a need to know and have signed agreements that require them to protect Personal Data in the same manner as detailed in this Agreement. Unless otherwise expressly permitted by this Agreement, Venue may not employ subcontractors without Group's written permission, which may be withheld in Group's sole discretion.

Venue shall maintain reasonable operating standards and security procedures, and shall use its best efforts to secure Personal Data through the use of appropriate physical and logical security measures including, but not limited to, appropriate network security and encryption technologies. Venue shall use reasonable user identification or password control requirements, and other security procedures as may be issued from time to time by Group in relation to Personal Data.

GRATUITIES

Venue shall not offer or give any Group employee, contractor or agent any gratuity, payment or other personal benefit or inducement with a view toward securing business from Group or influencing the terms, conditions or performance of this Agreement, Event Addendum or purchase order, or otherwise take any action that is or may be perceived as inconsistent with the United States Foreign Corrupt Practices Act (FCPA).

SUPPLIER CODE OF CONDUCT

At all times during the term of this Agreement, Venue shall comply with, and shall ensure that all Venue Personnel comply with the requirements of Group Supplier Code of Conduct found at www.group.com/supplierresponsibility (“Code of Conduct”). Subject to Venue’s site-safety and security requirements, Group, or an external monitor shall have the right to visit Venue’s facilities to assess compliance with the Code of Conduct, and to audit Venue’s wage, hour, payroll, and other worker records and practices.

SUPPLIER CODE OF CONDUCT (PT. II)

To the extent that this Agreement contemplates Venue's engagement of subcontractor(s) to perform any of its obligations under this Agreement. Venue shall ensure that its agreements with each such subcontractor; (a) require such subcontractor's compliance with the Code of Conduct; (b) provide that Group shall have the right to assess such subcontractor's compliance with the Code of Conduct; and (c) require such subcontractor to promptly implement corrective action to remedy any material non-conformance, identified by Group.

FORCE MAJEURE - LABOR

Notwithstanding anything in this Agreement to the contrary, if performance hereunder would **foreseeably involve [Group] in or subject it to the effects of a boycott, strike, lockout, picketing or other labor dispute** and [Group] therefore withholds, delays or cancels performance, it shall have no liability therefrom, provided that [Group] may not withhold, delay or cancel performance based upon a labor dispute involving its own employees. In the event of a cancellation under this Section, neither [Group] nor its members shall have any future obligation under this Agreement, and any deposits or other payments made to the Hotel by [Group] or its members to reserve rooms or other space for use, and/or for services to be provided, shall promptly be refunded to [Group] or its members. This Section shall supersede all other provisions of this Agreement and shall be construed and enforced in accordance with the laws of the State of [Group's home state, here].

UNDISCLOSED COMMISSIONS

January 30, 2013
Meeting Planner

Re: National Homebuilder

Dear Meeting Planner,

Enclosed please find a copy of the Sales Agreement between Convention Hotel (the "Hotel") and Group for the 2013 Sales Meeting (the "Event"). Per your request, we have omitted that Meeting Planner will be compensated by the Hotel with a 10% commission for its services in connection with this group booking. The commission is based on the actual rooms picked up within the contracted block only (excluding staff and other discounted rates) and will not be paid to Meeting Planner until final bill has been settled. Due to the non-disclosure of the 10% commission being paid to Meeting Planner by Hotel for the booking of the Event, Meeting Planner agrees as follows:

Meeting Planner agrees that it is fully responsible for determining whether further disclosure of the 10% commission is required and for making such disclosure if it is required. Meeting Planner further agrees that it will indemnify, defend and hold harmless the Hotel, its parents and affiliates, from and against any fees, costs, liabilities, or expenses whatsoever claimed from or imposed upon the Hotel, its parents and affiliates, as a result of the omission of the commission or any claim that disclosure was insufficient or misleading.

Please indicate Meeting Planner's acceptance of the terms of this letter agreement by signing below and returning a copy of this document to me by _____.

With regards,
Hotel Sales Representative

Agreed and Accepted by:

Meeting Planner

By: _____
Name: _____
Title: _____
Date: _____

Thank You

Greg Duff

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Blog: [Duff on Hospitality Law](#)

