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**Beyond Force Majeure:
Navigating Hotel and Venue Contracts in a Post (?) - COVID World**

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Returning to In-Person Meetings

- As far as venues are concerned, COVID is all but gone
- Without government restrictions, it has become nearly impossible to successfully argue a force majeure termination
- While COVID is not necessarily a reason to cancel an event, the effects of COVID (e.g., staffing shortages, company travel restrictions, personal travel hesitations) will now have a greater impact on events moving forward
- Are there other ways associations can protect themselves?

Overview of Topics

- Room Block Review
- Site Visits
- Attrition
- Deposits and Deposit Schedules
- Cancellation Schedules
- Rebook and Mitigation
- Force Majeure
- Bankruptcy/Change of Brand or Management
- Construction/Renovation/Repairs

Preparing for Attendee Slippage

- Event registrations are slipping and you need to be able to plan for potentially reduced attendance from pre-COVID years
- Build in at least two, preferably three, opportunities to review and adjust your room block (increase or decrease) prior to the event date
- Reduction should be reflected in attrition/cancellation fees

Site Visits

- Plan to schedule at least one or two site visits prior to the event
- Gauge staffing, availability of facilities, condition of hotel

Attrition

- Don't get stuck paying penalties!
- Negotiation attrition for both food and beverage and room revenue to allow for reduction in attendance
- Attrition to be based on final, adjusted room block

Deposits

- Venues are asking for large deposits far in advance of the event
- Makes successful termination without liability far more difficult
- Deposits should ideally be made on a staggered basis leading up to the event date

Cancellation Fees and Rebook Clauses

- Similar to deposits, cancellation fees are high from the time of contract signature
- Pay special attention to the dates and fees in the cancellation schedule
- Even if you have to pay fees, include a rebook clause to apply the fees to a future event
- Add a clause that requires the venue to “mitigate” its losses by making a reasonable effort to resell the rooms

Force Majeure

- Remember: the grocery list isn't the important part
- The standards for terminating are critical – impossible, illegal, commercially impracticable
- Commercial impracticability is a legal doctrine with a long-established history
- New considerations for force majeure:
 - Discriminatory legislation
 - Cancellation by key attendees (keynote speakers, leadership)

Bankruptcy/Change of Brand or Management

- Allow for termination if either party declares bankruptcy or other financial distress
- Your contract is with a particular hotel brand or management company – if that changes, the hotel must notify you and you can terminate without liability.

Construction/Renovation/Repairs

- Many venues do not want to allow group's to terminate for construction
- Construction that causes a material disruption in your event should be a reason to terminate without liability
- Venue should provide you with notice of any construction being planned at least six months in advance

Questions?

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