

Negotiation News

the norman group llc

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President*

ATTRITION ...

A WONDERFUL WORLD OF
MAGIC !

ARE YOU A MAGICIAN? WELL, OF COURSE YOU ARE!

... HOTELS HAVE TURNED YOU INTO THE MOST AWE-INSPIRING MAGICIAN
OF ALL TIMES...

Every time you book a meeting at a hotel and reserve guest rooms and some tasty food and beverage for those attendees, you become a MAGICIAN! Think about it - The hotel requires you to give them exact numbers of how many people will need guest rooms and how much food they will eat at your meeting! If you don't give the hotels the right numbers, uh oh... your company will owe them some money!

Alas - you'll have to be certain to add some very important protection clauses in your Addendum to the Hotel Contract to save your company from attrition liabilities, won't you?

How can you possibly know exactly how many people will stay at the meeting's hotel

or exactly how many people are going to eat the wonderful food you've ordered for them? If your answer is that you have meeting history to dictate what to reserve and what to order...this is a lame answer...how does that really guarantee you anything? How can you possibly know that exactly the same number of people that attended this particular meeting some other year will show up again this year? It's impossible. Even worse, suppose you are producing a totally new meeting without any history... no matter how much research you do, you will not be able to pinpoint any exact numbers - people are unpredictable.

Here are some ATTRITION liabilities you must consider - **THINK AHEAD** and strategize to avoid problems later by adding protection for the following in your Addendum to the Hotel contract:

- A) How to treat "No Shows" - people who just don't show up
- B) How to treat reservations made on the internet through Expedia, Hotels.com, Travelocity, etc.
- C) Cancellations and fees obtained by the hotel for these
- D) How to handle those who have been "walked" to another hotel
- E) How to handle nights when the hotel is "sold out" or at 95%
- F) How to handle "early departure" fees
- G) How to handle "rooms out of order" perhaps for maintenance or renovations at the venue
- H) How Attrition damages are to be computed should they occur.
- I) What documentation does the hotel have to send you re your attrition?
- J) How will any Food and Beverage attrition be calculated?
- K) How to handle attrition if there is a significant, unexpected decline in the economy and you need to re-negotiate your contract
- L) What about hotel's mitigation of your expected attrition damages
- M) What about attrition damages charged to another group(s) over your same Meeting dates? Are you being charged for the same rooms?
- N) The importance of periodic reviews of your meeting's room block with specific instructions for the review procedure
- O) How to receive credit for unused complimentary rooms

An important point: If you don't have an Addendum, start to build one right now in order to customize your contract to reflect your specific needs and protections for success. Hoteliers are not fond of Addendums, but it is your right to have one and it becomes incorporated into the hotel portion as part of the entire contract. I have used Addendums successfully for many years and have never had a problem negotiating them. Addendums need to be customized for each and every booking to some degree.

Now, to be honest, there simply is not room enough to address all of the items in the list above, but they are all explained succinctly in my book along with negotiation techniques to use, as well - and I sincerely know that the information will be of great help to you as a constant reference - see below how to order. Additionally, if you have questions about any of the above, please don't hesitate to send me an e-mail as I'd be

pleased to assist you in any way that I can.

One of the most important clauses in the list above is regarding a significantly unexpected decline in the economy which may negatively impact your meeting. The strategy used in negotiating should always be honest, fair, straightforward and knowledgeable with mutual benefits for both parties as the end result. There is a special clause in my book that encompasses this concept by asking the hotel to give you the opportunity to discuss the adjustment of your numbers (you could also add the adjustment of reserved function space) due to that current situation. You aren't asking to cancel or for any discounts due to the situation - just fairness. The hotel will not benefit immediately (hopefully, you will), but they will indeed benefit in the future when you perceive them as sincere partners in your success and you book other conferences at that venue several other times - and also, probably tell your colleagues about their wonderful venue, as well - these are certainly benefits!

If a hotel charges you *attrition damages you should have a clause in your contract that requires the venue to send you a complete accounting of guest room usage over your meeting dates including the number of rooms in the hotel, the number of rooms that were out of order or being renovated, for instance, and could not be reserved, the number of rooms billed to all others including cancellations, no shows, early departures, and the number of unsold rooms in the hotel and including the computation of the attrition allowance given to you by the hotel and the percentage of hotel lost profit that you have agreed to pay for the resulting attrition damages. You will find an Attrition computation form in my book that includes all of this and will prove to be of great use to you. You can send the form to the hotel for them to complete it and then there will not be any questions about what is due. Furthermore, if they want to send you their report, tell them that you prefer that they complete your form since it is more detailed. There is also a computation form for Food and Beverage Attrition which includes the calculation of food and beverage re-sold by the hotel and the percentage of lost hotel profit that was agreed upon for these damages.

The most efficient and effective way to keep on top of your guest room reservations for your meetings is to require periodic room block reviews and adjustments without liability. Mutually beneficial dates can be agreed upon for this activity so neither party suffers by decreasing numbers. The Group will not have attrition damages to pay and the hotel will have a chance to re-sell unused rooms - and perhaps at a higher transient rate, as well. This is sometimes difficult to negotiate, but persevere as it is totally fair, equitable and good business.

According to contract law, damages are not to be "penalties"; however, if damages for the same guest rooms are being charged to two different parties, [two or more different Groups, for example], the hotel is indeed penalizing both parties for not fulfilling their "obligations". According to *Black's Law Dictionary*, Bryan A. Garner, Editor in Chief [St. Paul, MN, West Publishing Co. 2001], p.530, a penalty is defined as: "A contractual provision that assesses against a defaulting party an excessive monetary charge unrelated to actual harm." Robert A. Hillman, author of *Principles of Contract Law* [St. Paul, MN, West Publishing Co., 2004] p. 171 agrees. **In other words.**

both parties are paying more than their share for the attrition damages suffered by the hotel.

If you should find yourself in the position of possibly incurring serious attrition damages due to low registrations for your meeting, particularly when your contract was booked quite awhile ago, it would be wise to call the General Manager of the venue involved to try to ameliorate the situation. [You don't have to be experiencing a failed economy] Depending on different factors, the General Manager quite often will try to help you out of a bad occurrence by taking a percentage off the attrition amount, crediting your account with the damages to be utilized toward another conference to be booked within 6 months to a year or some other reasonable solution. If you want to try to re-sell your rooms and/or your function space to others, yourself, that's possible as well in some circumstances. The General Manager certainly doesn't want you to be upset with the venue and it's just good business to try to partner with a customer rather than to "penalize" her/him.

***ATTRITION:** A decrease in the expected room block pick-up number for rooms reserved by an individual or a Group at a venue and/or a decrease in food and beverage estimates as contracted with a venue.

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- 1. ADVANCED CONTRACT NEGOTIATIONS: Negotiating in Changing Times**
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**KEEP ALERT FOR THE JUNE 8, 2009 ISSUE OF
NEGOTIATION NEWS...THE SUBJECT WILL
BE ALL ABOUT “ STRATEGY”... and
Your SUCCESS...
You won't want to miss it!**

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