

# Contract law

Law



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Contract Law Essay Introduction With the numerous happenings in the hospitality industry, there is a growing need for practitioners in the hospitality industry to have a system of dealing with both inside contractors and outsiders. There are a variety of contracts in the hospitality industry as a result of the many types of services which provided within the industry. This essay will analyze the management contract signed between hospitality providers as well as various legal implications of that accrue from the said contracts. It will also incorporate how negotiations for contracts are carried out within the hospitality industry, the best way of writing the management contract, and the pitfall that are to be expected and how they may be avoided. A Churascaria-style Brazilian restaurant management contract is a business deal between the Churascaria-style Brazilian restaurant proprietor and a contracting company that allows the contractor to run the Churascaria-style Brazilian restaurant on behalf of the owner. The contractor usually provides supervisory, expertise and ensures the Churascaria-style Brazilian restaurant operations run smoothly. The owner retains some control of the Churascaria-style Brazilian restaurant by specifying the terms on which the Churascaria-style Brazilian restaurant is to be run. Negotiations At the initial stage of the negotiation of the management contract, the contractor and the proprietor, they are in essence on level terms. The proprietor is searching for somebody to manage his assets and increase his profitability while the contractor is seeking to make the Churascaria-style Brazilian restaurant successful in order to market the image of his company. While they are essentially in search of a similar objective in increasing the profitability of the Churascaria-style Brazilian restaurant, reaching an agreement that is mutually agreed is hard necessitating the need for a bill of rights for both the

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contractor and the proprietor (Stutts, 2001). In the discussion for the bill of rights the operator must go into the meeting armed with fall back positions and even second fall back positions in order to find the most suitable deal. Drafting After the bill of rights for both parties has been agreed upon, the owner of the Churascaria-style Brazilian restaurant should insist upon the drafting of the management contract to be drafted by their own counsel since control of the process of the drafting of the contract will mean that more control will further be expressed in the enforcement (Stutts, 2001). The drafting will usually take into consideration the points that have been discussed in the bill of rights which would also entail the details of the roles and duties of both parties in the contract. The drafting of the contract presents more opportunities that the owner of the Churascaria-style Brazilian restaurant may use to have in the contract factors that are in his favor. Legal issues not taken into consideration during negotiations for the bill of rights may be used by the legal counsel of the proprietor in order to make the contract more favorable to his client. This presents the most important reason on why the legal counsel for the owner ought to draft the management contract. Risk and Overall Management In the determination of the management of the Churascaria-style Brazilian restaurant the owner also has to ensure that he gets the most out of the management contract. A typical management contract usually grants the operator a return of three percent of turnover and a further ten percent of gross profit. With the increasing problems of competition and the owners of Churascaria-style Brazilian restaurants are increasingly having the upper hand thus negotiating for better rates. While the operator assumes full responsibility for the Churascaria-style Brazilian restaurant in terms of operating it, the <https://assignbuster.com/contract-law-article-samples/>

management contract must be negotiated to show that he is only acting as an agent of the owner. The management contract is usually negotiated such that it can be voided upon breach by one of the parties. While the traditional approach was to pay fees that had been predetermined year by year, the most viable means of management contracts should be pegged rates of fees upon the performance of the Churascaria-style Brazilian restaurant (Stutts, 2001). It is in the best interest of the owner to have a contract that ensures most aspects such as financial reporting; contract duration and voidance of contract are done in such a manner that gives him more control. Conclusion The management contract is an important document in the running of a Churascaria-style Brazilian restaurant under lease. This calls for a high degree of meticulousness in the selection of the operator if the owner is to maximize his profits from the venture. It is thus important that the operator enters into the contract while well prepared about his rights, the rights of the operator so that he can work them to his advantage. It is also advantageous for the owner to have a good understanding of the law of management contracts and be assisted by his own legal counsel in the drafting of the contract. The owner ought to strive to ensure that the contract is drawn in a manner that is most favorable to him by giving him more control. Reference Stutts, T. (2001) Churascaria-style Brazilian restaurant and Lodging Management – An Introduction. New York: John Wiley & Sons.