

G A R V E Y S C H U B E R T B A R E R

THE RISING SIGNIFICANCE OF GUEST INFORMATION

Greg Duff
Garvey Schubert Barer

MPI
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GSBlaw.com



Agenda

1. Contracts, Contracts, Contracts
2. Privacy and Data Security 101
3. Practical Guidance

Contracts, Contracts, Contracts

Hotel Management Agreement

All of the financial books and records pertaining to the Hotel, including books of account and front office records (but excluding any Proprietary Information) shall be the property of Owner.

Proprietary Information – all information and other intellectual property in a written or tangible form relating to Manager or any of its Affiliates, the business affairs of Manager or any of its Affiliates, or any hotel, resort or similar facility (including any condominium or interval ownership properties) which Operator or any of its Affiliates owns, leases, operates or franchises, including, without limitation: (i) Trademarks; (ii) Proprietary Software; (iii) Guest Data . . .

Contracts, Contracts, Contracts

Hotel Management Agreement

Manager's Proprietary Materials may include (1) certain operations manuals; (2) daily, monthly, quarterly and annual operational reports; (3) budget programs and worksheets; [and] (4) guest profiles and information.

Owner may not access, use, copy, distribute, reproduce, or allow access to or use of, Manager's Proprietary Materials [and] Owner acknowledges and agrees that all right, title and interest in and to Manager's Proprietary Materials, and all copyrights, trademarks, or other intellectual property or proprietary rights relating thereto, are and shall remain the sole and exclusive property of Manager.

Contracts, Contracts, Contracts

Central Reservation System

Section 1: License. During the Term and to the extent necessary to provide the Services, Customer grants [CRS] and third party providers the right to use the Customer's trademarks, names and other content or information.

Contracts, Contracts, Contracts

Central Reservation System

Section 6: Compliance with Laws. [CRS] and Customer represent and warrant that (i) each will use the Services only in accordance with all applicable laws, policies, rules and regulations, antitrust, data protection, data privacy, anti-spam and franchises; and (ii) each has the right to provide information, personally identifiable information, content or data to the other party and has complied with applicable laws in obtaining personally identifiable information. For European Union based Customers additional terms and conditions for data exporting and processing apply and are located here: www.terms.com.

Contracts, Contracts, Contracts

Merchant Card Processing Agreement

[Credit Card Issuer] may use Company's Confidential Information in connection with providing existing **or new** [Credit Card Issuer] benefits, products, services, **including, without limitation, disclosing Confidential Information to third party service providers (or licensees)** who are bound to keep such information confidential.

Contracts, Contracts, Contracts

Merchant Card Processing Agreement

CUSTOMER agrees that CUSTOMER and its Service Providers shall follow and comply with the VISA Cardholders Information Security Program (CISP), the MasterCard Site Data Protection (SDP) Program, as well as any other security guidelines or requirements established by any applicable Association or by SERVICERS. CUSTOMER shall be liable for any fees or fines imposed by an Association as a result of CUSTOMER's or its Service Providers' failure to comply with any such security guidelines.

CUSTOMER is responsible for maintaining adequate security with respect to any credit card terminals, computer equipment or other equipment utilized to submit Credit Transactions and is responsible for the actions of all of CUSTOMER's employees, agents or other persons who access such equipment.

Contracts, Contracts, Contracts

Group Sales Contract

Protection of Personal Data

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"). 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. 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.

Contracts, Contracts, Contracts

Group Sales Contract

Security Procedures

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.

Contracts, Contracts, Contracts

Vendor/Supplier Agreement

Each party agrees to comply with all applicable international, federal, state and local laws and regulations, and with the Payment Card Industry Data Security Standards and contractual regulations of the payment card industry organizations, pertaining to the collection, use and dissemination of Personally Identifiable Information.

Contracts, Contracts, Contracts

Vendor/Supplier Agreement

Standard Apps: [Provider] agrees to provide the following features (collectively, the “Standard Apps”), when commercially available:

- a) **eCheckout App:** allows your guests to check-out through the TV and have a receipt e-mailed to them. The eCheckout App shall be considered Hotel-Customized Content.
- b) **ePurchase App:** allows your guests the option to bill purchases to their guest room folio or utilizing other alternative electronic forms of payment
- c) **eCommerce App:** allows your guests to purchase unique products and services, such as tickets and flowers

Privacy and Data Security 101

Key Privacy Laws

- U.S. Law
 - COPPA, HIPPA, GLB, FTC
 - State Statutes, Regulations and Common Law
- European Union - 95 Data Directive
- Canada – Personal Information and Electronic Documents Act
- APEC – Privacy Frame Work

Privacy and Data Security 101

Common Privacy Law Requirements

- Personally Identifiable Information (PII)
- Notice – Who, What, Where, Why and How
- Choice and Consent – Implied vs. Express
- Sharing of Data – Subject to Same Requirements
- Data Security

Privacy and Data Security 101

Data Security Laws and Standards

- U.S. Law
 - COPPA, HIPPA, GLB, Veterans
 - 46 State Statutes or Regulations and Common Law
- European Union
- PCI-DSS / SAS / SSAE

Practical Guidance

Checklist

- Awareness and Understanding
- Adopt and Maintain Policies and Procedures
- Educate and Manage Vendors and Suppliers
- Cloud Considerations

Practical Guidance

Awareness and Understanding

- Understand
- Educate – Employees, Vendors/Suppliers, Partners
- Monitor – Changing Laws and Standards
- Repeat

Practical Guidance

Privacy Policy

- Privacy Policy
 - What is collected
 - How/Why is information collected and used
 - Tell the truth

Practical Guidance

Vendors and Suppliers

- Awareness
- Confidentiality
- Privacy Requirements
- Data Security Requirements

Practical Guidance

Cloud Checklist

- Data Protection and Security
- Privacy
- Multi-Jurisdictional
- Contract, Contract, Contract

Questions?

Thank You

GREG DUFF

206.816.1470 Tel | 206.321.8386 Mobile | 206.464.0125 Fax | gduff@gsblaw.com

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