

Telecommunication Upgrades: Beware of the Potential Pitfalls

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There is little doubt that cutting-edge technology is essential in the highly-competitive hospitality industry – both to attract guests and meet their more-demanding-by-the-minute technology needs. Despite the obvious necessity and benefits of providing the newest and best technology, hotel owners and managers must be careful to avoid the pitfalls that can arise from opening their hotels to telecommunications companies. Important issues are all too often not addressed in agreements to provide telecommunications services to hotels, including the following.

- **Conduit and Mechanical Riser Space.** Each company providing telecommunications services will require space for their operational equipment, as well as connections to individual rooms and points throughout the hotel. For such companies, mechanical riser space to situate the companies' wire-holding conduits is essential, but also usually very limited. Particularly in older buildings, managers and owners must assess how much riser space is available, how quickly the space can and will be used up, and how much space will be required by a telecommunications company. These factors will play a role in prioritizing which services to install.

- **Approval of Equipment Location.** It is also important that the hotel control where the company's equipment will be situated and how it will be installed. Controlling the location of the equipment by requiring pre-approval of construction plans enables a hotel owner or manager to coordinate future construction. Such approval is essential when licensing to multiple telecommunications companies.

- **Right to Suspend License and Move Equipment.** Even after the hotel approves the equipment location, circumstances may arise during the course of unrelated renovation or ordinary repairs by the hotel that require interference with areas occupied by telecommunications equipment. To avoid any problems or disputes that may arise in such a case, it is important that the hotel reserve the right to require the telecommunications company to temporarily suspend its services, or even permanently relocate such equipment, if necessary, so that renovations and repairs can be made with minimal disruption.

- **Restoration and Removal.** It is likely that the installation of any equipment will physically affect the hotel in some way and occupy otherwise useable space. Most telecommunications companies seek the unreasonable right to simply abandon its wiring and other equipment. It thus becomes important that the agreement require the telecommunications company be responsible for both removing its equipment and physically restoring the hotel after such removal so that the space can be re-utilized.

- **Insurance.** The provision of services by a telecommunications company will likely require some construction and ongoing equipment operation. Accordingly, it is essential that the telecommunication company be required to obtain adequate insurance before any construction takes place. In some circumstances, insurance should be maintained throughout the term of the license, so that the hotel is protected should the equipment be negligently or improperly installed or operated.

- **Indemnification.** It is imperative that the hotel owner and manager be adequately protected from potential liability or loss resulting from damages to its own or third-party property caused by the telecommunication company's improper installation, maintenance, or provision of services and equipment. To ensure that necessary protection is in place, it is essential that the telecommunication company's duty to defend the hotel and continuing responsibility to compensate the hotel for any resulting losses and expenses be clearly set forth in the applicable agreement.

Lastly, hotel owners and managers should choose their licenses wisely. Although it may seem beneficial to offer tenants as many services from as many companies as possible, granting licenses to every company seeking to enter the hotel can negatively affect hotel operations and facilities management.

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