

K-Notes: INDEPENDENT CONTRACTOR AGREEMENT

From Red Lion Hotels

Be Aware of Lopsidedness

When it's a company versus a contractor, look for ways in which the agreement may be more bulletproof for one party than the other.

"The agreement is not a substitute for training, whether delivered by HR compliance or local operations."



Hebe Doneski
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KEY TAKEAWAYS

- **Exhibit vs Incorporating by Reference**

If you need to incorporate outside documents into your agreement, consider adding them as exhibits so it's clear which version is being incorporated.

- **Non-Disparagement Clause Not Equally Sided**

Comparing the language that limits the contractor to the language that limits the company, see if there is a large disparity between the two and try to fix it. Independent Contractor Agreements are designed to connect two independent and empowered companies. Don't create tension in the relationship through disparity.

- **Ending the Agreement Needs to be Realistic**

Avoid drafting a contract that requires the contractor to cure harms that are incurable, such as embezzlement, fraud, or theft.

- **Consider Relative Power of Parties**

Any indemnification section should take into account the relative power and control of the parties involved. Since no individual has enough insurance to indemnify a company, don't include that requirement.

"If you're the company, the burden is on you to classify the contractor. You have some nerve asking for [indemnification]."