

Structuring Food & Beverage Arrangements in Hotels: Legal Challenges and Opportunities

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Hotels and restaurants are natural partners in shaping a property's identity, but structuring food & beverage (F&B) arrangements in hotels involves complex legal, financial, and operational considerations. Choosing the right agreement—whether a lease, license, management contract, or [joint venture](#)—requires careful drafting to balance economic incentives, brand alignment, and regulatory obligations. This Client Insight explores the key legal insights for structuring hotel F&B agreements, including the challenges of common contractual arrangements—sometimes called “concession” or “countenance” agreements—and the principal structures used between hotels and F&B operators, including leases, licenses, management agreements, and hybrids.

Key Challenges in Hotel-F&B Agreements

1. Control and Brand Alignment

Hotels seek to maintain consistency across their offerings, while F&B operators want autonomy in concept and execution. Agreements must reconcile brand standards, service levels, and design approval rights. This often overlaps with issues seen in [retail leasing/landlord representation](#) and [office leasing/tenant representation](#).

2. Term and Flexibility

Hotels often operate under long-term financing or franchise arrangements, while restaurants may want shorter commitments tied to dining trends. Negotiating exit rights, renewal options, and change-of-concept provisions can be contentious.

3. Revenue Sharing and Economics

Common structures include base rent, percentage rent, or profit-sharing. Hotels may seek a share of alcohol sales or banquet revenue, while operators may resist burdensome reporting or audit rights. Clearly defining gross sales, permitted deductions, and expense allocations is critical.

4. Liability and Risk Allocation

Responsibility for liquor licensing, employment law compliance, health and safety, and third-party claims must be clearly apportioned. Insurance obligations and indemnities are often heavily negotiated. For regulatory compliance, see resources from the [U.S. Department of Labor](#) and [Alcohol and Tobacco Tax and Trade Bureau](#).

5. Integration with Hotel Operations

Room service, banquet, and catering rights often overlap with restaurant operations. Careful drafting is needed to avoid cannibalization disputes while ensuring seamless guest experience.

Common Legal Structures

A. Leases

- **Features:** Operator pays rent (base and/or percentage) for exclusive possession of premises.
- **Advantages:** Predictable income for hotel; clear separation of liabilities.
- **Challenges:** Landlord-tenant laws may restrict flexibility; harder to align branding; foreclosure or bankruptcy can disrupt operations.

B. Licenses/Concessions

- **Features:** Operator granted permission to use space without creating a tenancy.
- **Advantages:** Greater control for hotel; easier termination and alignment with hotel standards.
- **Challenges:** Courts may recharacterize as a lease if operator has exclusive possession; operators may resist limited security of tenure.

C. Management Agreements

- **Features:** Hotel retains ownership and employs operator to run F&B facilities. Operator is compensated by fee (base and incentive).
- **Advantages:** Full alignment of hotel and operator interests; consistent branding.
- **Challenges:** Hotel bears operating risk; complex reporting and oversight obligations.

D. Joint Ventures / Profit-Sharing Models

- **Features:** Hotel and operator share ownership of F&B entity or pool profits.
- **Advantages:** True alignment of incentives; potential upside for both parties.
- **Challenges:** Governance disputes; complex tax and accounting issues.

Best Practices for Structuring

- Conduct early tax and regulatory analysis (liquor licensing, franchise restrictions, labor law).
- Align exit provisions with hotel financing, brand/franchise agreements, and operator business cycles.
- Draft detailed service level, reporting, and audit provisions.
- Address cross-use issues (room service, banquets, catering) expressly.
- Consider hybrid structures—such as a license with profit-sharing—that balance stability with flexibility.

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