



The HBAA Code of Practice

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Contents

A: The Association

1. Introduction to the HBAA
2. Governance
3. Conditions of Membership

B: The Code of Practice

4. Obligations of Members
5. Enquiry Process and Options Policies
6. Whose Client is it?
7. Breach of the Code of Practice

C: Best Practice Guides & Appendices

8. Billback & Credit
9. Model Agency Agreement
 - A. Working agreements between Agency Members & Venue Members
 - B. Recommended Agreement for the serviced apartment sector
 - C. Letter of Authority
 - D. Billback Best Practice - handling client funds
 - E. Enquiry Best Practice Process

A: The Association

1. Introduction

The Hotel Booking Agents Association, now known as the HBAA, was formed in 1997. Its original membership was made up of independent, well established agencies that specialise in making accommodation, meetings and/or events reservations as their core business.

The Association was formed as a united forum to address common issues and to promote improved standards in product and service delivery by suppliers - the hotel and venue industry - to the agents' clients.

The Association has evolved to encompass a full cross section of the industry, including agencies specialising in events and the meeting and events divisions of travel management companies as well as a complete range of venue suppliers: hotels, conference centres, unusual venues, and apartment providers. All members remain specialists in their fields of arranging and providing accommodation, meetings and event bookings for corporate and public sector clients.

The HBAA Vision

The HBAA shall be recognised as the industry body representing the profession which specialises in the supply of accommodation, meetings and events for the benefit of its agency members, and in partnership with its venue members and corporate buyers.

The HBAA Strategic Objectives

- Promoting best practice for those involved in the procurement and provision of accommodation, meetings, conferences and events.
- Providing a framework for recognised personal professional development within the industry.
- Encouraging and nurturing innovation that will advance the industry.
- Ensuring that the HBAA is the voice of the industry, promoting the interests of its membership.
- Continuing to develop opportunities to provide formal and informal business networking for membership.
- Ensuring that the HBAA is recognised as the primary source of expertise for the corporate MICE and travel professionals and other individuals seeking to understand meetings, conferences, events and accommodation.

2: Governance

The HBAA is a company limited by guarantee and so does not have a share capital. This means that rather than owning a share, each member is entitled to a membership in the company.

Under the articles of association, each member of the company accepts a limited liability of £1.00 in the event of the company being wound up or dissolved. All members carry the same rights and privileges as set out in the articles of association of the Company including the right to attend the AGM. The only exception to this is for Agency Members, who are the only members who have the right to vote on any resolution of the company.

The affairs of the association are overseen by the board of directors and the executive committee.

Sub-committees and working parties may be formed from time to time.

Board of Directors: The board consists of four officers of the association – the Chairman, Vice Chairman, Past Chairman and Treasurer. The board is responsible for the legal governance of the association.

The Executive Committee is responsible for determining and delivering the strategic objectives of the association and is chaired by the association chairman. It is made up of the board, the venue chairman, the venue vice chairman, and both the immediate past chair and immediate past venue chair, plus all sub-committee chairmen. Additional members may be co-opted on from time to time by a majority vote of the executive committee.

The Association Chairman is an Agency Member elected by members of the executive committee. The association chairman must serve a year as vice chair prior to taking the chair. During that time he/she may or may not chair a sub-committee. The association chairman is entitled to serve for another year on the executive committee immediately following him/her ceasing to be the association chairman, as the immediate past chair.

The Venue Chairman is a Venue Member elected by members of the executive committee. The venue chairman must serve a year as vice chair prior to taking the chair. During that time he/she may or may not chair a sub-committee. The venue chairman is entitled to serve for another year on the executive committee immediately following him/her ceasing to be the venue chairman, as the immediate past venue chair.

The Treasurer is elected from amongst the Agency Members.

Sub-committee Chairs are elected from the membership and may be led by an Agency Member or a Venue Member according to the responsibility of that sub-committee.

Sub-committee Members are selected by their chairs from volunteers.

3: Conditions of Membership

This section contains conditions of membership that are to be observed by both the Agency Members and Venue Members.

- 3.1 All members will pay the annual membership fee within the requested time frame, which from time to time will change.
- 3.2 Members are to advise the HBAA Executive Office of key contacts within their organisation who will be available to resolve issues raised with their respective organisations, and both a contact email address and a contact postal address at which notices can be served. The HBAA Executive Office will review this contact list regularly. Any changes to the primary and secondary member contact details shown on the HBAA website should be made by the member using the member profile tool.
- 3.3 HBAA members carry an assurance of quality for their Clients and are required to use the HBAA logo on all appropriate promotional material and their own websites.
- 3.4 Members must give written notice to the HBAA Executive Office of the member's intention to resign from the HBAA at least 28 days prior to the automatic annual membership renewal on October 1st. There will be no entitlement to any refund of fees paid.

B: The Code of Practice for HBAA Members ("The Code of Practice")

It is the intention that the HBAA be made up of Agency Members and Venue Members who wish to improve standards and service delivery within the accommodation, meetings and events supply profession.

This document, the Code of Practice, sets out the principles by which HBAA Agency and Venue Members shall operate and sets out in general terms, the standards and duties that it is reasonable to expect both agencies and venues to observe.

The document can be used as a point of reference when dealing with potential breaches of the Code of Practice by any member; this is intended to protect the profession, individual practitioners, and their clients.

The Scope of the Code of Practice

1. The protection and guidance offered by the Code of Practice applies only to HBAA Agency and Venue Members.
 2. The code has been drawn up to provide the minimum standards to be maintained by all Agency Members and Venue Members.
 3. All Agency Members and Venue Members shall observe the Code of Practice in so far as it applies to their business.
 4. Agency Members and Venue Members are required to sign up to the Code of Practice to confirm their acceptance of the terms and conditions of the Code of Practice as a condition of membership.
 5. The HBAA may issue changes to the Code of Practice from time to time.
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4. Principal Obligations of Membership

This section contains obligations to be observed by both the Agency Members and Venue Members.

- 4.1 Members must be fully aware of the HBAA Code of Practice and adhere to the code throughout their business. Members sign up to, and must uphold all terms and conditions of the Code of Practice and are responsible for ensuring all their employees are aware of and abide by the Code of Practice.
- 4.2 Members must conduct themselves in such a way that their conduct would not be reasonably regarded by their professional colleagues within the field of accommodation, meetings and events, as professional misconduct within the context of the member's own organisation.
- 4.3 Members must not engage in conduct which may seriously prejudice the standing and reputation of the accommodation, meetings and events profession or of the HBAA.
- 4.4 Members agree to maintain as confidential and not to use or disclose to any third party any confidential information derived from the other party without the consent of the disclosing party except where such use or disclosure is reasonably necessary for the proper performance of the Code of Practice or their respective relationship.
- 4.5 Members agree to have principal Directors, Partners or senior representatives attend HBAA meetings, whenever possible.
- 4.6 The rate of commission agreed between an Agency Member and a Venue Member is a matter of commercial negotiation, but in a situation where commission is due and no rate of commission has expressly been agreed, it is recommended that the minimum rate of commission is calculated as follows:
 - 4.6.1 Whether rates are expressed to the market as inclusive or exclusive, commission should start to be negotiated and expressed on the VAT exclusive rate
 - 4.6.2 The most widely spoken of figure, which is commonly acceptable to both sides, is between 9.5% and 10%. Thus

 $\text{£100.00} + \text{VAT @ } 20\% = \text{£120.00}$. Commission @10% (on the net amount = $\text{£10.00} + \text{VAT@ } \text{£2.00}$)
 $\text{£100.00} + \text{VAT @ } 20\% = \text{£120.00}$. Commission @ 9.5% (on the net amount = $\text{£9.50} + \text{VAT @ } \text{£1.90}$)
 - 4.6.3 It is recommended that unless otherwise agreed, commission shall be paid on accommodation, room hire, delegate rates (whether 8 hour or 24 hour rates), and pre-booked (i.e. prior to arrival) food and beverage whether pre-booked by the Agency Member or the Client.

4b. Agency Members Obligations

Being a professionally operated organisation, the HBAA requires its Agency Members to conform to the following obligations of membership. These obligations have been established to ensure the interests of Agency Members are protected.

HBAA Agency Members will:

- 4b.1 Identify themselves, at the outset of negotiations, as booking agents and state clearly their requirement for commission, if any required, if no existing arrangement is in place.
- 4b.2 Hold IATA accreditation or a TIDS code in order to claim and collect commission payments.
- 4b.3 Either identify their Client by name, or issue a form of reference and industry sector if they are not able to identify their Client for confidentiality reasons.
- 4b.5 Not materially alter any rate expressed to a Client as being quoted or offered by a venue, without the venue's consent.
- 4b.6 Seek clarification on venues' cancellation policies, minimum numbers and terms, and be responsible for informing their Client of same.
- 4b.7 Issue written or electronic confirmation of all booking details to Venue Members and Clients within an agreed time frame, generally accepted as eight business hours or as agreed by all parties. Such confirmations to be in a clear format, with reference to the venue's cancellation policy, and any booking reference issued.
- 4b.8 Agree transparent terms of business/contract with all parties - agent/agencies/venue(s)/Client - should a change of client ownership occur.
- 4b.9 Honour any booking guarantees they commit to with reference to non-arrival/cancellation charges, and endeavour to assist in recovering lost revenues.
- 4b.10 Deduct commission at source only with prior arrangement or justifiable cause and when doing so, advise the Venue Members of the amounts deducted and follow correct invoicing procedures for reconciliation purposes as set out by HM Revenue and Customers.
- 4b.11 Commit to providing face to face access to venue members where mutual benefit can be demonstrated. The format of this access is at the Agency Members' discretion.

4c. Venue Member Obligations

HBAA Venue Members agree to work with Agency Members in alliance with the Code of Practice, and confirm that they will uphold their obligations set out below.

HBAA Venue Members will:

- 4c.1 Alert the Agency Member, at the outset, if a specific enquiry has already been received from another agent, or direct from the Client.
- 4c.2 Use discretion and be confidential about the Client's identity on any enquiry.
- 4c.3 Honour commission agreements in place.
- 4c.4 Ensure rate parity is given to an Agency Member for the same business/enquiry if previously or subsequently received directly from a Client for the same dates, and when it can be verified that it is for the same piece of business.
- 4c.5 Pay commission to an Agency Member who places a piece of business and a provisional/tentative booking is made, even if the Client ultimately confirms the booking directly, providing it can be established as a new piece of business for that venue.
- 4c.6 Honour verbal or written agreements for all rates issued for the period of that agreement.
- 4c.7 Best practice regarding settlement of invoices by credit or payment card including virtual cards implies that any merchant or transaction fee applied by a financial institution or bank should be borne by the Venue Member receiving the payment i.e. the party receiving the benefit of instant and guaranteed payment. Should a Venue Member wish to pass on the merchant fee or any part of it, then unless agreed otherwise between all parties, such fees must be clearly explained and stated at the time of enquiry/rate proposal and commission negotiations, and alternative methods of payment which are fee-free must be offered to the Agency Member/their Client. Payment terms agreed at the point of confirmation must be adhered to.
- 4c.8 Agree to pay commission, at the rate(s) agreed between the parties, on all commissionable business. Commission will be due and payable to the Agency Members in accordance with the following:
 - 4c.8.1 Upon receipt of payment to the venue, whether received directly from the Client or through agency billback, with the support of a commission invoice, pay commission to the Agency Member within 30 days or within the agreed mutual terms.
 - 4c.8.2 When requested, Venue Members are to provide copy invoices to the Agency Member within 5 working days or as agreed after departure of guests/final day of event.
 - 4c.8.3 Commission may be deducted at source only with prior arrangement or justifiable cause.

- 4c.8.4 For the avoidance of doubt, commission will also be due to Agency Members on any monies collected as a result of cancellation charges, 'no shows' and 'short stays' and other amendments with financial implications.
- 4c.8.5 For the avoidance of doubt, where the Agency Member has not been involved in the initial enquiry and subsequent confirmation, operating billback does not qualify the Agency Member for commission.
- 4c.9 Not book out an Agency Members' Client unless in extreme circumstances. In such cases the Venue Member will:
 - 4c.9.1 Contact the Agency Member as previously agreed, or immediately and prior to taking action, or as soon as possible
 - 4c.9.2 Accept full responsibility for the out-booking to the Client and absolve the Agency Member of such responsibility.
 - 4c.9.3 Book the Client into an alternative venue in close proximity to the out-booking venue of at least the same standard or better, or as previously agreed, with all original billing arrangements honoured.
 - 4c.9.4 Pay any difference in cost of the room if relevant.
 - 4c.9.5 Arrange and pay the cost of a taxi to and from the new venue to the out-booking venue.
 - 4c.9.6 Write to the client, if required, the contents of such letter to be mutually agreed.
 - 4c.9.7 In the instance where the out-booking venue is the payee for the transaction, ensure that the Agency Member's commission is paid, as per the original commercial arrangements.
- 4c.10 Direct all incentive offers - financial or otherwise, to induce additional business - to the directors of the Agency Members in the first instance and not directly to the agency staff. Each Agency Member will choose whether they wish to participate in any such scheme, and if so whether they wish to "pool" such benefits or allow individual incentivisation. Venue Members will also advise Agency Members, at the time of offering such incentives, whether the Venue Member offering the incentive is also assuming responsibility for all/any national insurance and tax liabilities. Both Agency and Venue Members should ensure that any such activity is compliant with the UK Bribery Act, and with their own company policy.

- 4c.11 In the event of a disputed commission invoice, pay all undisputed amounts within the stipulated time, as herein referred, leaving the disputed amounts outstanding. The Venue Member shall have a period of 30 days, or as agreed, from the date of the Agency Member's invoice to dispute any amount on the invoice. Once disputed amounts have been resolved such agreed amounts shall be payable within 30 days of the agreement. For the avoidance of doubt the amount to be disputed shall not be the total amount of the invoice but shall be the individual amounts, unless the total amount is made up of one entry.
- 4c.12 Pay commission on the full commissionable value as booked if a Venue Member reduced a client's invoice by an amount representing a discount or credit, the reason for the discount or credit being without doubt due to the Venue Member's failure to provide a service, unsatisfactory service or similar circumstances.

5. Enquiry Process and Options Policies

HBAA Agency Members and Venue Members are committed towards providing space at venues which is booked and used efficiently for their mutual benefits and those of their Client. This policy serves to:

- Create clearer identification of a Client's requirements, through improved enquiry qualification and understanding of client brief;
- Provide clients with the best and most suitable match to their requirements;
- Increase conversion rate of provisional booking to confirmed status;
- Minimise the false demand that exists within the market as a result of multiple option holding, whereby inaccurate demands can inflate rates above the "true" market conditions.

Please refer to the "Enquiry Best Practice Process" – **Appendix E** to support the below.

- 5.1 Venue Members should not amend or cancel provisional bookings unless discussed with the Agency Member who must agree any changes with the Client.
- 5.2 Agency Member and Venue Member enquiry/option holding protocol:
 - 5.2.1 Upon receiving an enquiry, where space is available and subsequently offered by the Venue Member to the Agency Member, the venue will provide the Agency Member first requesting the space with a provisional booking on a 1st option basis for an agreed period.
 - 5.2.2 During the agreed provisional 1st option period the Venue Member cannot release the said space without consultation with the Agency Member.
 - 5.2.3 Venue Members may only offer shared options with the agreement of all parties.
 - 5.2.4 On receiving a brief, where a Venue Members subsequently "denies" or "turns down" that business, a Venue Member will communicate the reason.
 - 5.2.5 When requesting to hold space at venues Agency Members will support the options policy by proposing 2nd and subsequent options to Clients and not restrict to only offering 1st options to Clients. Agency Members and Venue Members will liaise in order to track the progress of the option.
 - 5.2.6 Agency Members commit to working with their Clients towards reducing the number of options held per enquiry with the aim of increasing venue booking conversions.
 - 5.2.7 Agency Members agree to transparency in regards to the number of options held per enquiry, and must be mindful of the implications of multiple option holding. Venue Members are encouraged to discuss consistently low conversion with relevant Agency Members prior to restricting said Agency Members from holding space.
- 5.3 At the outset of the enquiry, information which may impact the business/event should be shared between Agent and Venue Members.

6. Whose Client Is It?

There are four areas to consider when the issue of ‘**whose Client is it?**’ might arise and more particularly who is entitled to receive any commission due from the Venue Members, and who can make approaches to the Client for business. These areas can be categorised as follows:

- A. Agency Member & Agency Member – Where two agents disagree as to who owns the Client and therefore who is entitled to receive the commission
- B. Agency Member & Venue Member – Examples such as when the Venue Members are entitled to approach the Client, introduced by an Agency Member, directly for business
- C. Agency Member & Client – Examples of whether the Agency Member has been properly instructed to act on behalf of the Client
- D. Venue Member and Client – Examples such as concerns as to whether the Venue Member has been properly instructed to act on behalf of the Client

The following provisions of this section are to be considered as best practice and it is the intention of this section, as it is throughout this document that Venue Members and Agency Members operate in a fair and ethical manner. Furthermore, the provisions of this section are not to be used to protect Agency Members/ Venue Members who do not invest in developing strong Client relationships.

- 6.1 It is accepted by Agency Members and Venue Members that the Agency Member who has been instructed by the Client to enter into a contractual relationship to place business (“Confirmation of Business”) is the Agency Member who is entitled to receive any commission due from the business.
- 6.2 If a Client has in place a policy which mandates, although not wholly exclusively, the use of a particular Agency Member (“the Mandated Member”) and the Client chooses to use an Agency Member who is not the Mandated Agency Member (the “Non-Mandated Agency Member”), the Non-Mandated Agency Member shall be entitled to receive any commission properly incurred, provided the Non-Mandated Agency Member confirms the piece of business.
- 6.3 Where there are two Agency Members handling a booking on behalf of a Client, commission is usually paid to the Agency Member that confirms the business with the authority of the Client, not necessarily the one that makes the first enquiry. The venue is not expected to ‘double-up’ commission payments where two Agency Members are involved. Where this situation arises Agency Members, not the Venue Member, should agree between themselves on any commission sharing arrangement and advise the Venue Member accordingly regarding payment process.
- 6.4 Where an Agent Member introduces new business to a Venue Member, the recommended best practice is that they receive commission or an introduction fee, unless 6.2 or 6.3 apply.
- 6.5 Agent Members should not declare bookings as their own and subsequently claim commission from a Venue Member when the initial enquiry and provisional booking was made by the Client unless otherwise agreed, such consent not to be unreasonably withheld.
- 6.6 Venue Members are not obligated to pay commission to non-HBAA members.

- 6.7 It is not acceptable practice for a Venue Member to incentivise a Client introduced by an Agency Member, to place subsequent bookings direct by using price, added value items or other beneficial factors.
- This does not restrict Venue Members from maintaining existing and building new relationships with any bookers within any Client organisations.
 - This does not restrict Venue Members from signing up Clients to loyalty programmes or reward schemes which are not used specifically to incentivise a Client to book a venue directly.

7. Breach of the Code of Practice

The HBAA does not offer a dispute resolution process for matters which fall outside of the Code of Practice, or between parties where one party is not a member of the Association.

Where a member considers that there has been a breach, the recommendation in all cases is that both parties use best endeavours to remedy that breach.

In the event that this does not result in a satisfactory outcome for either, both parties have a right to access the HBAA Dispute Resolution Process as shown below.

Any member found to be in breach of the Code of Practice, or whose professional conduct contravenes points 4.2 and/or 4.3 as stated in the 'Principal Obligations of Membership' may be expelled from the Association at the decision of an HBAA Dispute Resolution panel.

It is important to recognise that this process relates only to potential breaches of the Code of Practice and any dispute arising from or relating to contractual law is beyond the remit of the Association.

The **HBAA Dispute Resolution Process**, which is considered as best practice, is summarised as follows:-

Step 1) Negotiation: As a starting point, the parties shall attempt to resolve any dispute arising out of or relating to this Code of Practice through negotiations between senior executives of the parties, who have authority to settle the same. At this stage there is no involvement from the HBAA. If the matter is not resolved by negotiation within 30 days of receipt of a written 'invitation to negotiate', the parties will attempt to resolve the dispute in good faith through the agreed further two steps of the Dispute Resolution Process.

Step 2) Consultation: The next stage is to bring before the Executive Director substantiated evidence and background to the breach/potential breach and the Executive Director will then ask a mentor from the HBAA – either an agency or venue member – to provide advice to both or either parties on how to resolve the issue. This will be informal advice, based on best practice. If the matter is not resolved to the satisfaction of both parties following the advice of the mentor, the mentor will refer the matter back to the Executive Director for the final step in the Process.

Step 3) Conciliation & resolution: This is a formal process which commences within 30 days of referral from Step 2). A panel of a minimum of three members of the current Executive Committee with representation from both agency and venue membership will be appointed by the Executive Director. The panel will hear the dispute and based on the issues presented will propose a resolution for the parties. This resolution is deemed as final, and failure by either party to accept and implement it may result in expulsion from HBAA membership and all benefits of membership being removed with immediate effect.

NB: Nothing in this Process prevents either party, having given written notice to other parties, from seeking further advice from the Chartered Institute of Arbitrators and/or the legal system.

8. Billback & Credit

For an agent to operate billback, approval must be obtained from participating venues.

Given the importance of financial best practice within the accommodation, meetings and/or events reservation profession, the HBAA has set out below the basis on which financial transactions should take place between Agency Members, Venue Members and Clients, subject to individual commercial agreements between them.

For the avoidance of doubt, billback is a service which may be offered by the Agency Members and/or the Venue Members to their respective Clients, whereby invoices for the services provided by the Venue Member are not settled on departure, but are sent to the Agency Members or retained by the Venue Members, and subsequently sent to the Client for payment or settled directly by the Agency Member. There are numerous variations to the operation of a billback service, but the common definition which exists within the industry should be applied.

Agency Members can act in either of two legal capacities, 'Principal' or 'Agent' and have a right to elect which capacity they wish to operate under. Under the former the Agency Member assumes financial liability for the venues invoiced charges whilst under the latter the Agency Member acts as an agent (either by implication or expressly) and thus the financial liability rests with the Client.

The billing instructions of the Agency Member should be clearly established with the Venue Member at the outset of every transaction, either periodically or on a transaction by transaction basis. Furthermore, the Agency Member can elect to hold different capacities dependent upon the Client.

The HBAA has written a "Best Practice" code, which can be found in **Appendix D**.

Agency Members agree to operate under one of the following capacities;

8.1 Agency Member acts as a 'Principal'

This means that the financial liability for the transaction rests with the Agency Member and any debt collection issues or obligation is between the Venue Member and the Agency Member.

8.1.1 Standard Credit Agreement

A credit agreement exists between the Agency Member and the Venue Member. The credit limit is set at a level advised by the credit checking agencies of the Venue Member. The Agency Member must abide by the terms of the agreement.

8.1.2 Extended Credit Agreement

Where the Agency Member requires a credit limit beyond the limits recommended by the credit checking agencies of the Venue Member, the Agency Member will be required, if requested by the Venue Member, to provide evidence of "credit guarantee insurance", enough to cover the additional amount of credit required for all the Venue Members with which the Agency Member places business.

8.1.3 Separate commercial agreements exist between the parties

The parties establish a separate and legal commercial agreement, wherein the Agency Member acts as 'Principal', which overrides the provisions of 8.1.1 and 8.1.2 above and thus agree with each other on the terms and conditions particular to their circumstances.

8.2 The Agency Member acts as 'Agent'

This means that the financial liability for the transaction rests with the Client and any debt collection issues or obligations are between the Venue Member and the Client.

8.2.1 Standard Credit Agreement

There is a credit agreement between the Venue Member and the Client. The Client empowers the Agency Member in writing to access the Client's credit facility for the fulfilment of the services provided by the Agency Member. The Venue Member is provided, if requested, with a copy of a letter/contract, such as the letter contained in **Appendix C**, prior to any business being placed.

8.2.2 Deferred Liability Agreement

The Agency Member forwards to the Venue Member, details of any Clients to whom it wishes to offer a billback facility. This can be done by transaction or for a medium term facility. The Venue Member takes out the necessary credit checks on the Client. The Venue Member confirms back to the Agency Member the acceptable credit limit they would offer the Client/s in question. The Venue Member may provide a standard credit agreement for signature by the Client. The Agency Member then provides the Venue Member with a copy of the signed letter/contract from the Client, which shall be on the Client's letter headed paper. This unambiguously confirms:

- The Client's liability for any debts which may arise in connection with the services provided by the Agency Member, in the fulfilment of the Client's accommodation, meeting and event booking requirements;
- The Venue Member's right to bring a direct claim against the Client in the event of default;
- The Venue Member's right to take any necessary steps to recover the debt from the Client in the event of default.

A copy of a sample letter can be seen at **Appendix C**.

8.2.3 Separate commercial agreements exist between the parties.

The parties establish a separate commercial agreement, wherein the Agency Member acts as Agent, which overrides the provisions of 8.2.1 and 8.2.2 above and thus agree with each other on the terms and conditions particular to their circumstances.

9. Model Agency Agreements

The HBAA recommends that Agency Members and Venue Members have written agreements with each other. The HBAA has produced a recommended format, contained in **Appendix A**, as a basis for Agency Members and Venue Members to prepare their own.

Appendix B is a draft Agreement specifically to meet the needs of the serviced apartment sector.

These will enable both parties to undertake business in a more professional manner, to clarify their relationships, to avoid disputes and to build mutual loyalty leading to additional business.

Working Agreements between HBAA Agency Members and Venue Members

HBAA best practice recommends that Agency Members and Venue Members have written agreements with each other and these should be dated and signed by both parties.

This will enable members to undertake business in a more professional manner, to clarify their relationships, to avoid disputes and to build mutual loyalty leading to additional business.

The HBAA suggests that these working agreements include content on the following areas and that the membership obligations within the Code of Practice provide the points of reference for the relevant terms:

1. DURATION

The period for which the Agreement is in place, and the notice period required for either party to review or terminate the Agreement.

2. COMMISSION

The facilities and services on which commission payments are applicable and the minimum percentage rate(s) at which commission will be paid and whether on VAT inclusive or exclusive rates.

3. COPY INVOICES

See Venue Member Obligations 4c.8.2

4. CLIENT CANCELLATIONS/NO SHOWS/SHORT STAYS

See Agency Member Obligations 4b.9 and Venue Member Obligations 4c.8.4

5. TIME FOR PAYMENT

See Venue Member Obligations 4c.8.1.

6. DEDUCTIONS OF COMMISSION AT SOURCE

See Agency Member Obligations 4b.10 and Venue Member Obligations 4c.8.3

7. EXCLUSION OF OTHER TERMS

Terms set out in this Agreement can be agreed to apply to the exclusion of all others, whether expressly or implied by law, and if agreed, can supersede all conditions previously issued by either party. Variations or additions should be agreed by the Agency Member and the Venue Member in writing.

8. GOVERNING LAW

Reference should be made that the Agreement is construed in accordance with, and be governed by, the laws of England.

9. DISPUTES

Disputes arising from matters covered by this Agreement which specifically relate to the Code of Practice may be referred by either party to the HBAA for resolution under the Breach of the Code of Practice Dispute Resolution process. See **7. Breach of the Code of Practice**.

Letter of Authority

To be typed on **[Client's]** official letterhead.

To: [insert list of hotel/venue companies to which this letter will be circulated]

Date: []

Dear Sirs,

Re: Authority for [insert agency name] to manage a “billback” service on behalf of XXXX [insert client name]

This is to confirm that **XXXX [insert client name]** have appointed **[insert agency name]**, to act as their appointed booking agent.

[Insert agency name] will be placing accommodation, meeting and event reservations on our behalf. All bookings will be subject to the Venue’s standard terms and conditions, a copy of which has been provided to us by **[insert agency name]**.

We acknowledge that no reservation shall be binding on the Venue unless and until confirmed. **[Insert agency name]** will also be handling, processing and paying venue invoices on behalf of **XXXXX [insert client name]**.

Please note all invoices must be addressed to **XXXX [insert client name]**, and sent to:
XXXX [insert client name],
c/o **[insert agency name and address]**

[Insert agency name] will collate the billing information on our behalf and will issue **[weekly]** statements for our attention. We have agreed to pay **[insert agency name]** within **[]** days of receiving their statement, so that you may receive payment within **[]** days of the date you invoice **[Insert agency name]**. **XXXX [insert client name]** agrees and confirms that it is liable for all expenditure and indebtedness incurred by **[insert agency name]** on its behalf.

Yours faithfully

For and on behalf of
XXXX [insert client name]

APPENDIX D

Billback Best Practice Code - handling client funds

In any commercial arrangement there is an element of risk. Within this Appendix, we propose a way of defining best practice in the way that Agency Members handle Client funds and centralised billing services to minimise risk for all parties.

The HBAA Billback best practice code has been developed to ensure that Agency Members, Venue Members and Clients involved in billback transactions clearly understand each party's roles and liabilities.

The billback service is a service which may be offered by the Agency Members and/or the Venue Members to their respective Clients, whereby invoices for the services provided by the Venue Members are not settled on departure, but are sent to the Agency Members or retained by the Venue Members, and subsequently sent to the Client for payment or are settled directly by the Agency Member.

Agency Members can act in either of two legal capacities, '**principal**' or '**agent**' and have a right to elect which capacity they wish to operate under. However, which capacity the Agency Member is operating under should be made clear in writing to all parties involved in the billback process at the earliest possible stage in the booking process, and certainly before confirmation / contract.

When an Agency Member is acting as '**principal**' then the Agency Member contracts directly with the Venue Member and assumes financial liability for the Venue Member's invoiced charges whereas when the Agency Member acts as '**agent**' then the Agency Member is an intermediary involved in making a contract between his Client and the Venue Member and the financial liability rests with the Client.

If the Agency Member is acting as '**agent**' on behalf of an identified '**principal**' (Client) and the Agency Member acts within the scope of his authority (actual or ostensible), direct contractual relations will be established between the Venue Member and the Client. Only the Client can sue and be sued on the contract.

If the Agency Member acts outside the scope of his authority, and the Client has not ratified his acts, the Client will incur no liability to the venue but the Agency Member will. It is therefore important to identify clearly the scope of the Agency Member's authority.

If the Agency Member acting as '**agent**' does not disclose the fact that he is acting as '**agent**' to the Venue Member, who contracts with the Agency Member thinking that he is dealing with a '**principal**', the general rule is that, provided the agent acted within the scope of his authority, both the Client and the Agency Member may sue or be sued on the contract. If the Client reveals the agency relationship to the venue, the venue may either treat the Agency Member with whom he contracted as the '**principal**' or accept the true '**principal**' i.e. the Client, in which case the Agency Member is relieved of his obligation to the Venue Member.

However if the Venue Member knows it is dealing with an **'agent'**, but does not know who the **'principal'** is, then in this scenario the Agency Member has no liability to the venue.

The billing instructions of the Agency Member should be clearly established in writing with the Venue Member and the Client to cover every transaction, and this can be done either periodically or on a transaction by transaction basis. Furthermore the Agency Member can hold different capacities for different transactions but for the same Client. It is the Agency Member's responsibility to advise the Venue Member in which capacity he is acting if requested to do so by the Venue Member.

It is worth noting that when an Agency Member is acting as **'agent'** and the Client transfers money to the Agency Member to pay the Venue Member on its behalf and the Agency Member subsequently becomes insolvent and/or simply does not use the money to pay the Venue Member, then the Venue Member may still pursue the Client for the payment so that the Client has to effectively pay twice.

Whilst it cannot be guaranteed by HBAA that its members will always adhere to the best practice outlined in this document and therefore guarantee that this situation will not occur, it is recommended that Venue Members and Clients use an HBAA Agency Member in order to reduce the risks of this happening.

The basis of the best practice is set out in the Best Practice Guidance Notes for those Agency Members operating a billback service to their Clients. The Best Practice Guidance notes state the process to be followed, the commitment from the Client to accept responsibility for the debt and the responsibility of the Agency Member to manage communication and exercise probity in handling funds.

Best Practice Guidance Notes

1. The Agency Member is responsible for ensuring that both Client and venue member are aware of the terms of business, the processes and the timetable for fund flow and for ensuring all parties are aware of their responsibilities and obligations, including the capacity in which the Agency Member is acting. This should be confirmed in writing.
2. The Agency Member should obtain confirmation in writing from an authorised representative of their Client that they agree to be responsible for the debt (either to the Venue Member if the Agency Member is acting as **'agent'**, or to the Agency Member if the Agency Member is acting as **'principal'**), and if the Agency Member is acting as **'agent'** that they authorise the Agency Member to raise credit on their behalf in defined circumstances (i.e. to enable the procurement of accommodation and meeting facilities).

A copy of this written confirmation is to be made available to any Venue Member on demand.

3. If the Agency Member is acting as **'agent'** then the Venue Member may grant credit to the Client as **'principal'** after undertaking credit checks as per their policy.

4. Where the Agency Member is acting as '**agent**' then the Agency Member shall undertake in writing to the Client to hold its funds in a non-trading account in good faith, and shall undertake in writing to the Client to only use those funds for the purpose of settling the client's accounts with venues in accordance with the client's remittance.
5. Venue Members who insist on adopting these best practice guidelines in their billback dealings with Agency Members undertake to the HBAA for the benefit of its Agency Members not to apply lower standards in similar dealings with non-members.

NB

- An Agency Member/ may choose not to operate to this standard - if they do so they must advise venue members that they are operating outside the code.
- A Venue Member may choose not to insist on this standard – if they do, they should be aware of the lower level of protection.

APPENDIX E

Enquiry Best Practice Process

Whilst it is understood that different procedures and guiding principles exist across the industry, this is the HBAA's recommended best practice for Agency and Venue Members dealing with enquiry handling and option management.

The terminology shown here is commonly used within the industry, with definitions agreed by all members.

Terminology

D = Definite or contracted: Contract and deposit schedule returned and signed by client.

C = Confirmed (some venues refer to this as 'Tentative'): A provisional booking that the client has instructed the agent to confirm with the venue, on the understanding that a contract then needs to be issued, signed and returned by the client (and/or agent, if responsible for signing contracts on behalf of the client).

P = Provisional space being held on 1st, 2nd and further options: Venue to indicate option and decision time frames on higher options.

Option date : **The date specified by the venue until which the option will be held:** It should be clearly communicated if option dates are being used.

1st option = Provisional space being held for one client at any one time.

2nd and subsequent options: Holding space behind whomever who has 1st option, and so on.

It is essential that option status is clearly clarified for client / agent.

E = Enquiry or Prospect: Enquiry only, no space being held from agent perspective.

TD = Turned down: The venue is not able accommodate or accept a booking and has declined the enquiry.

Cx = Cancelled: The client has cancelled a contracted/definite booking.

R = Released: Business that the agent and venue were holding on a provisional option basis (no matter whether on 1st, 2nd or subsequent option), which has been subsequently released by the venue, agent, or client direct.

Wait List: Where a piece of business is provisional/confirmed/definite, a wait list may be operated in case of release or cancellation.

Deadline: Reasonable time scale for a decision to be made e.g. 24 hours for domestic clients /48 hours if client overseas.

Chasing: It is an expectation that dialogue should be entered into.

Multiple Agents: Client giving the brief to more than one agent.

Natural daylight: Windows looking outside the building emitting natural daylight.

24 hour hold = Meeting space is blocked overnight and are not used for another client or internal function.

Exclusive use of meeting space = No one to conduct site visits/showrounds into the space.

Total Exclusive use: Relates to the areas requested, and could mean TOTAL building. No other clients or guests to be allowed in the building even for afternoon tea, drinks at the bar etc. This may exclude the leisure club if the hotel has a private membership.

Call for contracts: When down to final short list, contracts can be called for so that client can review terms and conditions prior to confirmation.

Site inspections / Showround: Agent/client visiting venue to view space relevant to their enquiries.

Staff to be fully trained in site inspections, ensuring all relevant space is available to view and that the inspection is preferably carried out by the person dealing with the enquiry. The agent/client should be advised in advance if full space/accommodation/relevant area of venue is not available to view, and be updated prior to visiting the venue if the situation changes.

ENQUIRY PROCESS: From the Agency Member's perspective

- Fully qualify the client brief to ensure correct venue selections are made. This ensures that both the agent's and venue's resources are effectively used to work on enquires which appropriate to that venue.
- At the appropriate time, provisional bookings to be made to secure all required facilities.
- Client reference to be given, preferably the company name – in order for the venue to check for conflicting business already placed, or to advise if the enquiry has already been received from another source. In the case of commercial sensitivity, the agent should provide industry sector as a minimum.
- A note of any option date should be made, if given by the venue. It is also useful to note the name of the person spoken to at the venue and the date the provisional made.
- While space is being held, the agent should keep the venue advised of any change of circumstance relating to the booking.
- The practice of offering 2nd and subsequent options should be in use and openly communicated.
- Site inspections to be made within a reasonable time frame, check the venue space is available to view and the relevant venue person available to meet.
- Specify timeframe limits, although sometimes difficult as client led.
- Venues to provide honest and complete information on the space available for the enquiry and its suitability for the booking.
- The agent should inform the venue of its standing in the order of preference, allowing the venue to better understand the likelihood of the booking converting.
- Agent to provide relevant feedback to venues post site inspections/showrounds.
 - Negotiate and narrow down options with venues
 - Finalise list and call for contracts
 - Agree terms & conditions
- Confirm relevant space and send accurate confirmation within a reasonable time frame.
- Release other space immediately, explaining why the venue did not win the business, and also where business / booking placed.
- Check with the client to ensure contract has been signed and returned to venue with relevant deposits.

ENQUIRY PROCESS: From the Venue Member's perspective

- Hold provisional space on 1st option, 2nd or subsequent options if possible.
- Hold in client name and agent name, with any relevant reference advised.
- Check for competing business within the venue.
- Inform agent if conflicting business does come to the venue after provisional/confirmation.
- Inform all parties immediately if the same piece of business has been received from another source already.
- Offer 1st, 2nd and subsequent options to the agent.
- Joint Options and Race for Space policies are not appropriate.
- Space should be considered available until the contract has been signed off and deposits are received by the venue.
- Block the space/accommodation in the relevant diary and property management systems STRAIGHT AWAY.
- If offering an option date, advise the agent verbally or via email.
- Inform the agent if the venue will be undergoing any renovation or refurbishment at or around the time of the event.
- Management of options – there should always be open dialogue at all times during the enquiry process between venue, agency and client.
- Deadlines should be adhered to.
- Chases should be made as the business dictates/demands.
- Be flexible wherever possible.
- If contracts are requested, they need to be adequately followed up for signature and return.
- Be prepared to discuss the venue's terms & conditions and also be aware of their meaning, in particular payment policies.
- Issue contracts in a timely fashion, and subsequently chase deposits and signed contract.
- Should contract and deposit not come back by the agreed timescale, speak with the agent urgently.

GUIDELINE QUESTIONS FOR VENUE MEMBERS DURING ENQUIRY PROCESS

- The name of the client company/organisation. If commercially sensitive, then reference and industry sector.
- Is there flexibility in the brief and the dates provided?
- What is the budget and preferred brand/style of venue?
- What is the purpose of the event?
- What is the frequency of this event?
- Where have this event been held previously
- What is the level of the attendees?
- Where are the attendees travelling from?
- Are other destinations/locations being considered?
- Where will the client NOT go/consider?
- How many options will be proposed to the client?
- What other venues are being considered and what are their rates?
- Are any other agencies involved?
- Have you secured this business or are you pitching?
- What are the timescales?
- What is the decision date?
- Who is the decision maker?
- When will site inspections be arranged/taking place?
- What is important to the client for this event (deal breakers etc.)?
- What are the timings of the event?
- Is early access required for set up/preparation?
- Overnight hold?
- Is late access required for breakdown?
- Is overnight accommodation to be contracted or on allocation
- How will payment be made?
- Commitment level - strength of relationship
- Does the agent have everything they need to put your venue forward?
- What can we do further to help you win this business for our venue?
- NB: if the venue believes the enquiry lacks depth or is vague, it is not compelled to hold space although it should ensure the agent is aware of this.