CONTRACTS

Signing Contracts Any contract entered into by a student organization must be signed by at least two officers of the organization, one of whom must be the Treasurer of the organization. Be advised that students do not have the authority to sign any contract on behalf of Harvard University or any of its faculties or departments. If a student organization fails to meet its contractual obligations, Harvard University will not assume those obligations. To make this clear to third parties, any contract signed must bear the full name of the student organization and must include the following clause:

“The parties hereto agree and understand that Harvard University is not a party to this contract and that Harvard University is not responsible, under any circumstances, for performing any obligations of this contract.”

Please note: If this language is not included, and as a result there are negative consequences to Harvard University or any of its faculties or departments arising from a contract signed by members of a student organization, Harvard University will seek to hold those students who signed the contract and the student officers of the organization personally responsible.

In addition, to protect against the use of Harvard’s name by outside companies and vendors, the following language must be included in any contract:

“[Party]’s use of the name “Harvard” (alone or as part of another name) in advertising or promotional materials is not permitted.”

While the OSL cannot provide legal advice, contracts can be submitted for review by emailing osl@fas.harvard.edu. Please provide at least 2-3 business days for review.

Contract Considerations
A contract is a legal obligation, and you may wish to seek independent legal counsel before signing. At the very least, student organizations should consider the following issues before entering into any contract:

1. Does the contract contain all the terms that are essential components of the deal (for example, a full description of goods or services, price, and dates for performance or delivery)? Are all lists, price sheets, schedules, appendices, order forms and other documents mentioned in the contract actually attached to it?

2. Is the document so overly legalistic that much of it is incomprehensible? If so, your organization should ask the other party to resubmit something that is in plainer English. If you cannot understand the contract, then your organization should not sign it.

3. Is the name of your student organization properly identified? The contract should not be in Harvard’s name or in Harvard’s behalf (see above). Is the other party (vendor, company, etc.) properly identified? Are abbreviated terms for the parties (such as Vendor or XYZ) used consistently throughout the document?

4. Is the product, rental, or service clearly identified and fully described? Are the dates of delivery or performance of services well defined?
5. Is the total purchase price clearly defined, including any promised discounts? If not, does the contract include an understandable formula by which the value will be calculated? You may not wish to agree to pay late fees and interest on unpaid balances. Does the contract mention the date by which all final payments must be received?

6. Does the contract have a clear beginning date and end date? (For example: “The term of this contract shall be for one year from the date of signing, unless otherwise terminated by either party.”) You may wish to avoid automatic renewal provisions and open-ended terms (for example, a clause that states: “This contract shall remain in effect unless terminated by either party.”), as student organization membership will change from year to year. Student organizations are advised against signing multi-year contracts for this same reason.

7. Many contracts state that they can be terminated by either party upon a breach of a material obligation by the other party. Does the contract require that the breaching party be given notice and an opportunity to correct (or “cure”) the breach? Does the cure period seem reasonable?

8. Does the contract contain a unilateral right of termination? (For example: “This contract may be terminated by either party at any time with or without cause upon 30 days prior written notice to the other.”) Is this reasonable given the nature of the contract? There may be certain contracts in which your organization would not want the other party to back out of a commitment on very short notice (e.g. the rental of space for a House formal or hotel rooms for a conference).

9. Does the contract spell out the approved methods of delivering notices, such as a notice of termination or notice of breach (in writing, by phone, through email)? Does the contract spell out the full name and full address (or fax, or email address) of those to whom notices should be sent?

10. Does the contract require “best” efforts? If so, you might consider changing the language to “reasonable” or “good faith” efforts. (For example: “[Student Organization] agrees to exercise good faith efforts to ensure that each guest, representative, and invitee that is under the age of 21 refrain from attempting to obtain, obtaining, attempting to consume or consuming any alcoholic beverages during the event.”)

11. Does the contract limit a vendor’s liability for negligence, breach of contract or other wrongful act or omission? Student organizations have every right to expect vendors to stand behind their products and services and to accept responsibility for their own wrongdoing.

12. Does the contract require your organization to indemnify the other party (i.e., reimburse costs, or otherwise defend the party from liability) in any way? Your organization should not agree to indemnify vendors or their employees in ordinary commercial situations.

13. Does the contract contain a provision stating that it may not be modified except in writing signed by both parties? For example you would not want the vendor to substitute another menu item or service at the last minute if you were anticipating something else.

14. Does the contract stipulate that it embodies the entire understanding of the parties? (For example: “This contract constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all prior understandings and agreements.”)

15. Does the contract state that it is governed by the laws of a particular state, and/or that any legal action relating to the contract will be brought in a particular state? If the state referenced is not Massachusetts, you may wish to change it to Massachusetts or delete the provision altogether.
16. Does the contract contain an arbitration clause? Arbitration is an alternate method of resolving legal disputes. Arbitration tends to be less expensive and less intrusive than a lawsuit; however, because the threshold is somewhat lower, it may mean the likelihood of a dispute coming to a head is higher. Your organization will need to consider carefully whether it wants to commit to arbitration in the event that a problem arises with the contract. If you decide to take this route, you might consider including contract language that states that the arbitration is “binding” (meaning it cannot be attacked later in court), that it will be conducted in accordance with specific rules (for example, the Commercial Arbitration Rules of the American Arbitration Association), and that it will be held in a particular city (obviously, Boston or Cambridge would be preferable).

17. Does the contract state that neither party may assign its rights or obligations without the written consent of the other? This may be especially important if the identity of the person or organization with whom your organization is engaging really matters to you, for example, if you are contracting with a particular deejay or band.

If you have further questions about contract review, contact the Office of Student Life at 495-1558.
DJ Contract Language
Sample language for use with DJ contracts:

The performer agrees as a host of the function, to make best efforts help ensure the safety of all those in attendance, including but not limited to the following guidelines in working closely with law enforcement, Harvard BAT members and sponsoring organizations and their officers to make sure the event is in compliance with all laws and regulations. The performer acknowledges that being responsible for what all guests hear and usually being the one with the best visual of the event, that the following best practices must be followed:

1. Not playing music known to create hostile environments (eg, mosh pits, slam dancing, etc)
2. If such a situation arises, altering the music to calm the situation.
3. Playing final 2 to 3 songs of the evening which are generally, well known calming, relaxing songs, slower happy songs to help ensure guests leave happy and are not in the mood to damage property or engage in physical violence
4. Interacting with the crowd and individuals in a positive and respectful, customer service oriented manner
5. Paying close attention to the crowd and for early warning signs of danger or trouble, including groups or individuals moving unusually fast through the room or through doors, individuals or groups arguing or gesturing angrily, and individuals who seem intimidated by or annoyed with others around them, and then working with security, law enforcement and event sponsors and hosts to have a proactive approach to potential problems, including but not limited to directing their attention to any such problems through using the microphone, hand gestures and/or lighting controls or handheld flashlights.
6. Vocally interacting (through the sound system) with the crowd to encourage positive behavior and to warn consequences of negative behavior (eg, "Hey everyone, I have to turn on the lights and stop the music if we don't calm down/stop smoking/ etc"). When this vocal interaction is not effective and a problem is persistent or becomes dangerous, to communicate with all stakeholders on a plan to end or temporarily stop the event, including to turn on lights, turn off music, and manage crowd control and critical control points such as exits, funnel points, etc.