

# *Trends and Insights*

in Hotel Management Contracts

Asia Pacific

2018



Baker  
McKenzie.





“ *At JLL and Baker McKenzie, we are at the forefront of negotiating hotel management contracts and monitoring the evolution of commercial and legal terms in these documents. We are pleased to share with you trends and insights of these contracts signed between 2014 and 2018* ”

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DISCLAIMER

The views, opinions and analysis expressed in this publication are those of JLL and do not necessarily reflect the view of Baker McKenzie.



# Introduction

From the consolidation of brands to technology disruption and technology advancements, the hotels and hospitality market is evolving. Similarly, hotel management contracts (“HMC”) and the relationship between an Owner and an Operator is changing – at JLL and Baker McKenzie, we are at the forefront of seeing this change and we are pleased to share with you Hotel Management Contracts 2018, a unique analysis of recent trends in hotel management contract negotiations across Asia Pacific. This provides an update to our previous studies undertaken in 2014, 2008, 2005 and 2001.

The sample size is based on 98 contracts across various regions in Asia Pacific and we have sought to present the major commercial and legal terms across HMC signed between 2014 and 2018 (inclusive) in a format that highlights major trends across the industry. In addition to our analysis of the raw data, we have shared some insights based on trends that are having a commercial and legal impact on HMC.

We trust you will find this publication relevant, concise and insightful. Please reach out to us at any time if you would like to hear more.



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# JLL Insights

## How the changing industry has impacted Hotel Management Contracts

The below articles are short insights written by JLL and are based on recent points of negotiations with Operators that JLL has had (acting on behalf of an Owner).

### CONSOLIDATION OF BRANDS AFFECTING ASSIGNMENT PROVISIONS

On a regular basis, we are seeing consolidation in the hotel industry. Deals such as the Marriott Starwood merger, Accor and Mantra, Accor and FRHI are an indication that the hotel industry is in a period of consolidation. As global M&A activity increases, more and more operators are putting more focus on the assignment provisions of the Operator to ensure that the value of their management company is not affected.

The current position across hotel management agreements is that an Operator can assign management to a person that acquires all, or substantially all, of the assets of the Operator so long as the incoming manager takes on the obligations of the outgoing manager and in such case the approval of the Owner is not required. Whilst this position is not unreasonable, in some cases, it may trigger issues such as what happens if the incoming manager chooses to retire the current Brand and replace it with one of their current Brands or whether an Owner has a right to question the incoming manager's ability to deliver. There are a number of strategies that have been developed to reduce these risks and adapt to this changing landscape of M&A and consolidation.

### TERMS THAT IMPACT THE VALUE OF YOUR HOTEL

In this survey of 98 contracts, 42% provided a Termination Without Cause or Termination Upon Sale clause. Of these contracts, 35% contained a Termination Upon Sale clause and the remaining 7% of contracts stated Termination Without Cause. It is important to note that an early right to terminate will directly impact the other commercial terms of the deal so an Owner must weigh up the importance of this versus other terms that impact fees or the length of the contract.

If one of the objectives is to exit the investment, then a right of early termination has a direct impact on the value of the hotel. The rationale for this is that a hotel that has the benefit of vacant possession provides additional exit opportunities as the buyer pool expands to include Owner-Operators or investors who are able to unlock value through a more favourable management agreement. Owner-Operators, being a large segment of the buyer pool in Asia, also pay a premium for certain strategic properties in order to grow their management platform.

For completeness, we are aware that a few major international operator groups are commercially able to resist such termination provisions in all or most of their HMCs. As the data for the survey was collected based on an anonymous summary of the HMC terms, we are unable to determine whether these operator groups participated in the survey.

### FINANCIAL INCENTIVES – SAYING IT IS ONE THING; MEANING IT IS ANOTHER

As the industry has become more competitive, Operators are creatively finding ways to make their proposals more attractive to Owners. Incentives such as Performance Tests, Performance Guarantees and Key Money or Soft Loans have increased for specific markets and project. However, in most cases a detailed review of such incentives should be undertaken to ensure both sides are on the same page commercially and legally in relation to the exact value of the incentive.

For example, in 85% of contracts, a Performance Test was offered by the Operator. A Performance Test is effectively a right of termination by the Owner to terminate the relationship if the Operator does not achieve certain criteria for a period of time. Out of the contracts with a Performance Test, 42% were based on a failure of both a test based on Budget and also failure to achieve hotel's revenue per available room (RevPAR) against its competitive set. The probability of failing both tests is very rare for the practical reasons that if an Operator fails the Budget test then understandably it could be a product of the market and in such circumstances the Operator in all likelihood would not have also failed the competitive RevPAR test simultaneously, whereby making the double Performance Test more difficult to satisfy in reality.

Another example is where the Operator guarantees a level of performance so as to provide a level of comfort to the Owner. As an opening comment, only 10% of contracts surveyed had a Performance Guarantee. It is clear that such incentive is rare and reserved only for particular markets and projects. Owners should undertake a thorough review of the clause to ensure that the Guarantee will deliver the intended business outcome with typical conditions such as cumulative caps on amounts paid by the Operator and force majeure-like events. Many provisions also provide for a claw back of any payments made either indefinitely or over a limited period. A considered understanding of these limitations is required in order to ensure that the Owner can get the value of the Performance Guarantee it has negotiated.



## BRAND STANDARDS AND SURFING THE WAVE OF SOFT BRANDS

Curio by Hilton, Autograph Collection by Marriott, MGallery by Sofitel, Unbound Collection by Hyatt and other collection brands. The last few years have seen a rapid increase in Soft Brands created by Operators. So what is a Soft Brand? The principle behind a Soft Brand is that the hotel is inherently unique and rather than fitting within one of the recognisable brands, an Owner is able to create the hotel's own identity whilst still benefitting from the distribution and management of an Operator.

We are asked countless times what are Brand Standards? In particular, what are the Brand Standards for Soft Brands if the Owner is building an asset that does not want to be a Hard Brand? Brand Standards are largely kept broad and overarching in the HMC where a general statement is made that the Owner will adhere to the Brand Standards. This statement was found in 95% of contracts surveyed. Here, an Owner encounters a chicken and egg situation where the Brand Standards are usually not made available until the HMC is signed, other than obvious aspects such as minimum room sizes, facilities required and fire, life and safety requirements. For an Owner that does want to go down the path of a Soft Brand, there is an opportunity to discuss Brand Standards and the proposed Property Improvement Plan. In most cases, there is a reason for Brand Standards to be imposed due to quality standards. However, a healthy debate on the return on investment of certain standards should be held.

## THROUGH THE LENS OF A HOTEL ASSET MANAGER

From an asset management perspective, the negotiation of a HMC requires a careful evaluation of the Owner's goals and resources. Questions are asked such as what are the Owner's investment objectives and holding / exit strategy with the property? What are the resources that an Owner can dedicate to the project? How does this property fit into an Owner's portfolio and overall development of the project? In Asia, the Hotel and the Brand is often the jewel in the crown, enhancing the value of the other real estate that the Owner holds. This is particularly so in many mixed-use developments.

Based on the above and from a HMC negotiation perspective, an Owner who plans to hold the hotel for the long run will need to pay more attention to terms related to optimising the performance of the hotel in the medium and long term and extract the best possible value from the Operator. However, an Owner with an objective horizon of 5 to 10 years will need to pay more attention to terms that facilitate their exit strategy.

During the course of negotiations, the level of involvement of an Owner and asset manager needs to also be crafted into the HMC to ensure that the Owner has certain rights and access to the Hotel, receives sufficient reporting, approvals over budgets, contracts, leases, clustering, etc. A clause-by-clause analysis is required to the extent that details such as the definitions in a HMC are reviewed, particularly in relation to definitions that have an impact on the calculation of management fees, or in cases of guarantees.

## CONCLUSION

From the results of our survey and based on the collective experience of JLL and Baker McKenzie, the market relating to commercial and legal terms in HMC is changing. There are new operators emerging, regional operators playing in new markets, international operators growing through consolidation. Overall, Owners and Operators should still have considerable market choices mutually. Inviting Operators to operator selection processes continues to give comfort to an Owner that it has engaged with the market to the fullest extent possible thus maximizing the likelihood that the right choice of operator has been made.

The actual hotel management contract is evolving to account for industry trends and some Operators are even simplifying their agreements to make their contracts more understandable to the non-lawyer industry participants. It is important to ensure that all parties understand all of the provisions of the HMC and have the benefit of best practice.



# Risk and Rewards

A hotel management contract consists of a mix of commercial and legal terms, many of which have an immediate and lasting effect on the Owner's cash flow, as well as on the performance and manageability of the selected Operator for the duration of the contract. Contracts generally aim to maximise returns for both, although rarely do they require the Operator to participate in operating deficiencies because the Owner typically bears all of the financial risk.

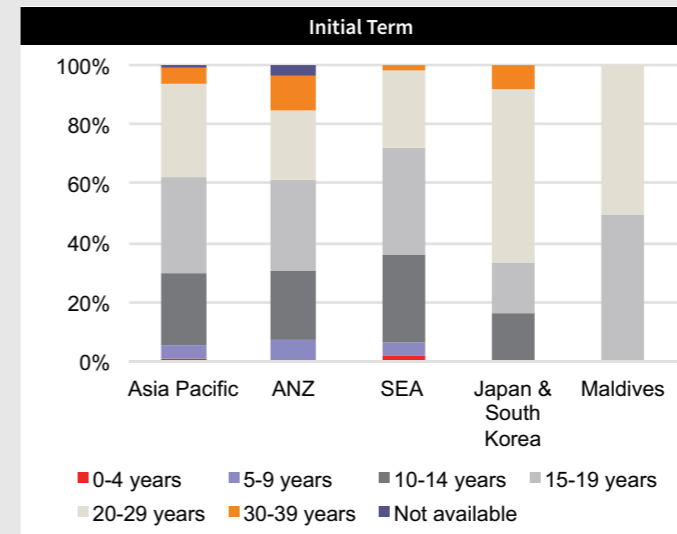
Under a traditional hotel management contract, an Operator will provide supervision, expertise, established methods and procedures and a track record of past performance for which they charge a Base Fee. While the inclusion of an Incentive Fee component can more closely align Operator's income with Owner's profit, the Operator still bears less risk and is hedged on the downside due to the Base Fee and group charges such as Reservations, Centralised Services Fees and Loyalty Programmes. In some markets, this is shifting as Owners are increasingly seeking additional income security through the inclusion of an Incentive Fee subordination clause or Incentive Fees that are threshold-based.

## Initial Term

“  
Compared to the 2014 survey, Initial Terms were increasingly shorter, especially in South East Asia

The number of contracts with an Initial Term of less than 30 years increased from 88% in the 2014 survey to 94% in the 2018 survey.

In this 2018 survey, over 60% of contracts had a term of 20 years or less.

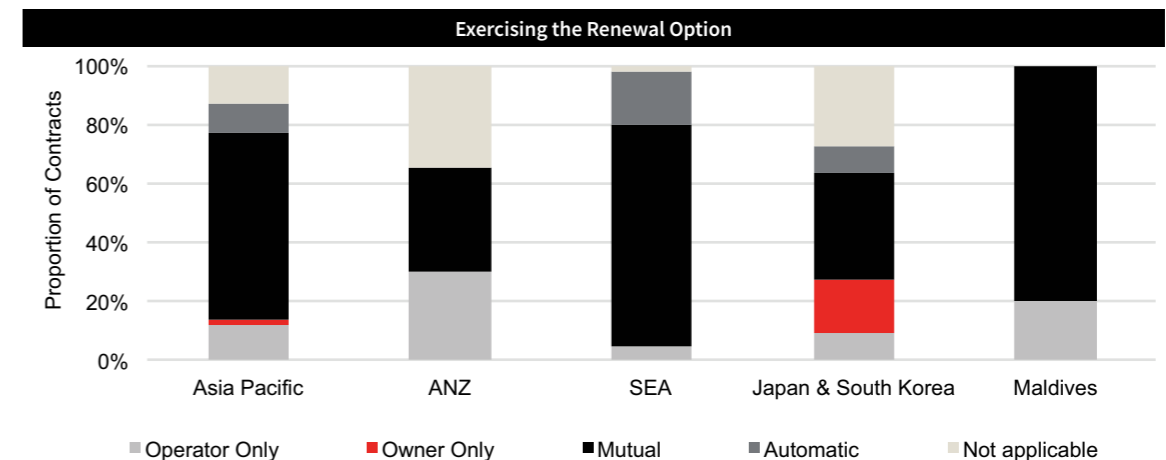


- 33%** Contracts with an Initial Term of 15-19 years (vs 21% in the 2014 survey)
- 32%** Contracts with an Initial Term of 20-29 years (vs 36% in the 2014 survey)
- 24%** Contracts with an Initial Term of 10-14 years (vs 25% in the 2014 survey)

## Renewal Term

66% of the reviewed contracts' Renewal Terms were based on Mutual Agreement. This was followed by Option by the Operator (13%) and an Automatic Exercise Option (12%).

75% of contracts offered a renewal option of one or two renewal periods. Most Renewal Terms were for an additional 5-year period (46%) and a 10-year Renewal Term (25%).





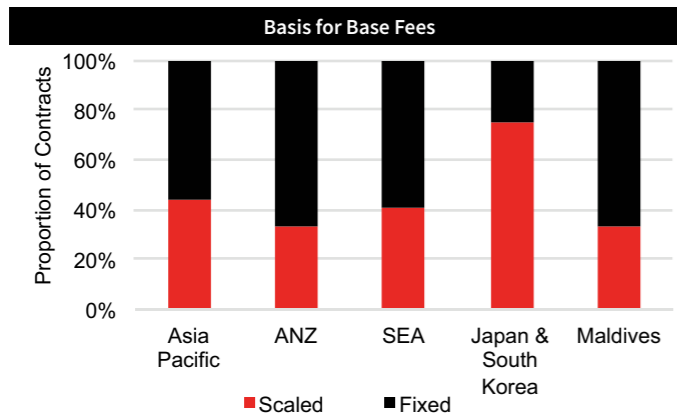
## Base Management Fees

“

*Base Fees were more competitive in the 2018 survey*

Contracts with a Base Fee of below 1% increased to 15% in 2018 from 1% of those in 2014.

Base Fees were specified in 98% of contracts. Of these, 98% were paid on a monthly basis across the regions.

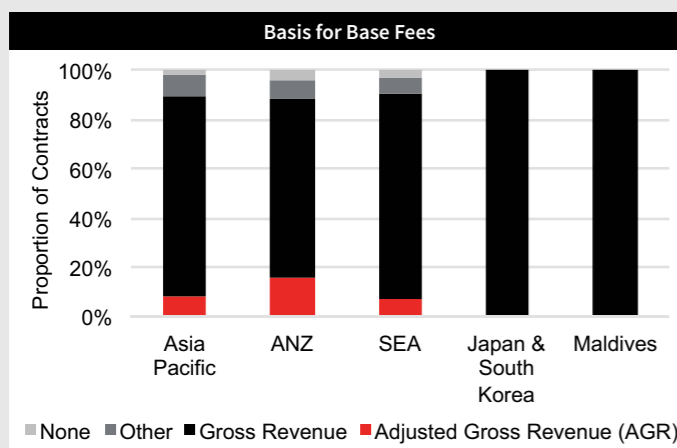


55% of contracts stipulated the Base Fee as a fixed amount. This was most common among contracts in ANZ, SEA and the Indian Ocean.

Other than fixed amounts for the duration of the term, the fee in 43% of contracts ramped up to stabilisation. This was most commonly seen in contracts in Japan & South Korea.

## Basis For Base Fees

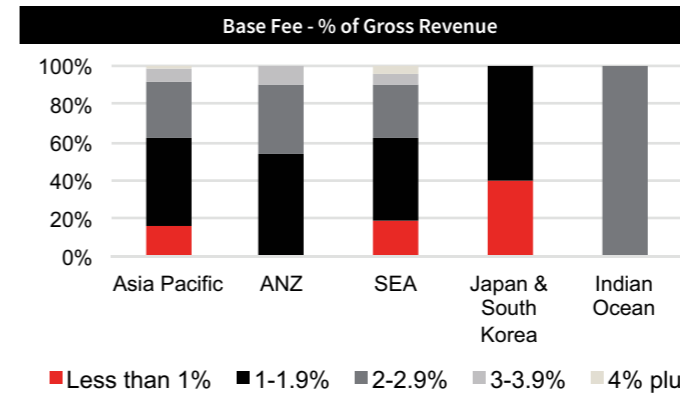
Base Fees were most commonly charged as a Percentage of Gross Revenue.



**82%** Charged as a Percentage of Gross Revenue

**8%** Charged as Percentage of Adjusted Gross Revenue

## Base Fee As Percentage Of Gross Revenue



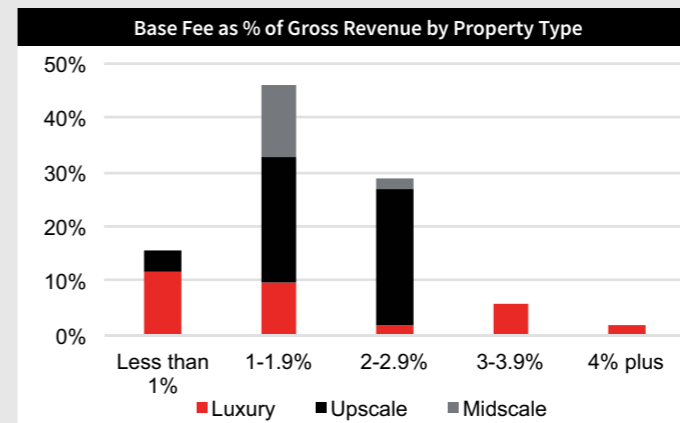
Base Fees were more typically charged in the range of 1% to 1.9% and 2% to 2.9% of Gross Revenue, especially in ANZ and SEA.

**46%**  
Charged at 1% to 1.9%

**29%**  
Charged at 2% to 2.9%

## Base Fee As A Percentage Of Gross Revenue By Property Type

Base Fees for Upscale developments were lower than Luxury developments.



Base Fees as % of Gross Revenue for all Upscale contracts surveyed were below 3%, with most being in the range of 1% to 1.9% and 2% to 2.9%.

In contrast, fees for Luxury contracts ranged across the spectrum of low to high Base Fees. Where the fee was less than 1%, this could be derived as being for key trophy assets. Likewise, where the fee is above 3%, it reflects the appeal of certain brands to Owners.

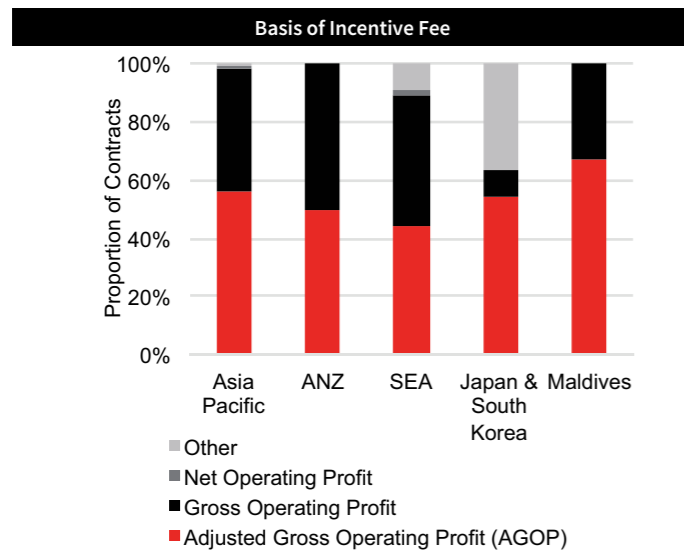


## Incentive Management Fees

**“** Demonstrating a greater focus on incentivising an Operator to maximise profits, there was an increase in Incentive Management Fees based on a sliding scale rather than a fixed percentage of GOP/AGOP

42% of contracts in the 2014 survey were based on a Fixed Percentage of GOP/AGOP. This was reduced to 28% in the 2018 survey.

63% of the contracts were based on a Sliding Scale in the 2018 survey.



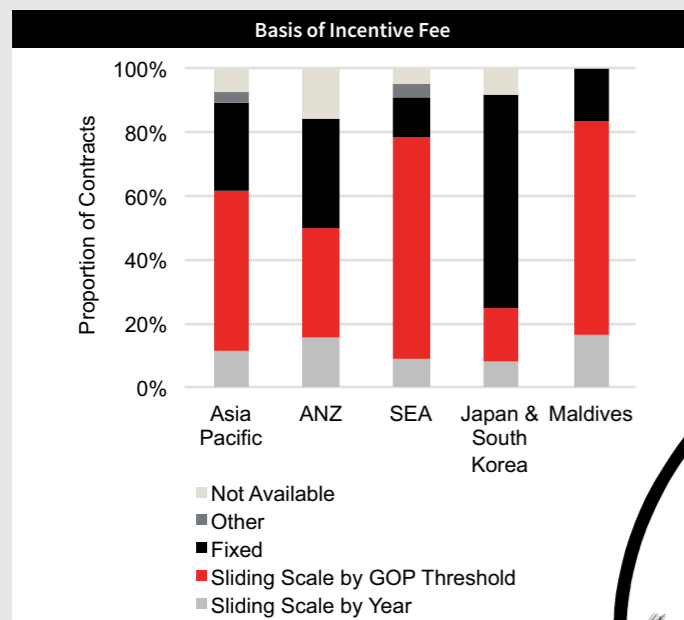
Majority of the Incentive Fees were based on Adjusted Gross Operating Profit.

**53%** Charged as a Percentage of Adjusted Gross Operating Profit

**39%** Charged as Percentage of Gross Operating Profit

\*AGOP is generally defined as Gross Operating Profit less Base Fee.

## Incentive Fee Criteria



A scaled Incentive Fee based on defined GOP/AGOP threshold was the most common.

**52%** Sliding scale based on defined GOP/AGOP thresholds. The most common range across scaled Incentive Fees were between 5% and 9% of AGOP\*

**28%** Based on a fixed percentage of GOP/AGOP

**11%** Sliding scale based on a ramp up in years

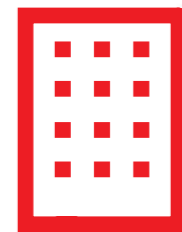
\*However, this was dependent on the type of property and also the quantum of the Base Fee

When charged as fixed percentage:	
GOP	AGOP
<b>50%</b> charged the fee between 8% and 8.9%	<b>50%</b> charged the fee between 9% and 9.9%
<b>25%</b> of contracts charged between 6% and 6.9%	<b>17%</b> of contracts charged between 8% and 8.9%



## Corporate Fees

**“** Corporate Fees such as Sales & Marketing, Loyalty and Reservation Fees were largely standardised across the same operators



Fees tend to be consistent across contracts from the same hotel operators, as fees are typically driven by decisions from the corporate office of the hotel operator.

## Sales & Marketing Fee

Utilised to market the Brand and corporate sales offices, Sales & Marketing Fees were specified in 73% of the contracts.

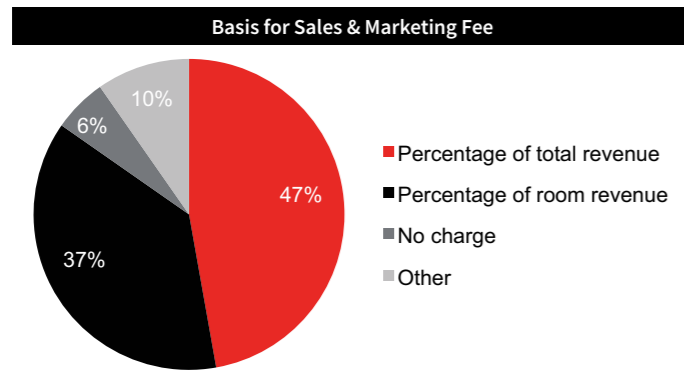




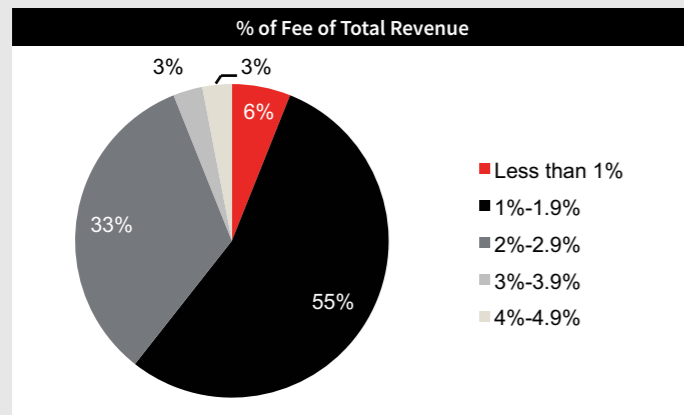
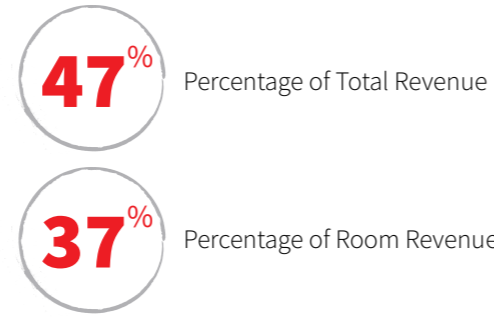
## Basis For Sales & Marketing Fees

Fees as a Percentage of Total Revenue was more common in the 2018 survey (47% of contracts) compared to the 2014 survey (29%).

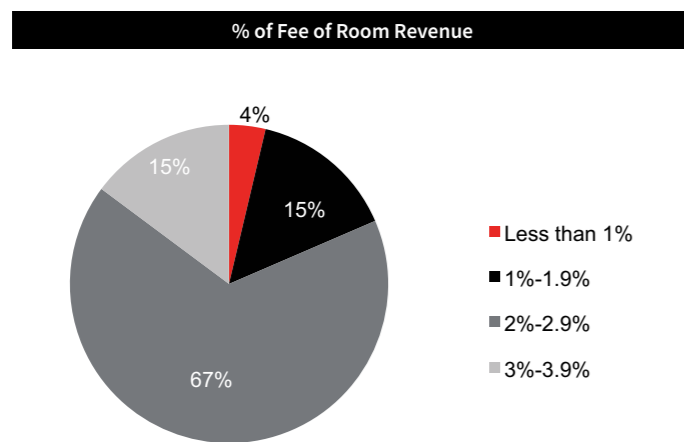
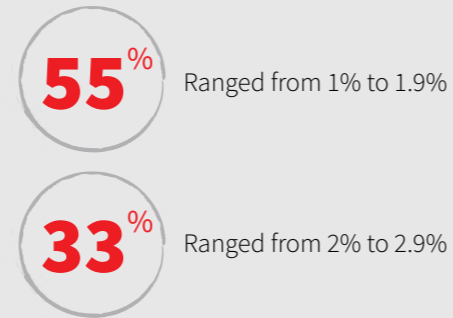
On the other hand, the proportion of contracts with fees as a Percentage of Room Revenue decreased from 56% in the 2014 survey to 38% in the 2018 survey.



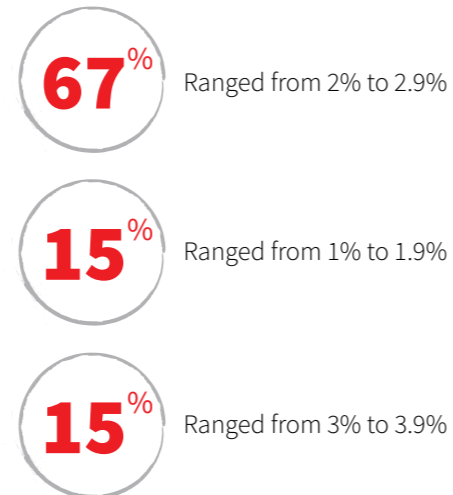
### Fees as Percentage of Total Revenue



### Fees as Percentage of Total Revenue

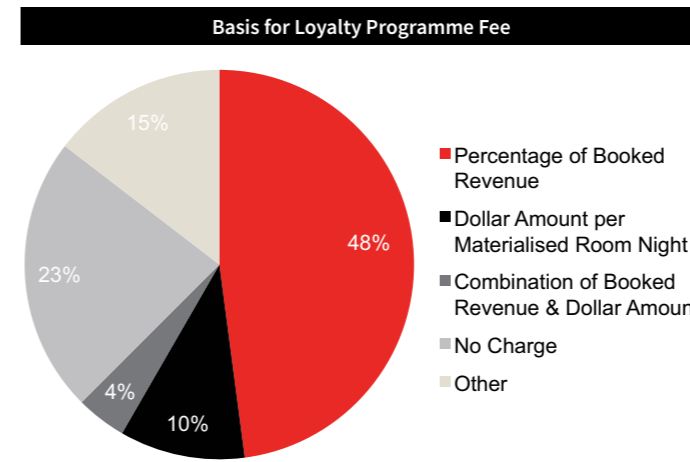


### Fees as Percentage of Room Revenue

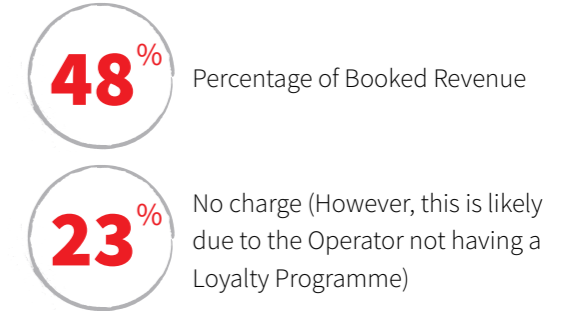


## Loyalty Programme

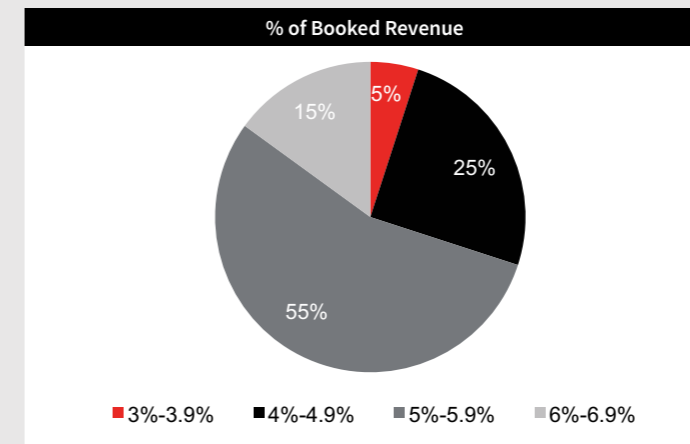
49%\* of the reviewed contracts had a Loyalty Programme. Of the contracts with Loyalty Programme, the contracts were largely with the major international operators.



### Basis for Loyalty Programme Fee



\*More contracts are expected to have a Loyalty Programme. However, data is not available in most of the contracts reviewed in 2018



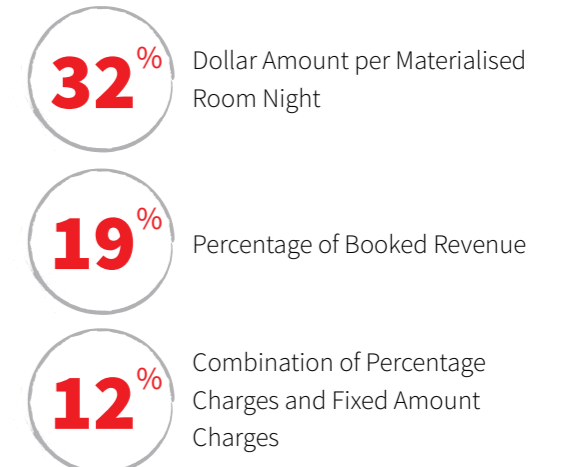
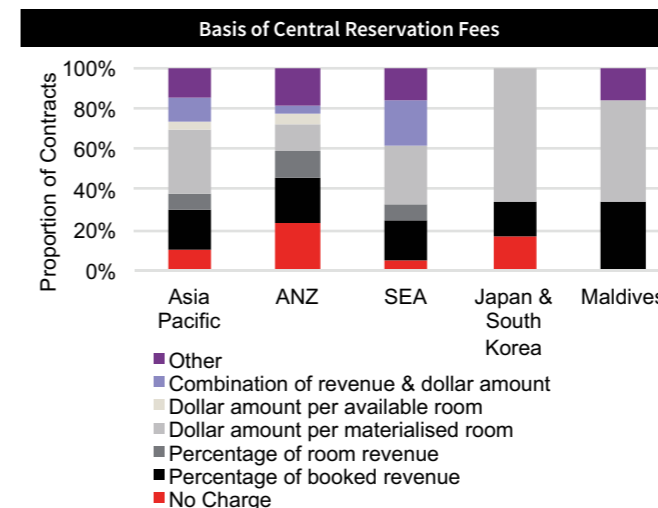
### Percentage of Booked Revenue



## Central Reservation Fees

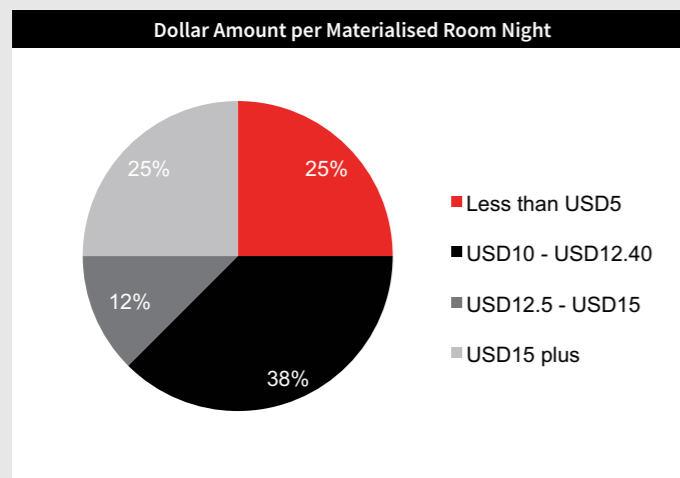
Central Reservation Fees were specified in 77% of the agreements.

Operators that focus only on luxury assets tend to have more expensive Central Reservation Fees than Operators that play across midscale, upscale and luxury segments.





### When Charged As A Dollar Amount Per Materialised Room Night

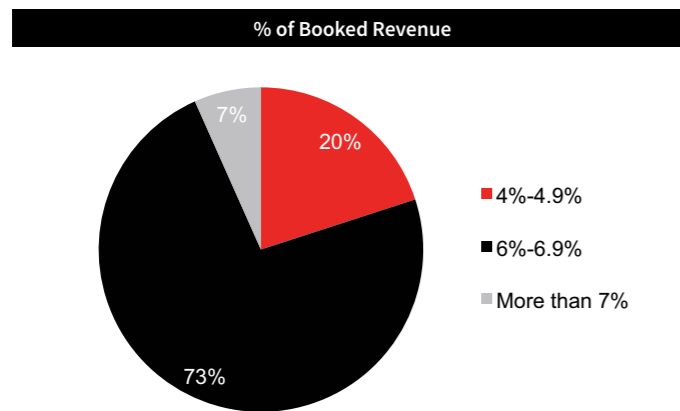


- 38%** Charged between USD10 to USD12.40
- 25%** Charged less than USD5
- 25%** Charged more than USD15

### When Charged As A Percentage Of Booked Revenue

93% of the contracts charged less than 7% of the Booked Revenue.

Typically, because of the large economy of scale resulting in lower unit cost per reservation generated, major international hotel operators tend to charge a smaller percentage or smaller fixed dollar amount as central reservation fees compared to other operators who have fewer properties.



- 73%** Charged from 6% to 6.9%
- 20%** Charged from 4% to 4.9%

### Financial Incentives

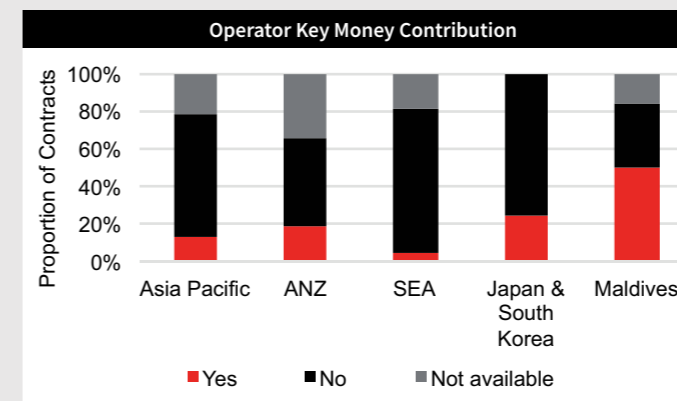
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*Save for select properties and cities, there has been little change since the 2014 survey in the number of Financial Incentives offered by operators*

Compared to the 2014 survey, the proportion of contracts with Key Money contribution increased marginally from 11% to 13% in the 2018 survey.

Increasing number of operators, scarcity of deals in certain markets and aggressive growth strategies from the operators culminate in some operators being able to offer financial incentives such as Key Money, Performance Guarantees, and Soft Loans in order to win contracts.

### Key Money



**13%** of contracts included Key Money contribution

Maldives had the highest portion (50%) of contracts specifying Key Money contribution, followed by the Japan & South Korea markets, where 25% of the contracts incorporate operators' key money contributions.

Of the contracts that had key money, 85% were for new build assets.

### Performance Guarantee

“

*10% of contracts included a Performance Guarantee by the operator*



*It is rare to see contracts offering a Performance Guarantee in seasonal and volatile markets.*

In the limited contracts that have a Performance Guarantee, an Absolute Dollar Amount represented 80% of applicable contracts, with a percentage of GOP based on the respective annual budget covering 10% of contracts.

### Soft Loan

“

*In the 2018 survey, it was uncommon to see Soft Loan contributions in hotel management contracts*

Only 2% of contracts in the 2018 survey and 1% of contracts in the 2014 survey recorded a loan contribution by operators.



# Capital Expenditure and Technical Services Fees

It is rarely disputed that a hotel does not need regular repairs and maintenance and capital expenditure in order for the Owner's asset to be maintained in the long term. In the short and medium term, this constant repair is needed such that the guest experience and the brand equity of the Hotel and the Operator's Brand are not impacted – this is particularly relevant in this age of social media where negative reviews can impact the business.

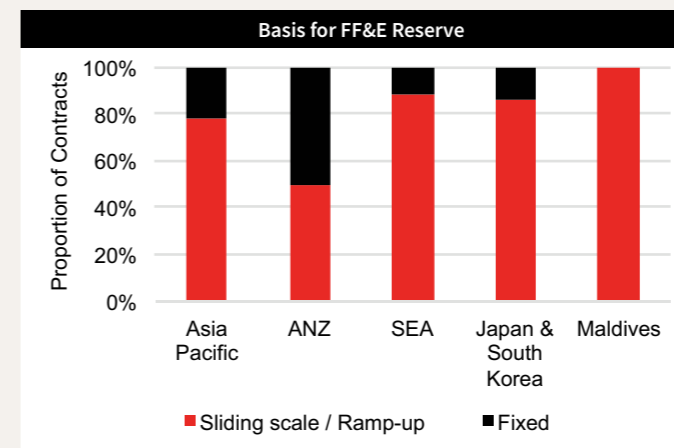
In order to maintain a hotel in good condition, there are a number of funds that are available to the Operator. The first means is through ordinary repairs and maintenance that is an operating expense. The second means is through the FF&E Reserve that is an agreed percentage of revenue and is usually utilised over the course of the year. The third means is through discretionary capital expenditure which requires further Owner approval. There is sometimes an overlap between the treatment of these three avenues and it is important for an Owner to have a good understanding of these to ensure efficient utilisation of the funds.

## Capital Expenditure and Furniture, Fixtures & Equipment (FF&E) Reserve

“Recognising the importance of maintaining your asset, the contribution amount into the FF&E Reserve remains relatively unchanged since the 2014 survey”



In the 2018 survey, 84% of the contracts' contribution amount to the FF&E Reserve on a stabilised year ranged from 3% to 4.9%. This remained relatively unchanged as compared to the 2014 survey, which comprised 88% of the contracts.



Type of FF&E Reserve contribution is based on a Percentage of Gross Revenue

**79%** charged based on Sliding Scale / Ramp-up

**21%** charged as Fixed Percentage

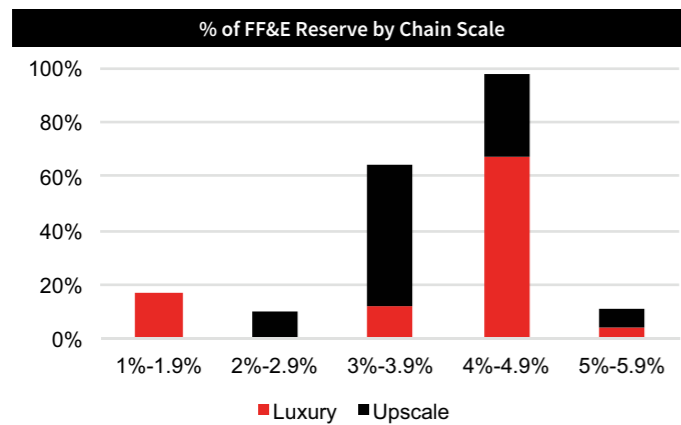
Regardless of whether the basis for FF&E Reserve is based on a Sliding Scale or Fixed Percentage, the contribution on a stabilized year typically ranged from 3% to 4.9%.

Fixed Percentage of Revenue*	Sliding Scale / Ramp-up*
55% ranged from 3% to 3.9%	47% ranged from 3% to 3.9%
32% ranged from 4% to 4.9%	38% ranged from 4% to 4.9%

\*Stabilised year



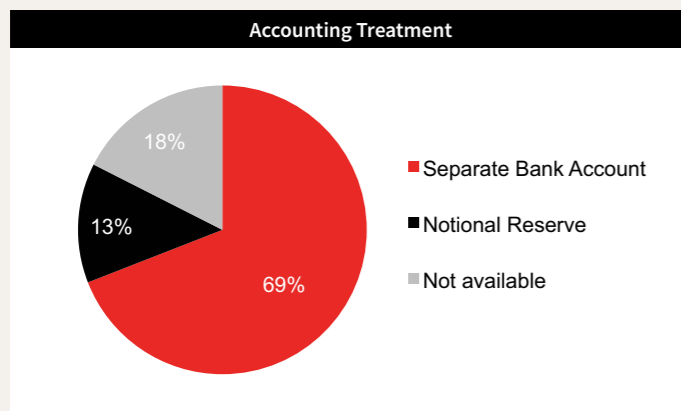
### Percentage of FF&E Reserve By Chain Scale



Luxury developments typically have a higher FF&E Reserve of 4% to 4.9% compared to the Upscale developments, which typically ranged from 3% to 3.9%.

### Accounting Treatment of FF&E Reserve

Number of contracts that included a Notional Reserve were more evident in the 2018 survey compared to the 2014 survey.



Due to an increase of contracts that included a Notional Reserve, **69%** of the contracts deposited in a separate bank account in the 2018 survey, compared to 82% in the 2014 survey.

**13%** of the contracts included a Notional Reserve in the 2018 survey, compared to 7% in the 2014 survey.

Of these, **77%** stated that the FF&E Reserve is 100% notional, whilst the remaining **23%** of the contracts specified only a portion of the FF&E reserve being notional (e.g. 50% notional).

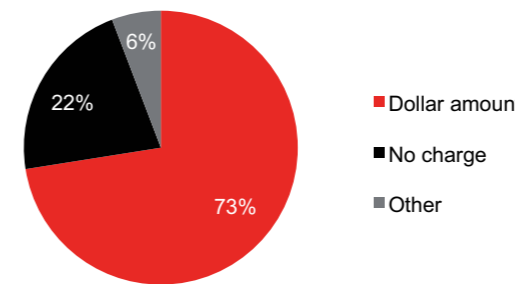
### Technical Service Fees



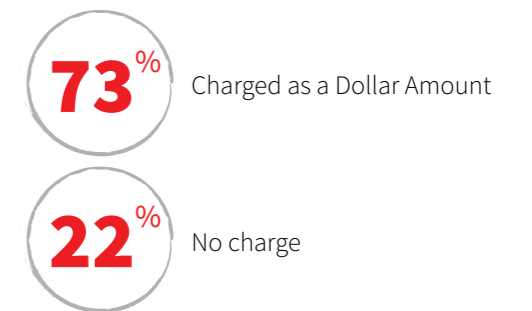
Prior to opening and for the input of the Operator’s Brand Standards, Technical Service Fees were specified in 73% of agreements.

In the 2018 survey, 54% of the contracts stipulated Technical Service Fees of less than USD200,000. Fees between USD200,000 to USD500,000 decreased from 51% of the contracts in the 2014 survey to 38% in the 2018 survey.

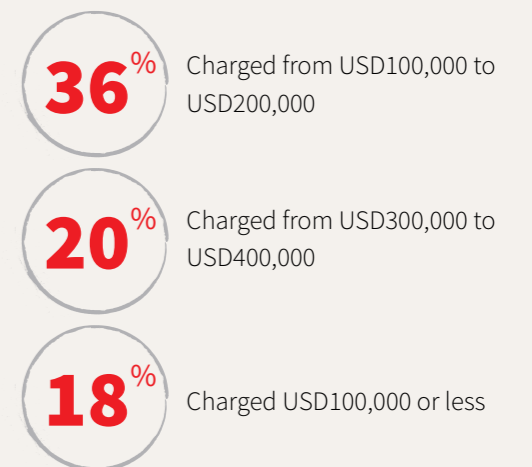
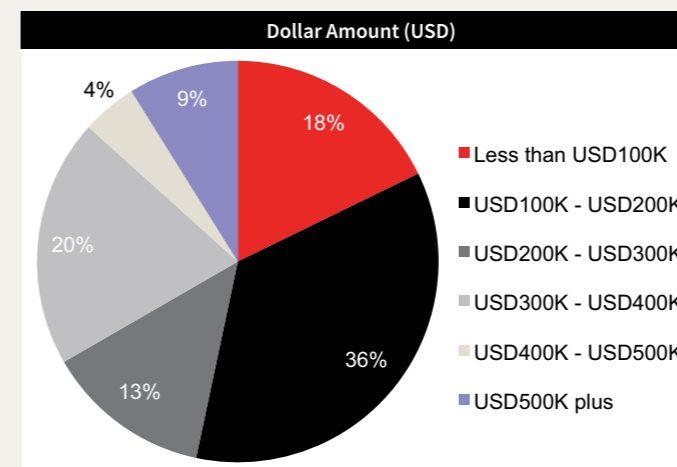
Type of Technical Service Fees



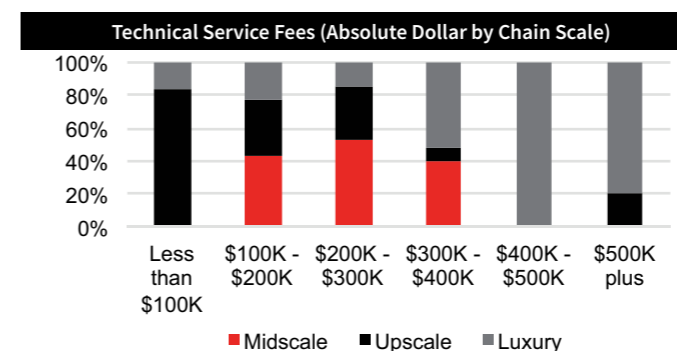
Type of Technical Service Fee



### Technical Service Fee by Dollar Amount



### Technical Service Fees – Absolute Dollar By Chain Scale



Technical Service Fees for luxury developments are typically higher than the midscale and upscale developments. 60% of the contracts for luxury developments have fees of above USD300,000, compared to 10% and 25% of the contracts for upscale midscale developments respectively.





# Operating Performance and Budget

Hotel management contracts have come a long way in aligning risk and reward between Owners and Operators. Over the past years, Owners have been able to negotiate terms which increase their control, flexibility and leverage in many segments of the market. Owners were also able to negotiate terms that influence their operating decisions through specific clauses in a HMC and through approval rights over budgets.

The approval of the budget has become so significant that some Owners are now able to achieve an early right of termination in the event the Operator fails to meet a set of agreed performance criteria. The criteria for which the Performance Test is based on is evolving and it is worth following the trends of how these thresholds and criteria for failure are derived.

## Performance Test

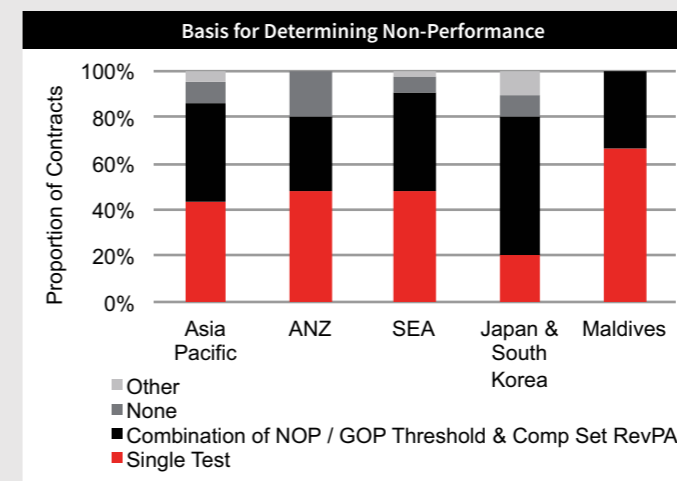
**“**  
*In the 2018 survey, there is an even split between a Performance Test based on failure of a single and double test.*  
**”**



Largely in line with the 2014 survey, a Performance Test was found in 85% of contracts.

Whether it is combined or a single test, in 54% of contracts, the NOP/GOP threshold specified was less than 85% of budgeted NOP/GOP.

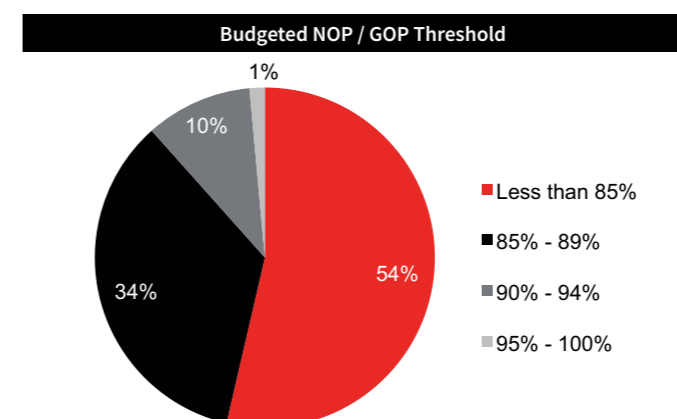
Essentially a right of termination, the Owner has a right to terminate the contract if the Operator fails to reach a certain performance threshold for a period of time.



### Basis for Non-Performance

- 43%** Based on failure of a single threshold
- 42%** Based on a combination of NOP/ GOP threshold and competitor set RevPAR

## Budgeted NOP / GOP Threshold

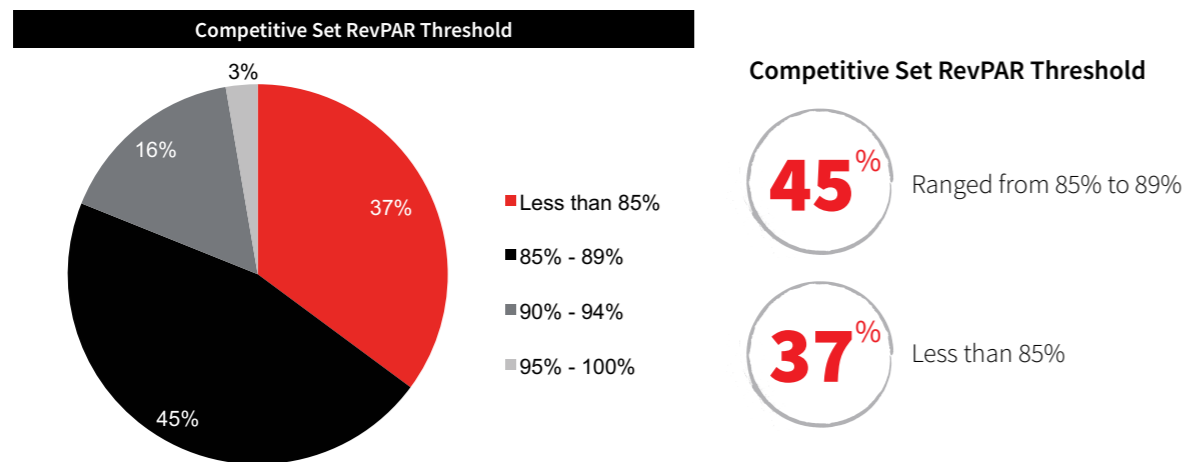


### Budgeted NOP / GOP Threshold

- 54%** Less than 85%
- 34%** Ranged from 85% to 89%

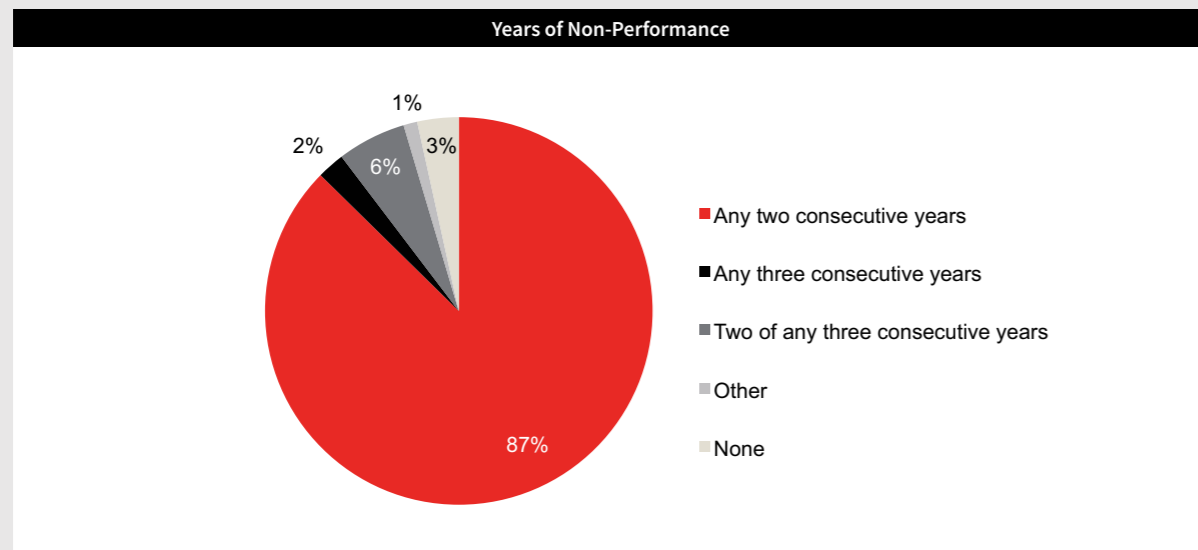


## Competitive Set RevPAR Threshold



## Years for Non-Performance

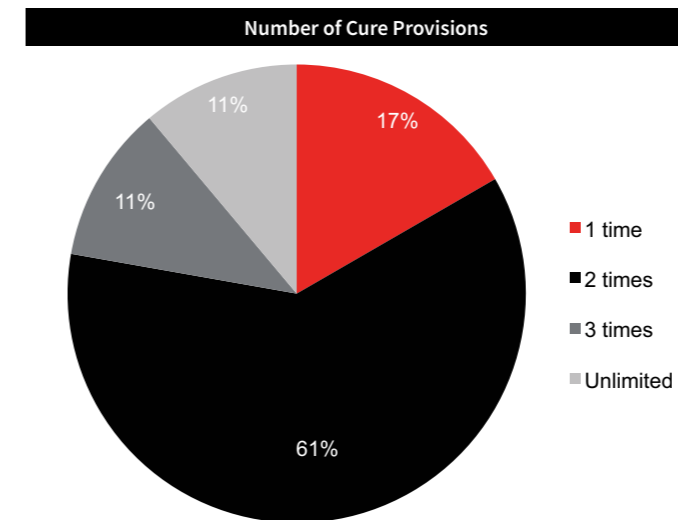
The most common duration to determine non-performance was for **two consecutive years**, which was seen in 87% of the contracts reviewed in the 2018 survey. This was an increase from the 2014 survey, which comprised 66% of the contracts reviewed.



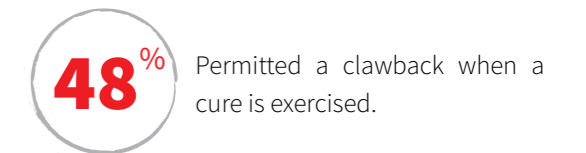
## Cure and Clawback

77% of contracts that had a Performance Test allowed a cure to any shortfall.

Of these and during the contract term, most contracts (61%) allowed operators to cure up to two times, followed by an allowance to cure only once (17%).

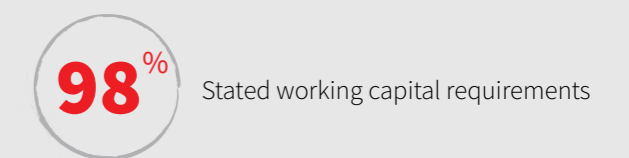
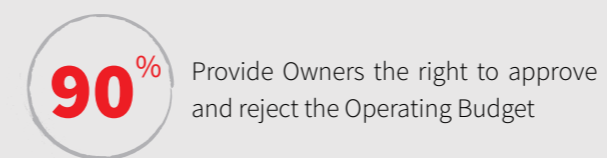


### Clawback Permitted



## Operating Budget

Operating Budget is a critical management tool which underpins an amicable and profitable Owner-Operator relationship. Given the importance of such budget, it is common for an Owner to have an approval right of the Operating Budget.



In the event of a dispute between the owner and the operator, 37% of contracts provided for an independent expert as the resolution method, 35% of contracts provided for arbitration, and 27% of contracts provided for a combination of the two approaches.

Typically, working capital was stated as 2 to 3 months of budgeted operating expenses.



## Owner Restrictions

### Restrictions On Owner

“  
39% of contracts placed restrictions on Owner Financing



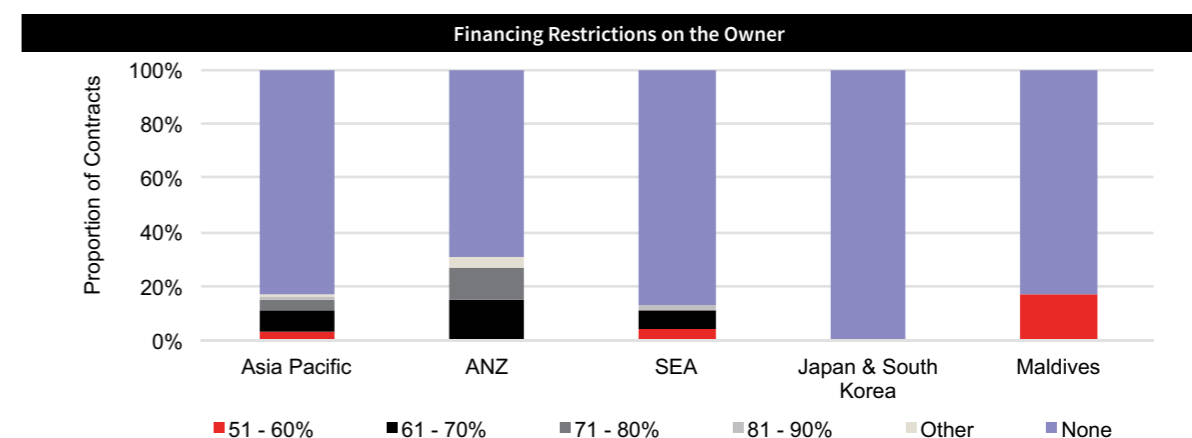
Where stated, Loan-to-Value ratio between 61% and 70% was found in 47% of applicable contracts, followed by 71% to 80% (24%) and 51% to 60% (18%). However, this is mostly dependent on jurisdiction.

The current and new supply of competing accommodation facilities can have a direct impact on the performance of any hotel. By including a territorial restriction in a management contract, Owners can be given some assurance that no other property with the same Operator (maybe) or brand (unlikely) will open within a certain radius of the subject hotel for a period of time. For Operators, however, it prohibits growth opportunities, which is a primary driver of shareholder value.

The level of involvement of an Owner versus the flexibility of an Operator to manage the Hotel is often debated. Over the years, hotel management contracts have evolved to find this balance by allowing Owners the right to be involved in certain circumstances whilst still focusing the Operator on the job at hand and for which the Owner is paying good management fees.

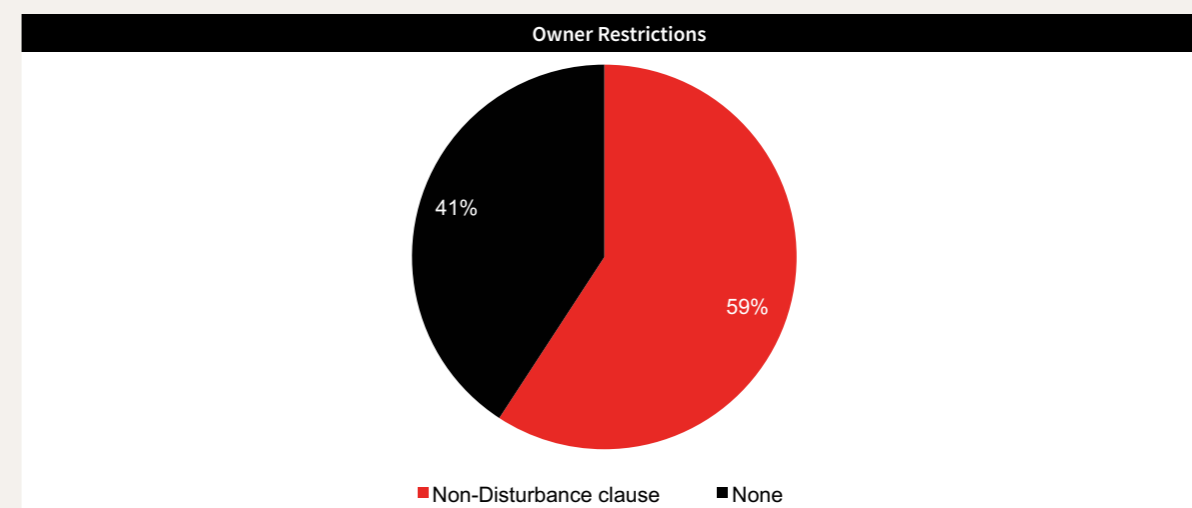
Operators are legitimately concerned about the Owners' financial leverage and stability and therefore, some management contracts have restrictions on the Owners in this respect.

# Operator and Owner Restrictions



### Non-Disturbance

49% of the contracts had a Non-Disturbance clause. This was most common in contracts in ANZ, Japan & South Korea.

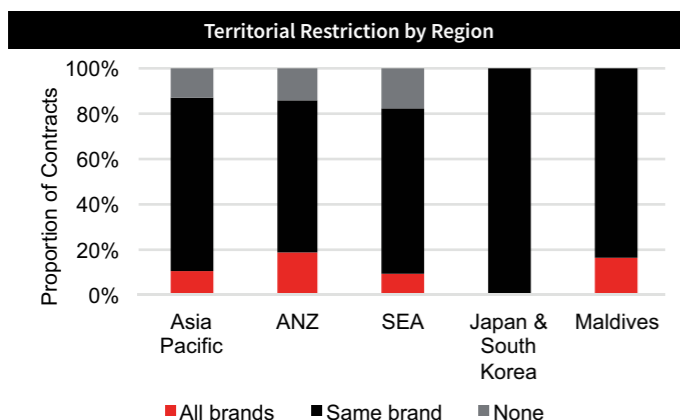




## Territorial Restrictions

“Common in recent contracts and in line with the 2014 survey, a Territorial Restriction was included in 79% of contracts.”

This remained relatively unchanged from the 2014 survey, whereby 78% of the contracts specified Territorial Restriction clause.

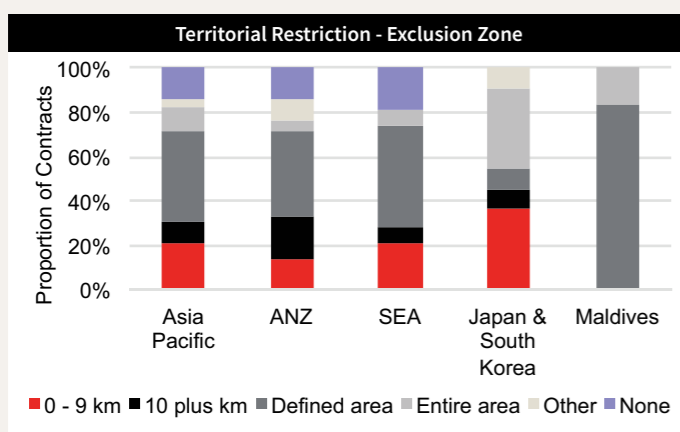


Of the contracts that specified a Territorial Restriction, 77% restricted the same specific brands. This remained largely unchanged from the 2014 survey, of which comprised 76% of the contracts.

9% of contracts restricted all brands in the 2018 survey, a slight increase from the 2014 survey that comprised 6% of the contracts.

Note: In contracts that restricted all brands, the territorial area was very limited or the operator had a single brand.

## Exclusion Zone



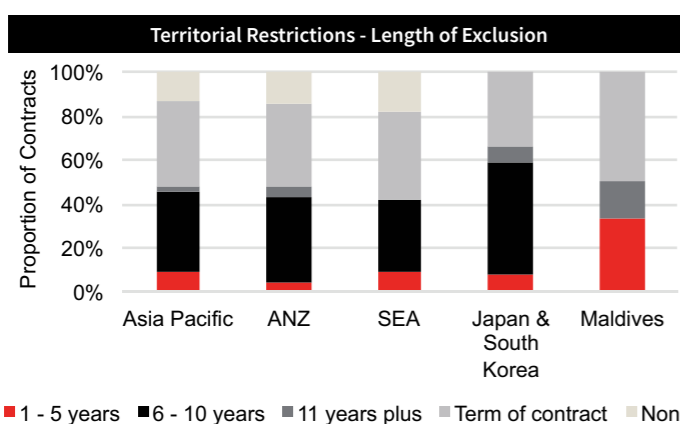
47% of the contracts specified a defined area / territory as the exclusivity zone

40% of contracts specified a fixed radius from the property, ranging from 0 to 9 kilometres (24% of these contracts) and above 10 kilometres (12% of these contracts)

13% of contracts offered exclusivity for the entire city or country

**Most common in Luxury and Trophy hotels**

## Length Of Exclusion



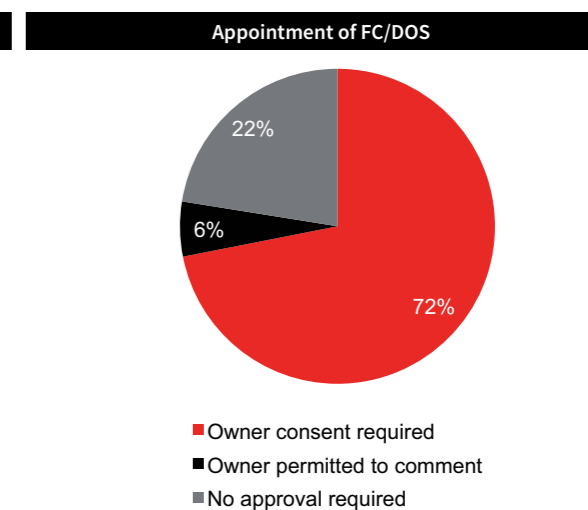
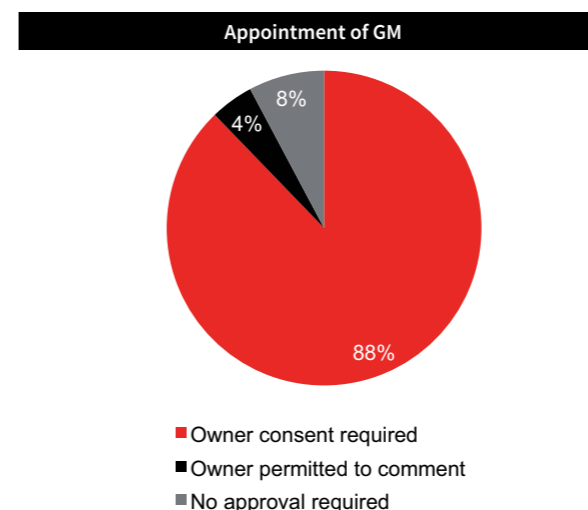
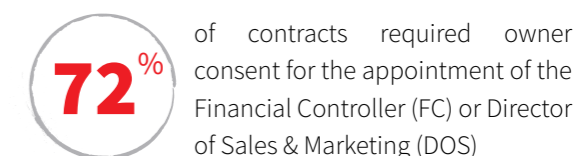
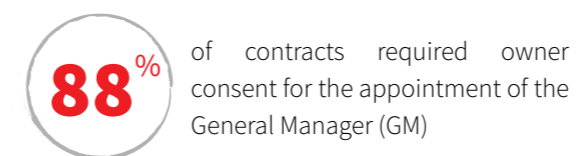
38% of contracts applied the Territorial Restriction for the whole contract term

36% of contracts applied the Territorial Restriction for 6 to 10 years

9% of contracts applied the Territorial Restriction for 1 to 5 years

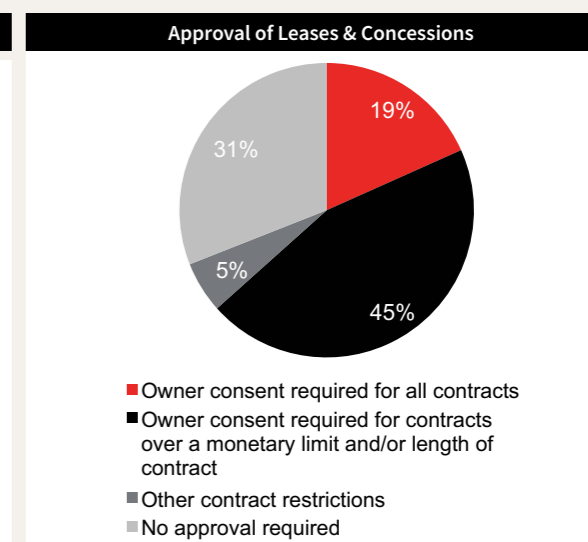
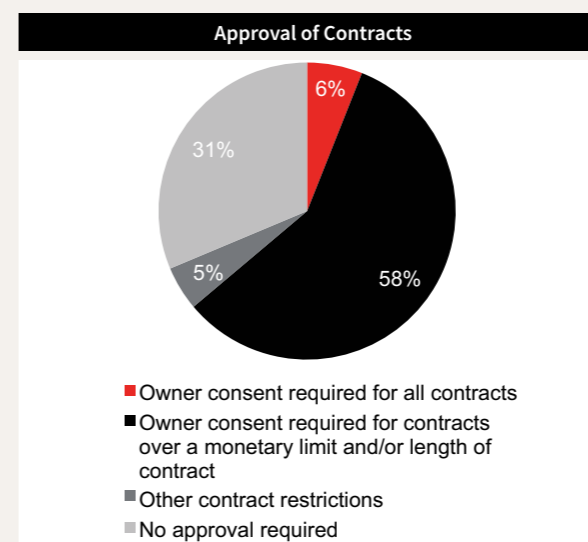
## Approval Rights

### Approval Over Key Personnel



### Approval Of Contracts, Leases And Concessions

Whilst approval is required in most cases for contracts above a monetary limit and/or length of contracts, in these cases, there were express carve outs such as owner approval is not required in the event of fire, life and safety, utilities, payroll (if already agreed to in Budget), management fees, etc.





# Termination Rights



An early right of termination will always be a difficult conversation to have with an Operator. For an Owner wishing to sell or exit the relationship, a hotel without a brand could be valued higher due to the increase in the available pool of potential buyers. For an Operator, hotel companies are bought and sold on earning multiples and the basis of their earnings are derived from fees for the assumed entire term of the contract. It is in the interest of the Operator to limit an Owner's ability to terminate the contract even when the asset is sold, regardless of the quantum of compensation fee payable.

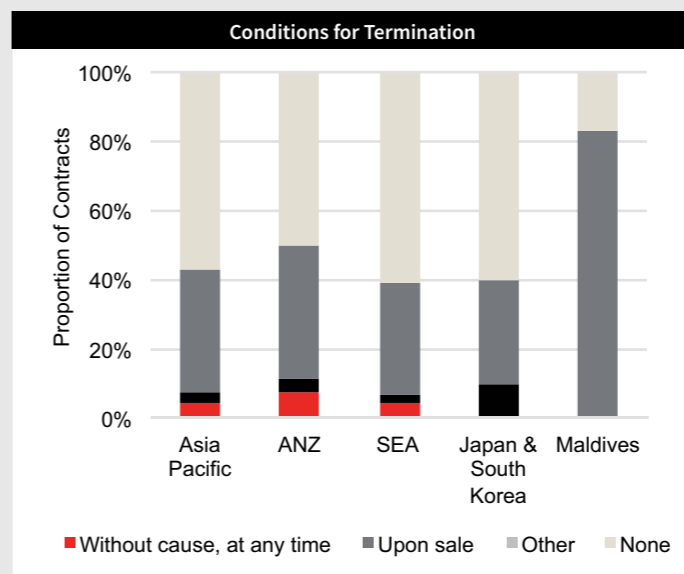
## Early Right Of Termination



35% of the contracts provided an early termination clause in the 2018 survey, a small decrease from 39% in the 2014 survey. The early termination clause was most prevalent in SEA and ANZ. 50% of the contracts reviewed in ANZ contained a Termination Upon Sale clause.

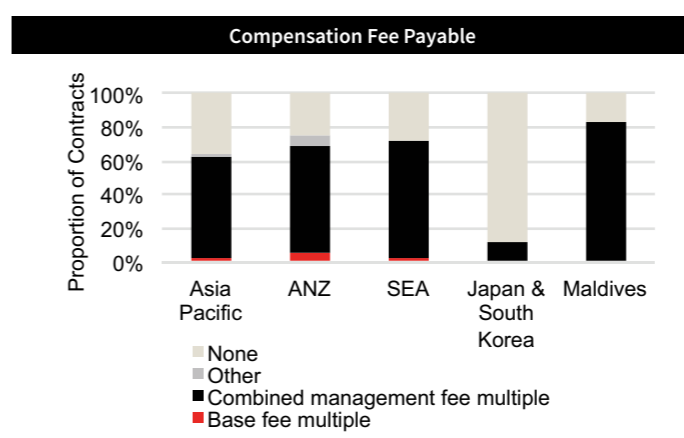
Majority of the hotels that offer a Termination Upon Sale were Upscale and Midscale developments. This term was less common among Luxury developments.

## Condition For Termination



- 35%** of contracts stated a Termination Upon Sale
- 4%** Termination Without Cause, at any time
- 3%** Termination Without Cause, after a predetermined period

## Compensation Fee Payable



- 61%** of contracts based on a multiple of combined management fees (i.e. Base Fee & Incentive Fee)
- 4%** based on a multiple of only the Base Fee

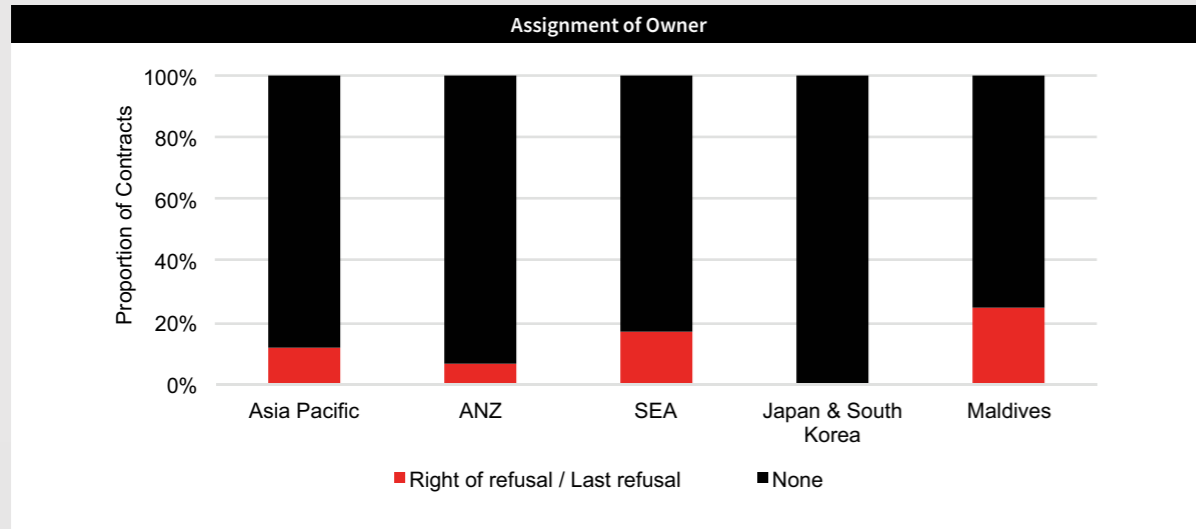


## Early Right Of Termination

### Assignment Of Owner

**12%** of contracts granted the Operator a first or last right of refusal in the event of a sale

**88%** of contracts restricted the profile of an incoming buyer whom the owner is able to sell the property to

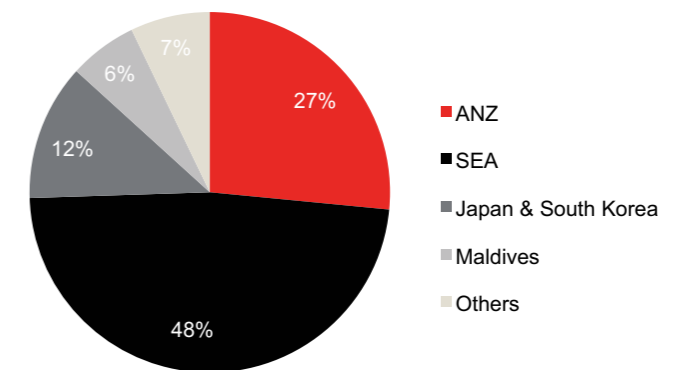


# Sample Size

### Region Coverage



Region Coverage

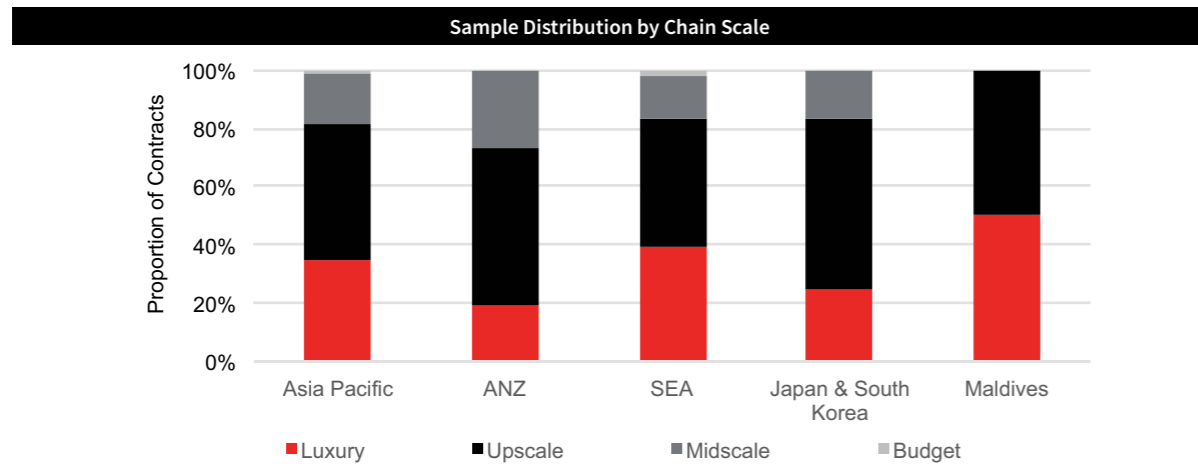


Region	Number of Contracts
ANZ	26
SEA	47
Japan & South Korea	12
Maldives	6
Others	7
<b>Total</b>	<b>98</b>



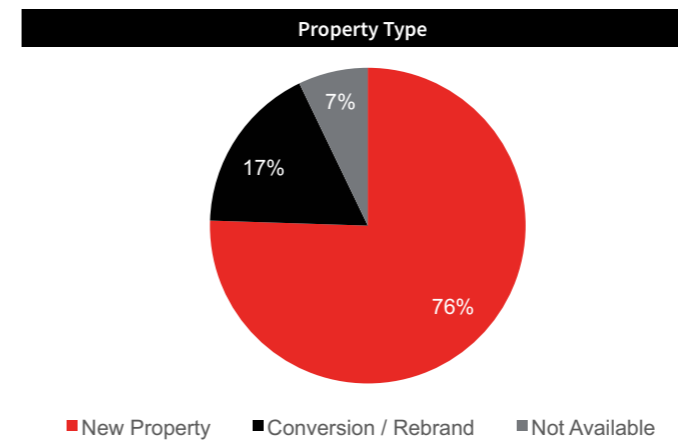
## Distribution By Chain Scale

Upscale properties accounted for 44% of sample contracts surveyed, followed by luxury properties (33%) and midscale properties (16%).



Region	ANZ	SEA	Japan & South Korea	Maldives	Others	Total
Luxury	5	16	3	3	5	32
Upscale	14	18	7	3	1	43
Midscale	7	6	2	0	1	16
Budget	0	1	0	0	0	1
Not available	0	6	0	0	0	6
<b>Total</b>	<b>26</b>	<b>47</b>	<b>12</b>	<b>6</b>	<b>7</b>	<b>98</b>

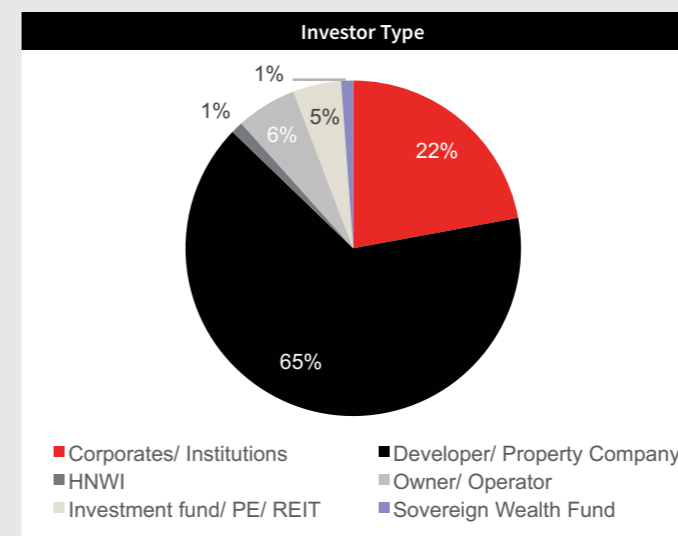
## Property Type



**76%** of the Contracts were New Properties

**17%** were Conversions / Rebranded Properties

## Investor Type

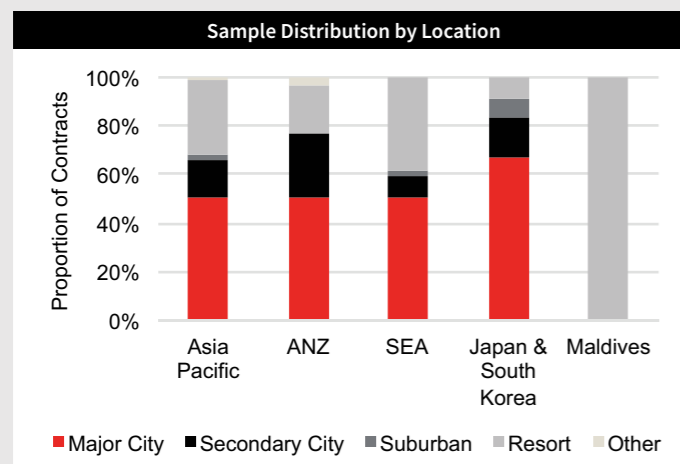


Developers accounted for **65%** of investors in contracts surveyed in 2018, and this is followed by corporate / institutions, comprising **22%** of the sample size.

This is an increase from the 2014 survey, whereby developers account for 34% of the contracts surveyed, followed by the corporate investors comprising 32% of the contracts reviewed.

The investor type distribution remained consistent among regions.

## Location



Major cities represented **50%** of the 2018 sample with fewer properties in resorts (**31%**) and secondary cities (**16%**).





## Operator Selection and Contract Negotiation

### Achieve Your Ambitions with JLL

Hotel operator selection is a key factor in the overall success of a hotel investment both in terms of selecting the right partner and putting in place the right terms and conditions. An experienced hotel operator engaged under a well thought through contract can make an enormous difference to the financial performance of a hotel investment and its ultimate capital value. At the same time, agreements have to be balanced to permit operators to perform, whilst protecting the owner's interests.

By creating competitive tension and through a tried and tested approach (methodology below), JLL negotiates and delivers the best commercial terms with the right partners to ensure the best results for our clients. Our keen understanding of management structures, branding and the key commercial and legal terms allows us to deliver the right operators on the best possible terms whether it is for a new agreement or the re-negotiation of an existing contract.

Our operator selection team has the depth and breadth of experience and extensive network of global industry relationships to find the most suitable operating partner.

### Our Methodology



#### 1. Pre-Marketing & Briefing Document

Discuss and agree on criteria for the selection of operators

Prepare target brands and operators

Prepare and distribute Request for Proposal (RFP) document to prospective operators



#### 2. Operator Search

Conduct property and site inspections with interested operators

Respond to clarifications on RFP and receive proposals from operators

Prepare detailed evaluation report analysing commercial terms, financial projections, technical feedback and operator/brand



#### 3. Brand Selection & Contract Negotiation

Shortlist multiple operators and negotiate key terms

Negotiate and sign Letter of Intent (LOI) with one operator

Work with the Owner's lawyer to negotiate and sign the Hotel Management Contract (HMC)



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JLL's Hotels & Hospitality Group has closed more transactions than any other hotels and hospitality real estate advisor over the last five years, totalling more than \$71 billion worldwide.

Between negotiating the world's most extraordinary, enticing, and profitable property deals, the group's 350-strong global team in over 20 countries also completed more than 5,300 advisory, valuation and asset management assignments.

Investors worldwide turn to JLL to shape their strategies, tailor their portfolios and maximize the value of their assets. We are recognized as the global leader in real estate services across hospitality properties of all shapes and sizes. Our expert advice is backed by industry-leading research.

We apply our broad spectrum of hotel valuation, brokerage, asset management and consultancy services through every phase of the hotel lifecycle. We have helped more hotel investors, owners and operators achieve high returns on their assets than any other real estate advisor in the world.

Whether you are looking for a hotel or you're ready to sell, we'll use our capital markets expertise, hospitality industry knowledge and global relationships to put the right parties together and execute a bespoke deal that exceeds your objectives.

To find out more, talk to JLL.

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Ranked number one for global real estate services by Euromoney for seven years running, we work on some of the world's largest cross-border hotel transactions and advise clients on all aspects of ownership, management, operation, development and financing of hotel and resort properties.

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