EXCERPTS

GLOBAL | AMERICAS | EMEA | APAC

HVS GUIDE TO HOTEL MANAGEMENT CONTRACTS

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Foreword

Why should you read this guide and survey report?

The hotel management contract, that was introduced as a tool for asset-light growth of operating companies more than half a century ago, is today among the most popular modes of operations worldwide. So much so that it has unfastened a realm of opportunities for operators to expand at a rapid pace without being exposed to development and ownership risks, for owners to outsource the management of the hotel to the "experts" in the field while enjoying enhanced financial returns, and for stakeholders such as consultants and lawyers to develop a dedicated service line around this model.

From the first contract HVS ever negotiated on behalf of the developer to the numerous agreements that we help structure and negotiate now, this legally binding document has transformed manifold becoming more sophisticated and individualized than in the past. Particularly striking is the shift from leaning heavily in favor of the operator to the contract becoming a lot more balanced in present times. While there are several reasons for this change, among the most prominent are, firstly, the evolution of the hotel owner, who is a lot more diverse, aware, knowledgeable, and experienced in negotiating contracts with an operator and, secondly, the notable rise in the presence of consulting firms like ours that not only help make the right match by negotiating a balanced agreement, but also educate the industry of the latest trends, opportunities and options on the subject.

The HVS Guide to Hotel Management Contracts is one such substantive document that will help industry players to understand the key terms and provisions of contemporary management agreements. It includes exclusive HVS insights on critical contract provisions in addition to the results of an invaluable and extensive survey that truly offer a global perspective by highlighting the common as well as unique trends in the primary geographies of the world. The authors have significant hands-on experience in the hotel sector and in negotiating hotel management contracts, placing them in a relevant position to conduct, analyze and publish this comprehensive topical research. Covering ten principal areas of discussion – management contract term, territorial restrictions, operator fees, operator performance test, budgeting, owner approvals, employees, indemnification, operator investment in property and termination of the agreement – the endeavor of the authors to provide an eminent reference document is fully realized.

Finally, this guide and survey report is a product of the collaboration of many HVS regional offices showcasing the firm's unrivaled hospitality intelligence, worldwide.

Stephen Rushmore, Jr. MAI, FRICS, CRE

President, CEO
HVS

The HVS Guide to Hotel Management Contracts presents the results of an extensive review of hotel management agreements conducted across the Americas (USA, Canada and South America), Europe, the Middle East, Africa (EMEA), and the Asia Pacific (APAC) regions, in addition to offering an in-depth understanding of the key terms and clauses of such agreements.

INTRODUCTION

The proper execution of a hotel management contract between the owner and the operator is a critical step in the development of a successful hotel venture. In today's highly competitive environment, operators are keen to "seal the deal" as quickly as possible, sometimes overpromising performance results. Owners, however, are now more aware and and knowledgeable, wanting to safeguard their investment by understanding the management contract terms and conditions thoroughly prior to signing.

This guide and survey report is an HVS endeavor to provide a substantial reference document that presents and distinguishes the key terms and clauses of management contracts across the following primary geographic areas – Americas (USA, Canada and South America); Europe, the Middle East, and Africa (EMEA); and the Asia Pacific (APAC). Please note that the aim is not to make hotel owners in any part of the globe feel shortchanged; instead, we urge the readers to bear in mind local factors and influences that could impact regional contract clauses, in addition to asset specific considerations that may affect owner-operator negotiations.

SURVEY METHODOLOGY

The following methodology has been adopted for the survey:

Data Compilation: Data collection for the survey was implemented using a combination of different ways. We looked at contracts from the HVS global database, dispatched an online self-reporting questionnaire to owners who wished to participate voluntarily, and held discussions with hotel owners as well as operators. Eventually, the global survey sample set comprised **475 hotel management contracts representing close to 120,000 rooms.** Regional breakdown is depicted in Figure 1, alongside.

FIGURE 1: SURVEY SAMPLE SET

Region	No. of Contracts	Rooms Represented
Americas	257	70,862
USA	150	42,754
Canada	76	22,197
South America	31	5,911
EMEA	111	27,610
Europe	73	18,945
The Middle East	24	5,755
Africa	14	2,910
APAC	107	21,454
India	64	12,132
Rest of APAC	43	9,322
Global	**475**	**119,926**

Data Analyses: Primary **independent variables** (defined as inputs or causes) that were chosen for the data analyses are *Market Positioning, Room Inventory and Age of the Contract.* For the USA and Canada sample sets, we also looked at *Type of Management,* since both first-tier and second-tier management companies are widespread in these markets. Moreover, it is important to note that the survey captured information on secondary independent variables as well, which have been discussed in this report to explain results "only" where applicable. Figure 2, below, depicts all the independent variables used for data analyses.

FIGURE 2: VARIABLES USED FOR ANALYSES

Variables	Parameters
Primary Independent Variables	
Market Positioning	Budget, Mid Market, Upscale, Upper Upscale, Luxury, Extended Stay
Room Inventory	Less than 100 rooms, 100-299 rooms, 300-500 rooms, Above 500 rooms
Age of the Contract	Before Year 2005, In or After Year 2005
Type of Management (for USA and Canada Sample Sets)	Brand Managed (First-tier), Third-Party Managed (Second-tier)
Secondary Independent Variables	
Type of Management	Brand Managed (First-tier), Third-Party Managed (Second-tier)
Type of Property	New Development, Conversion/Rebranding
Year of Property Opening	Before Year 2005, In or After Year 2005
Location of the Property	By City, By Country

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Report Presentation: The **major terms and provisions** of surveyed hotel management contracts were analyzed across all the primary geographic regions; these terms and provisions are recognized to be critical areas for owner-operator negotiations. In terms of presentation, the guide and survey report has four major sections as shown in Figure 3, with the survey results being presented by the prinicipal areas of discussion as listed in Figure 4.

FIGURE 3: MAJOR REPORT SECTIONS

Section	Region and Major Contents
I	Global
	Global Sample Set Profile and Survey Results (Includes Definitions and Discussions)
II	Americas
	USA Sample Set Profile and Survey Results Canada Sample Set Profile and Survey Results South America Sample Set Profile and Survey Results
III	EMEA
	Europe Sample Set Profile and Survey Results The Middle East Sample Set Profile and Survey Results Africa Sample Set Profile and Survey Results
IV	APAC
	APAC Sample Set Profile and Survey Results (Separate Discussion on India where applicable)

FIGURE 4: PRESENTATION OF SURVEY RESULTS BY PRINCIPAL AREAS OF DISCUSSION

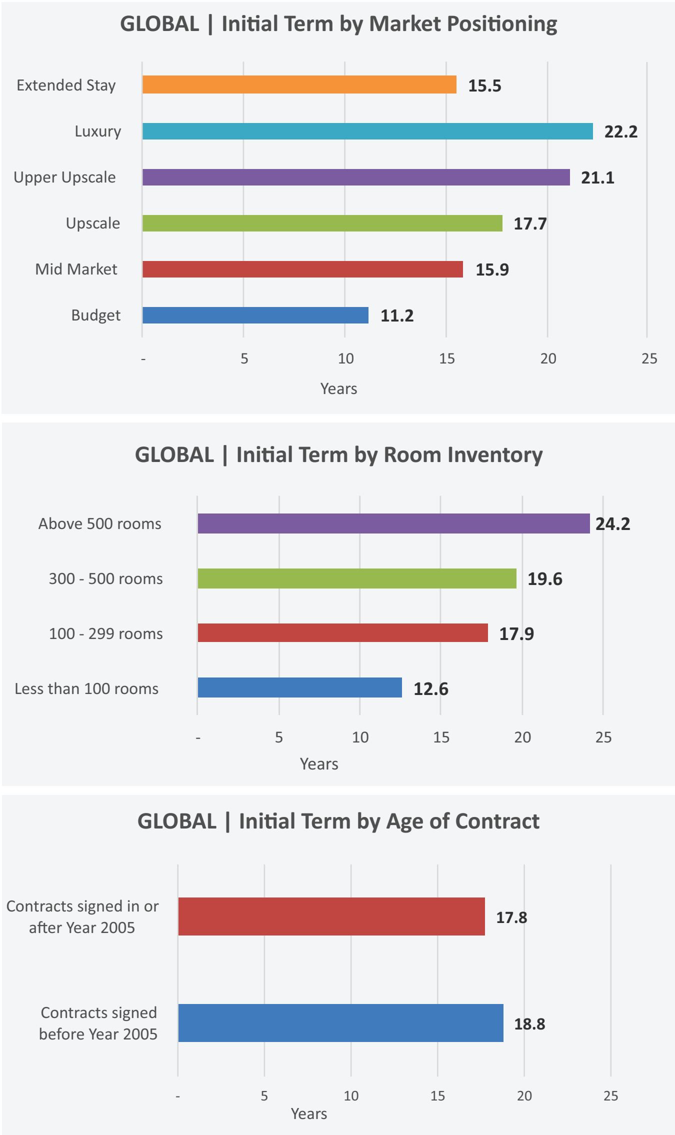
Principal Discussion Areas	Key Aspects
Management Contract Term	Initial Term Extensions/Renewals
Area of Protection/ Territorial Restrictions	Inclusion/Exclusion of this Provision Key Considerations
Operator Fees	Initiation/Joining/Commitment Fee Technical Services Fee and Pre-Opening Fee Base Management Fee Owner's Priority Return Incentive Management Fee Other Fees/Charges/Reimbursables
Operator Performance Test	Commencement Year Test Period Type of Test Performance Thresholds Provision for Operator to Cure
Budgeting	Annual Plan Expenditure Thresholds FF&E Reserve Contribution Control of Receipt/Operating/Revenue Account
Owner Approvals	Items Subject to Owner's Approval
Employees	Employer Senior Management Hiring Process
Indemnification	By Owner By Operator
Operator Investment in Property	Key Money Deferred Fees Owner's Priority Return and Operator Profit Guarantees Operator Loans
Termination of Agreement	Standard Conditions Termination by Owner Termination by Operator

Figure 5 lists the **55 first-tier (branded) hotel management companies represented in the survey.** Several second-tier management companies (third-party) along with a few independent hotels also feature in the sample set, but as these may be linked to only one or few assets, we have not listed them for data confidentiality reasons.

FIGURE 5: FIRST-TIER (BRANDED) HOTEL MANAGEMENT COMPANIES REPRESENTED IN THE SURVEY

Accor	Hampshire Hotels	One&Only Luxury Resorts
Ace Hotel	Hilton	Peninsula Hotels (HSH Group)
Adina Apartment Hotels (TFE Hotels)	Hyatt Hotels Corporation	Rosewood Hotels and Resorts
Aldesta Hotel Group	InterContinental Hotels Group	Rotana Hotels and Resorts
Aman Resorts	Jumeirah Group	Sarovar Hotels and Resorts
Americas Best Value Inn (Vantage)	Kempinski	Shangri-La Hotels and Resorts
Banyan Tree Hotels and Resorts	La Quinta Inn and Suites	Shaza Hotels
Best Western International	Langham Hotels and Resorts	Six Senses Hotels, Resorts and Spas
Cambridge Suites	Le Germain Hotels	Starwood Hotels and Resorts (Marriott International)
CampbellGray Hotels	Lotte Hotels and Resorts	Staybridge Suites
Carlson Rezidor	Louvre Hotels	Taj Hotels, Resorts and Palaces
Caesars Hotels and Casinos	Mandarin Oriental Hotel Group	The Fern Hotels and Resorts
Choice Hotels	Marriott International	The Leela Palaces, Hotels and Resorts
Club Méditerranée	Melià Hotels International	Trump International
Delta Hotels and Resorts (Marriott International)	Minor Hotel Group	Whitbread PLC
Dusit Hotels and Resorts	Morgan's Hotel Group	Wyndham Worldwide
Fairmont Raffles Hotels International	Mövenpick Hotels and Resorts	
Fortune Hotels	Oakwood Serviced Apartments	
Four Seasons Hotels and Resorts	Omni Hotels and Resorts	

FIGURE 7: LENGTH OF THE INITIAL TERM BY MARKET POSITIONING, ROOM INVENTORY AND AGE OF THE CONTRACT



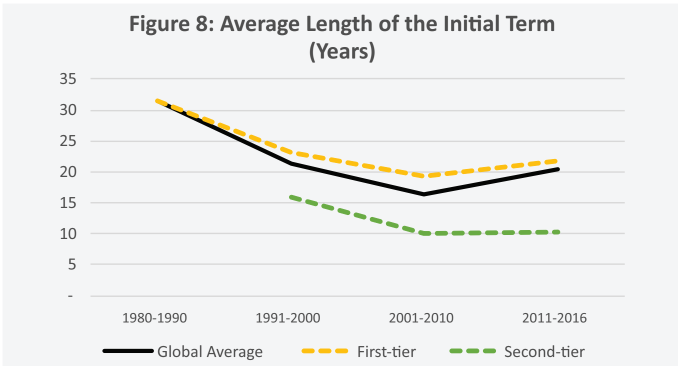
HVS Insight

Trend in the Initial Term: *Hotel management contracts used to have a long initial term back in the 1980s averaging 30+ years, with even 50 to 60-year terms being common, especially for upper upscale and luxury assets.*

*The next two decades saw the initial term shrinking progressively as more management companies entered the marketplace, resulting in a highly competitive environment. This period also saw a proliferation of second-tier (third-party) management companies in North America, which are more flexible in negotiating a shorter initial term – a trend validated by the survey results that show contracts signed by **first-tier** hotel management companies have an average initial term of nearly **21 years**, while the initial term for second-tier management companies averages close to **11 years**, globally.*

More recently, in the last six years since 2011, the initial term has averaged around 20 years, globally, up from the past decade, which could be attributed to the increasing number of contracts getting inked in newer hotel markets in APAC, Africa and South America, where the brands (first-tier companies) have substantial bargaining power and can impose stricter terms on less-experienced owners.

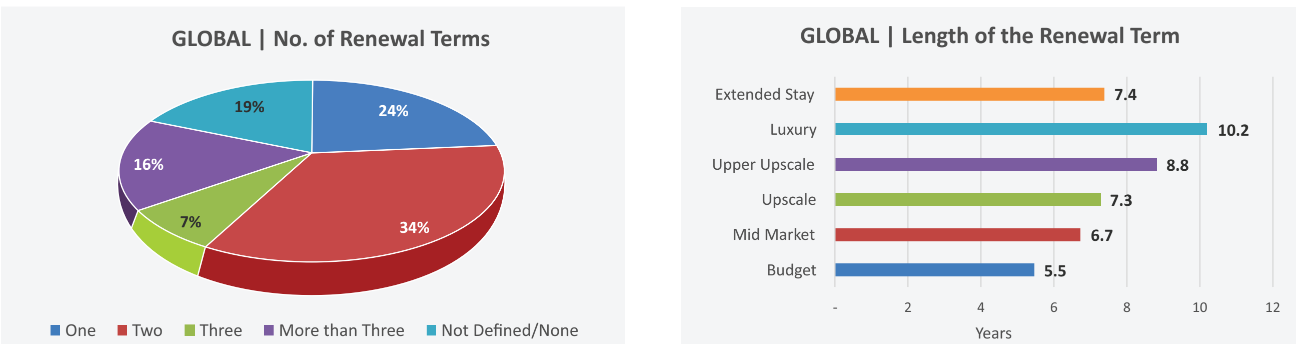
Figure 8 highlights the overall trend based on the global sample set data.



Extensions/Renewals: Renewal terms extend the contract for a stated period beyond the initial term, and may/may not contain the same provisions as the initial term. It is typically structured as a contract extension option that may be exercised by either the operator or the owner acting alone or in agreement.

Notably, 58% of the contracts surveyed offer either one/two renewals, **with the overall average length of the renewed term being 7.9 years** (Figure 9). For conversion assets in the global sample set, the average length of the renewed term is **7.6 years**, whereas for new hotel developments it is **8.1 years**.

FIGURE 9: RENEWAL/EXTENSION TERM(S)



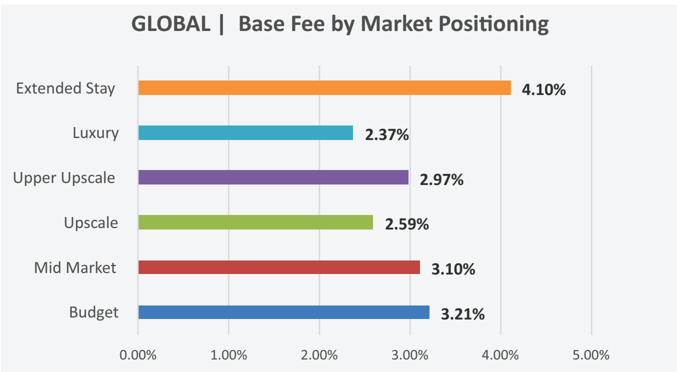
EXCERPT II

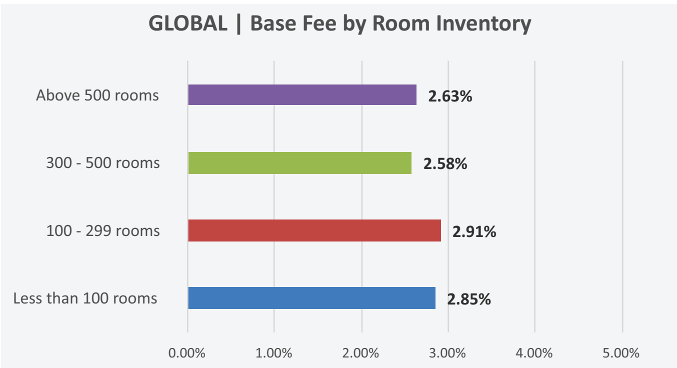
Base Management Fee

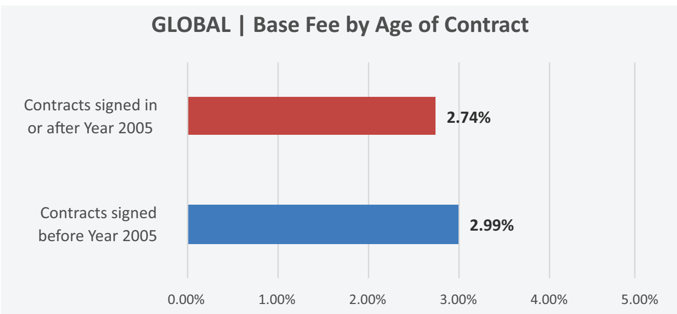
The base management fee (aka basic fee) is usually calculated as a percentage of the **hotel's Gross Operating Revenue**, creating an incentive for the operator to increase marketing efforts and other activities that increase sales volume. The drawback to this arrangement is that the basic fee provides no incentive to minimize operating expenses. If the entire management fee is in the form of a basic fee, the operator can theoretically increase marketing and sales efforts to the point at which the highest possible revenues are reached, but any margin of profit is eliminated.

Base management fee could either be a single fee, or a sum of advisory/operating/management fee and licensing/royalty fee. Moreover, it is generally chargeable throughout the life of the contract; however, it could be either computed as a "constant" percentage across all years, or it could ramp-up in the initial years, gradually stabilizing for the remainder term of the contract. **The stabilized average base fee for the global sample set is 2.81%**. Figure 10 discusses the survey results pertaining to this fee by market positioning, room inventory and age of the contract.

FIGURE 10: STABILIZED BASE FEE BY MARKET POSITIONING, ROOM INVENTORY AND AGE OF CONTRACT







HVS Insight

Base Fee by Market Positioning: *Base fee is mostly seen falling with an increase in the market positioning. Although 3.21% base fee for budget hotels (limited-service) appears high, it is important to note that unlike luxury and full-service hotels, budget/limited-service properties tend to generate relatively lower overall revenues due to a minimal food and beverage component and lower average room rates. As such, these properties charge a comparatively higher base management fee to yield a dollar amount that is adequate to make the operation of the hotel feasible for the management company.*

Base Fee by Room Inventory: *It is necessary to correlate the data for this chart with that illustrated for market positioning. Close to 50% of the contracts for hotels with less than 100 rooms correspond to budget-mid market positioning, and 98% of the contracts for hotels with over 500 rooms relate to upscale-luxury positioning.*

Base Fee by Age of Contract: *Base fee over the years has generally decreased. In our experience of negotiating hotel management agreements, we have come across base fee to be as low as 1.50%-1.75% for strategic projects in recent times, with some operators even agreeing to a ramp-down – higher fee in the initial years and a relatively lower fee on a stabilized basis.*

In addition:

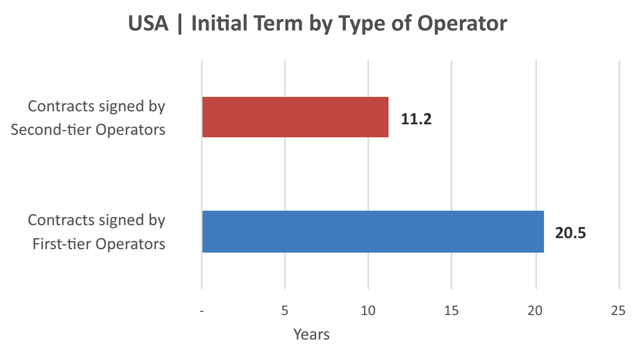
- *Base fee tends to have a negative correlation with the initial term, i.e. shorter the initial term, higher is the base fee and vice versa.*
- *Moreover, if any form of financial commitment is offered by the brand such as key money, operator minimum performance guarantee, or an owner's priority return, then a higher base fee is usually applicable.*
- *Lastly, we gather that for large format hotels (400/500 keys and above) that have a high revenue generation potential driven by the average rate, brands can agree to a lower base fee than is commonly acceptable.*

EXCERPT III | USA

Management Contract Term

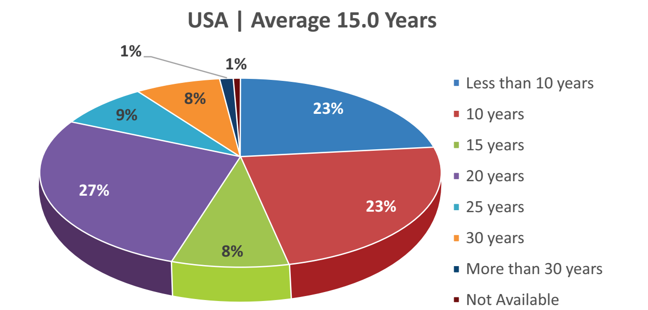
Close to half of the contracts in the USA sample set have an initial term of 10 years or lower; understandably, of all the regions surveyed in this edition, USA represents the shortest initial term, averaging **15 years**. A key reason behind the short contract term is the strong presence of second-tier operators in this market, who tend to be more flexible in negotiating relatively favorable commercial terms for the owner than the first-tier/branded hotel operators. Validating this is Figure 11, below, that illustrates the length of the initial term of a management contract by the type of operator for this region.

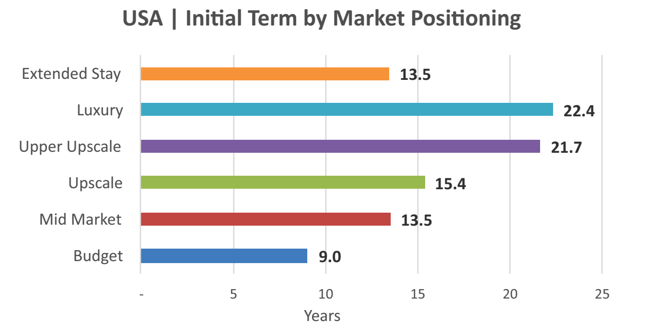
FIGURE 11: LENGTH OF THE INITIAL TERM BY TYPE OF OPERATOR

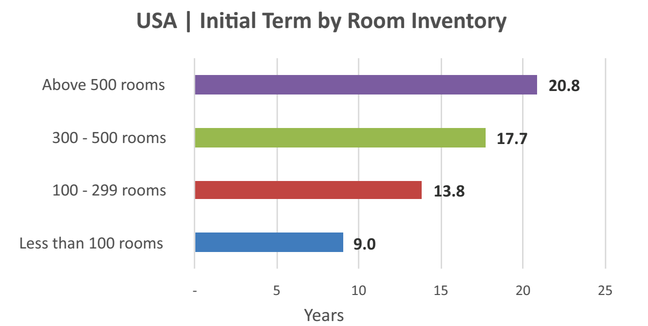


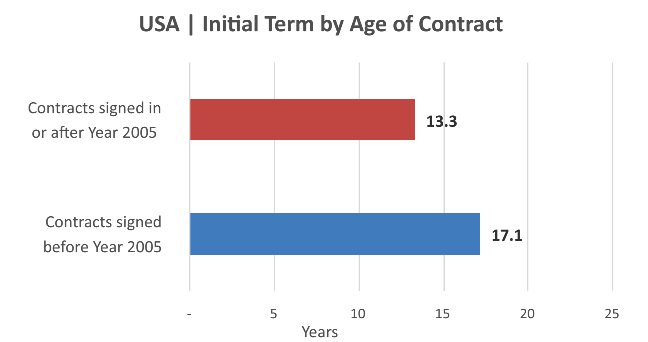
For **first-tier hotel management companies**, the length of the contract term has additional importance because of their name recognition and high start-up costs. Such companies are interested in demonstrating a stable, long-term commitment to a market area in general and a property in particular, so they will usually negotiate for the longest initial term possible. On the other hand, **second-tier operators** are typically more willing to accept shorter agreements. However, it should be noted that second-tier operators encompass a broad variety of management companies, ranging from small firms with several executive employees to large, highly structured organizations similar to many first-tier chains. The length of term that these operators agree to often varies considerably from one contract to another. When economic downturns occur in this market and there is an increase in lender workouts handled by second-tier management companies, it is not unusual to see, on average, six-month to two-year contract terms, which enable the lender-owner to quickly sell the property, unencumbered by a management contract, in the event a buyer is found.

FIGURE 12: LENGTH OF THE INITIAL TERM









Note: *In line with the global sample set results, the length of the initial term in USA contracts can be seen increasing with a rise in the market positioning as well as room inventory. Furthermore, contracts that were signed before Year 2005 are for a noticeably longer duration than those that were signed in or after Year 2005 in USA. While this has been a general trend globally, it may also have to do with the fact that 72% of the newer contracts in the region's sample set were signed by second-tier operators.*

EXCERPT IV | SA

Operator Performance Test

The majority of South American contracts **(81%)** include a performance-based termination clause that permits the owner to terminate the agreement should the operator fail the test(s) and leave it uncured. A large number of these correspond to **upscale-luxury** positioned hotel assets.

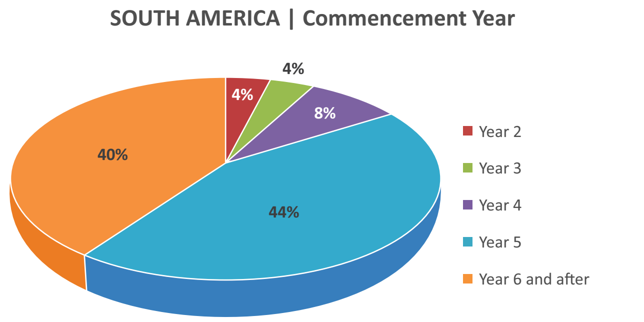
In addition, like North America (USA and Canada), a **collective test** requiring the operator to fail both the budget/profit-oriented test "and" the RevPAR test is frequently found in South American contracts **(64%)**. Also, the **separate test** structure is quite uncommon here as well with just **4%** of the sample set offering it.

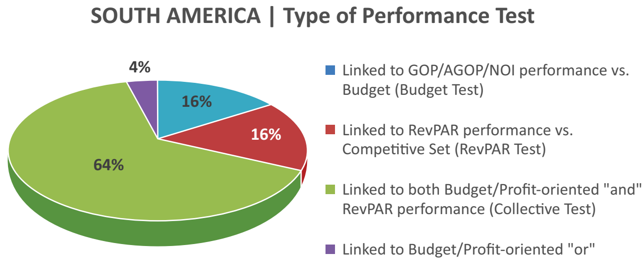
Now, in a striking contrast to contracts from North America, only **17%** of the surveyed contracts that have a budget test here require the operator to attain higher than **85% of the budgeted GOP/AGOP/NOI**, and just **20%** with a RevPAR test require the operator to record a hotel RevPAR **that exceeds 85% of the weighted average RevPAR** of the defined competitive set during the test period; these ratios are much lower than USA and Canada. In fact, most of the contracts have a performance threshold of 85% for both the budget and RevPAR tests in South America. Figure 13 presents these results.

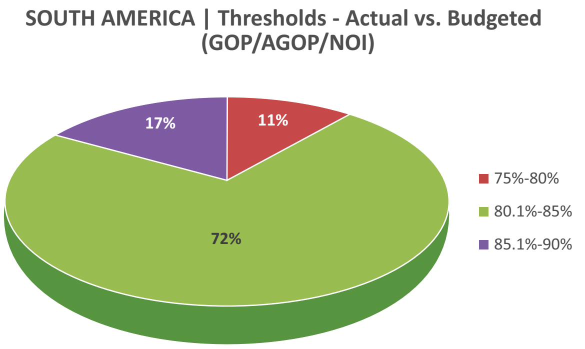
The test period is generally **two consecutive years**, although three consecutive years, and two out of every three consecutive years can also be found. In addition, the majority of South American contracts **(96%)** having a performance test allow the operator to cure the failure upon receipt of the termination notice from the owner. Notably, **84%** of these allow the operator the option to cure the failure **thrice or more** during the initial term of the contract – much higher than those offered by contracts in USA and Canada.

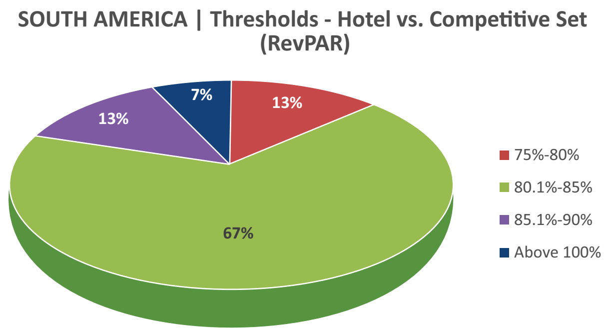
The survey results for the regional sample set offers evidence for our argument that operators have a definite upper hand in the negotiations of management agreements in South America. **Late commencement** of the performance test(s), **low performance thresholds** and an apparently **high number of cures** allowed to the operator, make the termination of the agreement under this provision more unlikely than it already is.

FIGURE 13: OPERATOR PERFORMANCE TEST









Note: *Remarkably, only 16% of the contracts with an operator performance test provision have the test beginning in or before the fourth year – a larger number of contracts have the commencement year as Year 5 or 6. This is in complete contrast to the results from USA and Canada, where the test is applicable much earlier, including in the first year of operations. Also, notably, there are no customized test structures in the surveyed South American contracts.*

EXCERPT V | EUROPE

Operator Fees

The **average base management fee** charged by the contracts surveyed in Europe is **2.11%**, lower than the global average of 2.81%, with just 38% of the sample set charging **3.00%** or more. Unlike USA and Canada, bundling of charges for centralized services along with the base management fee is uncommon here, although instances of this fee being included in the incentive management fee can be found.

Moreover, it is important to mention that for **16%** of the European contracts, we do not have the licensing and royalty agreements that specify the remainder component of the basic fee as a percentage of the hotel's topline, thereby, bringing down the regional average of this commercial term. Also to be noted is that a very high number of contracts from the region are for higher-positioned assets that tend to have a lower base fee than budget-mid market hotels in percentage terms.

An **owner's priority return** can be found in **44%** of the European contracts that have been surveyed. However, dissimilar to USA, where it is defined mostly as percentage of the owner's initial and additional capital investment, in Europe the owner's priority return is mostly expressed as an absolute monetary amount varying by asset class and positioning, often arrived at by taking into consideration the annual debt service or investment made in the asset.

As evident from Figure 14, a flat fee structure (often with a ramp-up) for incentive management fee is the most popular in the region with **29%** of the surveyed contracts offering it, followed by customized structures that often entail a combination of flat and linked fees.

Only **16%** of the contracts subordinate the incentive management fee to the owner's priority return, linking it to the available cash flow of the hotel – a surprise considering the high number of contracts offering an owner's priority return. In fact, just **38%** of the contracts offering an owner's priority return link the incentive management fee to the available cash flow of the hotel; the rest either have flat fee structure, or link the fee to the GOP/AGOP margin performance of the hotel, or have customized fee structures.

FIGURE 14: TYPES OF INCENTIVE MANAGEMENT FEE STRUCTURE

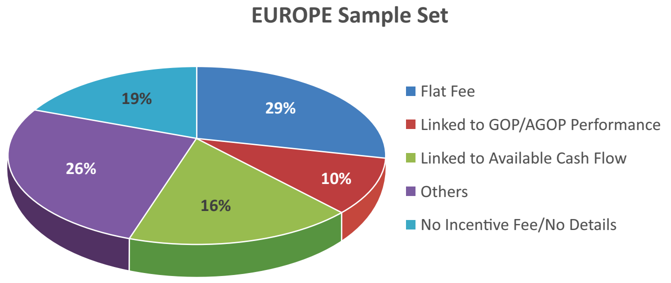
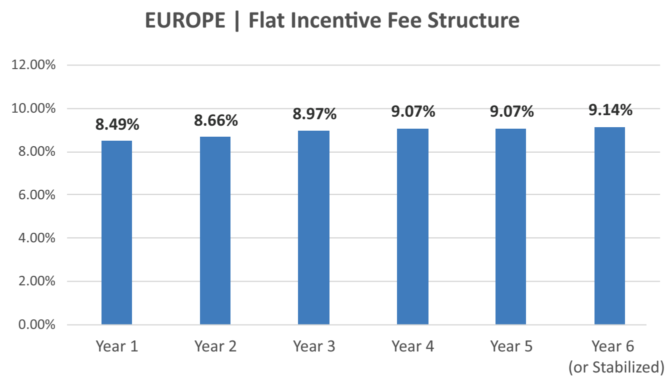
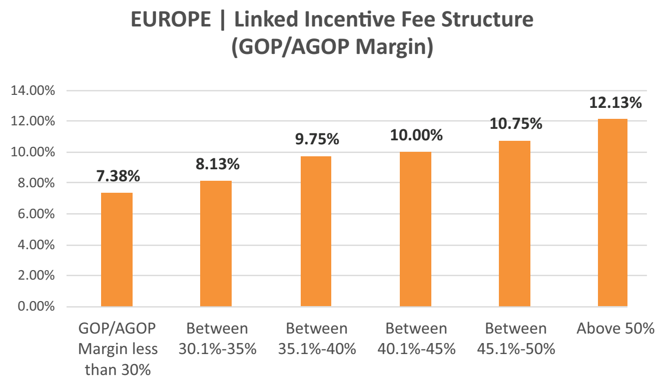


Figure 15, below, presents the incentive fee range for the flat and linked incentive fee (to GOP/AGOP margin performance) types based on the regional sample set.

FIGURE 15: INCENTIVE FEE RANGE





The average fee of **12.13% of the GOP/AGOP** of the hotel on a stabilized basis is the highest for this type of incentive management fee structure among all the regions surveyed in this edition.

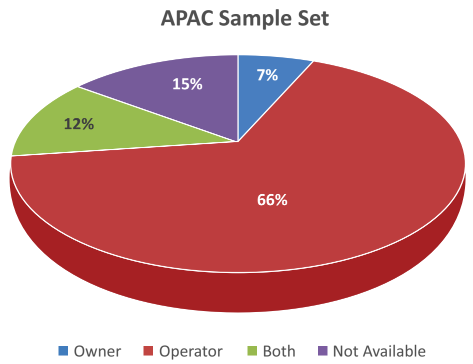
EXCERPT VI | APAC

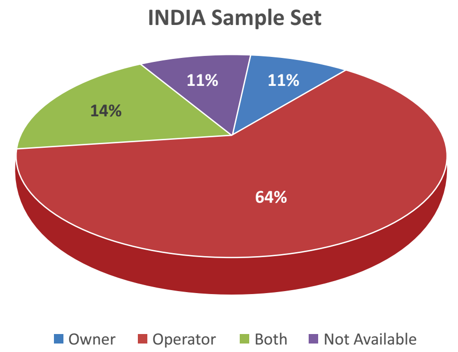
Control of Operating Account

Although a greater part of the APAC sample set **(66%)** allows the operator to have full control of the hotel's **receipt/operating/revenue account**, with its designees being the only persons authorized to make withdrawals, several others permit the **owner to have full control or grant joint authority to both parties.**

This is significant, because APAC is the only region where the operators appear somewhat willing to be flexible on this clause. Nonetheless, all contracts granting the operator full control mention certain expenditure thresholds beyond which the operator is required to obtain the owner's prior consent.

FIGURE 16: CONTROL OF RECEIPT ACCOUNT





Termination of Agreement

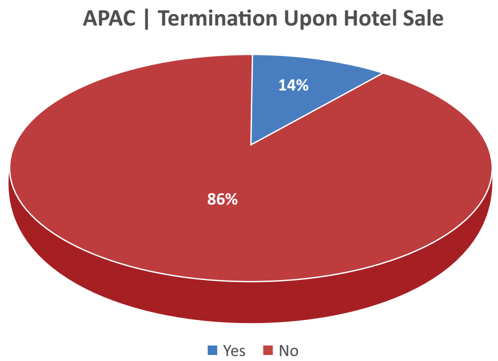
About **14%** of the surveyed APAC contracts permit termination upon hotel sale, which is markedly lower than the global ratio **(32%)**. All of these contracts seek a **termination fee** on the occurance of a hotel sale, defined either as a multiple of the average fees earned by the operator during the last few 2-3 years prior to such an event, or in the form of an absolute monetary amount. Some operators refrain from describing the termination fee and instead simply mention "potential business loss that may be incurred by the operator".

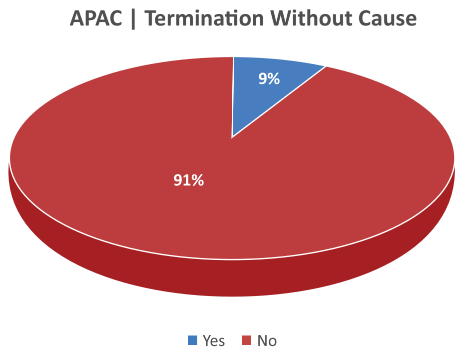
Approximately **10%** of the sample set allows for an **at will/without cause** termination of the agreement by the owner, requiring a severance payment to be made that is commonly a multiple of the past fees earned.

Notably, **87%** of the region's contracts permitting termination upon hotel sale and **90%** of the contracts allowing at will/without cause termination are from India.

To end, all contracts that have a **performance-based termination provision** in the APAC sample set do not seek a termination fee from the owner should a test failure occur and be left uncured.

FIGURE 17: TERMINATION OF AGREEMENT





ACKNOWLEDGEMENTS

First and foremost, we are very thankful to the various ***hotel owners and operators*** *who frequently shared their views with us, enabling us to present a balanced outlook of critical negotiation elements of a hotel management contract.*

Additionally, this guide and survey report is a global research document, which wouldn't have been possible to create without collaborating with various ***HVS offices****. We appreciate the support extended by all the regional experts.*

About HVS

HVS, the world's leading consulting and services organization focused on the hotel, mixed-use, shared ownership, gaming, and leisure industries, celebrated its 35th anniversary in 2015.

Established in 1980, the company performs 4,500+ assignments each year for hotel and real estate owners, operators, and developers worldwide. HVS principals are regarded as the leading experts in their respective regions of the globe.

Through a network of more than 40 offices and more than 350 professionals, HVS provides an unparalleled range of complementary services for the hospitality industry. **HVS.com**

Superior Results through Unrivaled Hospitality Intelligence. *Everywhere.*

HVS BRAND & MANAGEMENT SELECTION AND CONTRACT NEGOTIATIONS TEAM enjoys impeccable worldwide reputation for credibility, excellence and thoroughness. With our global search and negotiation resources and, the world's most comprehensive database of franchise and management agreements, our clients benefit from local insights and international expertise.

HVS associates are available to help you find the brand, franchise or operator that will maximize your hotel's value.