

## 2017 / 2018 FIT RATE AGREEMENT

Between:



and

**Ocean Holidays**

***Effective Date April 1, 2017- March 31, 2018***

### **HOTEL CONTACT/ Contracting Manager**

- **Margaret Thwaites, National Director of Leisure Sales**  
Phone: 407-730-1354  
Fax: 407-996-9998 Email: [Margaret.Thwaites@kesslercollection.com](mailto:Margaret.Thwaites@kesslercollection.com)

### **CLIENT:**

- **Simon Hilton, Executive Director-Brand Partnerships**  
Phone: 011447464795759  
Email: [simon.hilton@ocean-holidays.co.uk](mailto:simon.hilton@ocean-holidays.co.uk)

### **Hotel on-Site Contact: Danielle Wright**

Phone: 407-996-3134  
[danielle.wright@kesslercollection.com](mailto:danielle.wright@kesslercollection.com) Website: [www.thecastleorlando.com](http://www.thecastleorlando.com)

**WHEREAS**, the Hotel and Operator herein desire to enter into a rate agreement subject to the terms and conditions provided herein.

1. **Rates and Effective Dates.** The Hotel shall sell rooms to the Operator, at the rates and during the effective dates designated below. It is expressly agreed that the rates are quoted in U.S. Dollars and are valid for individual travelers only and are not for groups (10 or more rooms). The rates are net and non-commissionable.
2. **Allotment = 2 per day Standard release 14 days Value Season and 21 day cut off Peak Season**

**April 1, 2017 – March 31, 2018**

ROH Single/Double Occupancy  
GENR Only (King or Queen/Queen)

Season 2017 / 2018	2017/2018	
	WD	WE
Apr 1-May 31, 2017	\$89	\$139
Jun 1 – Aug 31, 2017	\$89	\$99
Sep 1 –Nov 30, 2017 (Peak)	\$89	\$149
Dec 1 – Dec 31, 2017	\$89	\$129
Jan 1 – Mar 31, 2018 (Peak)	\$99	\$179

Weekday (Sunday-Thursday) Weekend (Friday-Saturday)  
Call of email for availability and rates for Premium Rooms

**\* Dec 28-31 Rates may be available through Hotel Direct Requests Call for Availability and Rates**

**Contracted Blackout Dates:**

- June 2 -4 and June 13-15, 2017
- July 16-19, 2017
- Sep 11- 13, 2017
- Oct 25-28, 2017
- Dec 3- 5, 2017
- Jan 9 – 12, 2018
- Feb 4-7, 2018
- Feb 25-27, 2018
- Mar 9-12 and Mar 20-22, 2018

**All blackout date ranges listed are inclusive. Allotment for these dates is zero.**

**1. Fees and Taxes**

- ***Additional Person Fee \$20.00 Maximum 4 Guests***
- ***All rates are subject to state and local taxes, which total 12.5%***

The rates provided in this Net Rate Agreement are for the sole purpose of sale by Operator via a traditional wholesale distribution system. Distribution of contracted net rates via direct to the consumer channels must comply with the following terms. Locally negotiated net wholesale rates are provided by the Hotel hereunder for the contractual term subject to the condition that such net rates must be distributed either as a "Packaged Rate" or as a "Marked-up Rate". To qualify as a "Packaged Rate", the rate must be sold as part of a packaged travel product that includes sufficient additional (non-hotel) components such that the cost of the total package is more than the hotel net rate. In no event shall "Packaged Rates" be sold as a hotel-only product. To qualify as a "Marked-up Rate", the rate must be sold at a mark-up to the net rate such that the marked-up rate is not less than the rates for the applicable inventory that are then publicly available to the consumer via the Hotel's branded web sites. If Operator is found to have violated any provision of this clause, this F.I.T. Net Rate Agreement shall be immediately terminable by the The Castle Hotel Resort & Spa Hotel.

Operator must specify below and initial the party responsible for collecting applicable taxes from  
☒ **OPERATOR WILL COLLECT** the tax from the Guest.

☐ **HOTEL WILL COLLECT** tax from the Guest at check-in.

**2. Payment Procedures Client Direct Bill**

The Castle Hotel Resort & Spa will bill the Operator the net amount due Hotel. Payment of the charge is expected within 30 days of receipt of bill. Operators voucher will be attached to the invoice. Every effort will be made to support invoice with the Operator's voucher where supplied. In the event the voucher is not available the Hotel will supply alternative evidence to the Operator which confirms the Customer/guest received the service requested. Should the Operator require additional or more specific information, the Operator must make request in writing and this request must be approved by the Hotel. Please make checks payable to The Castle Hotel Resort & Spa, mailing address Accounts Receivable 95 Cordova Street, St. Augustine, FL 32084. Individuals will be responsible for own incidentals Guest will be required to present a credit card (American Express, Visa, Mastercard, Discover) or cash deposit to charge incidentals to their individual guest room. Should payment not be received within the required 30 days, the Hotel reserves the right to remove direct bill privilege and require pre-payment of future Guest reservations from the Operator.

**Client Accounting Contact:** payables@oceanbeds.com

3. **Guest Accommodations** Non-smoking rooms and handicapped equipped rooms are available on request, subject to availability. Cribs are available, free of charge, upon request. Roll-aways are available for a fee of \$20.00 (plus tax) per night. Maximum 1 per room. Children stay free in room with their parents.

Client Initial SPH

The maximum number of adults in a two Queen Room is four (4) Maximum Adults in King Room (2)

4. **Reservation Procedures** Reservations shall be made by the Operator directly with representatives at the Hotel. All reservations must be received prior to the cutoff date. Reservations must include room type, number of guests, arrival and departure dates, taxes and resort fee processing info. All reservations must be guaranteed by Operator and telephoned or faxed to the following reservations numbers: Reservations must be either by fax or email.

\*\*\* Client N code for Marriott \_\_\_\_\_ Must Include N# \_\_\_\_\_ N02024

A sample of the Operator's voucher must accompany this Agreement.

#### **Hotel Overview:**

5. **Blackout Dates**. From time to time, the hotel will have the need to close-out space over sold-out dates. Please refer to the rate schedule on Page 2 for preliminary list of dates. Once notification has been given all existing reservations are due to the hotel with 3 working days and the allotment will be reduced to zero. Operator shall provide Hotel with appropriate means of communicating future blackout dates. Operator agrees that the Hotel may fax or email a Stop Sell report for dates that may be fully committed and the Hotel may not be able to honor the allotment. The Operator has 48 hours from receipt of the Stop Sell notification to report any reservations currently on the books that have not yet been reported. After the 48 hours, the allotment is no longer available. **Stop sell announcements must be sent to** [stopsales@ocean-holidays.co.uk](mailto:stopsales@ocean-holidays.co.uk)
6. **Shortened Stay**. In the event the Guest's anticipated length of stay is shortened, any refundable amounts shall be paid by the Hotel to the Operator in a timely manner, not to exceed thirty (30) days after departure of Guest. Guest must be advised of this policy by Operator when Guest books reservation.
7. **Cancellations**. The hotel will accept cancellations up to 72 hours prior to the arrival date. The operator will be assessed a cancellation charge equal to 100% of one (1) night room charge and tax for cancellations made within **72**. This amount will be deducted from prepayment or direct billed to the Operator, whichever applies, and not to exceed thirty (30) days after arrival date of Guest. In the event the Operator has guaranteed a reservation and guest does not check-in by 7:00 a.m. of the following day, a **"no-show"** charge will be assessed to Operator equal to 1<sup>st</sup> night room and tax.
8. **Guest Arrival and Departure Time**. Guest check-in time is after 4:00 p.m. and check-out time is prior to 11:00 a.m. During periods of high occupancy, rooms may not be available upon arrival. Rooms will be made available for check-in as soon as possible. Luggage storage is available for early arrivals.
9. **Guest Incidental Charges**. All Guests will be required to establish a method of payment at check-in for incidentals not covered by the Operator's voucher or payment.
10. **Hotel Services**. The Hotel shall provide Operator's Guests with complete access and use of the Hotel's services, amenities and recreational facilities as normally available to Hotel's regular clientele. No pets are allowed. Available Amenities or Activities (**Additional Charges Apply**) Valet Parking, Artwork, Golf nearby. Please contact the concierge to arrange additional recreational activities.

11. **Sales and Marketing**. Prior to publication or distribution, any and all advertising or other promotional materials developed, placed or used by Operator to promote The Castle Hotel Resort & Spa using the trade name, trademarks or logos, shall be submitted to the Hotel for prior written approval. Failure to do so could result in a suspension in the agreement until materials are approved. Hotel reserves the right to cancel this Agreement, should Operator misuse any of the trademarks or service marks of Hotel or misrepresent in any advertising, brochure, promotion or press release, information pertaining to the Hotel, that may in any way damage Hotel or the image of the Hotel in the market place.
12. **Independent Contractor**. The Operator is an independent contractor, not an agent or employee of the Hotel, and nothing herein shall create any association, partnership, joint venture, agency or employment relationship between the parties hereto and neither shall have the authority to bind the other in any way.
13. **Applicable Law**. This Agreement shall be governed by the laws of the State of Georgia and the courts of that state shall have jurisdiction to settle any dispute arising under this Agreement.
14. **Limitation of Liability**. Hotel shall in no event be liable to the Operator for indirect, incidental, consequential, or exemplary damages nor shall Hotel be liable for the Operator's anticipated profits.
15. **Assignment**. This Agreement may not be assigned by Operator without our prior written consent of the Hotel.
16. **Attorney Fees**. In the event litigation is commenced by either party hereto, against the other, in connection with the enforcement of any provision of this Agreement, the prevailing party shall be paid by the losing party all court costs and other expenses of such litigation, including attorneys' fees in a reasonable amount to be determined by the court. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
17. **Entire Agreement**. This Agreement constitutes the entire agreement between the parties and supersedes and cancels any previous oral or written agreements between the parties with respect to the subject matter hereof. This Agreement may not be modified, waived, altered or changed unless in writing signed by the parties hereto.
18. **IN WITNESS WHEREOF**, this Agreement is executed on the dates shown below, the latter of which shall be inserted at the beginning hereof.

"HOTEL"

**The Castle Hotel** \_\_\_\_\_

**Name: Margaret Thwaites**

**National Director of Travel Industry Sales**

**Kessler Collection**


**Signature (date):** \_\_\_\_\_

"OPERATOR"

**Ocean Holidays**

**Name: Simon Hilton**

**Head of Product USA**

**Signature (date):** \_\_\_\_\_ 

## **Marriott Required Terms and Conditions**

### **Company (Wholesaler) Obligations**

As used herein, "Company" means the wholesaler named in this Agreement and "Authorized Channel" means (a) any travel services channel under the management or control of Company or (b) any travel services channel with which Company has in place a written agreement, that in the case of (a) and (b) makes guest rooms at hotels either managed, franchised or licensed by Marriott ("Marriott guest rooms") available to consumers pursuant to the terms of this Agreement.

Company will, and will cause any Authorized Channel it works with, to make Marriott guest rooms available to the end-user customer:

- only as part of a bundle or package, meaning coupled with at least one other substantial travel component of material value.
- strictly for transient leisure travel only (for example, not for business travel or group travel oriented channels).

Company will not, and will not permit any Authorized Channel to:

- make Marriott guest rooms available to the end-user customer as an unpackaged, room-only product.
- market Marriott guest rooms as an unpackaged, room-only product on on-line (e.g., internet based) channels, or any other interactive channels including mobile devices that the end-user customer can access, this includes but is not limited to Online Travel Agents, Opaque Sites, Group Buying, Flash Sales, Social Commerce and Daily Deals sites and applications.
- Make Marriott guest rooms available through any GDS
- disclose to the end-user customer the rate at which Marriott provided Company the guest room.
- make any false, misleading or deceptive claims that it offers specially discounted rates on Marriott inventory, or advertise that it has the lowest price available, substantial discounts, online exclusive rates, exclusive savings, or comparable statements for Marriott guest room inventory.

### **Yieldability**

- Rates offered to Company will be net rates with a discount off the hotel 'non-qualified retail rates' already applied.' Non-qualified retail rates' are rates that are available to the general public with a cancellation policy as defined by the hotel. Rates and non-qualified retail rates are current as of the date of the Agreement and subject to change.
- Hotels reserve the right to increase or decrease rates in line with an increase or decrease of the non-qualified retail rates. Prior notice will be given to Company of any changes, the notice period will be defined by the Hotel prior to Agreement signature.
- Hotel reserves the right to increase, decrease or cease making guest rooms available to Company at any time; this applies to allotments, freesell, on request, or any other method that the Hotel chooses to make rooms available to Company. Prior notice will be given to Company of any changes, the notice period will be defined by the Hotel prior to Agreement signature.
- Any reservation(s) made prior to a rate or availability change as detailed must be reported and confirmed to the Hotel within the timeframes as defined by Hotel within the Agreement.

### **Termination Rights**

- Either Party may terminate the Agreement at any time upon 30 days' written notice to the other party.
- Hotel reserves the right to cancel any booking made in breach of the Agreement.
- Any breach by Company of obligations under Company Obligations will be a material breach of the Agreement, resulting in an immediate suspension or termination of the Agreement, as solely determined by Hotel in its reasonable judgment. Each party shall inform the other of any violations of the Agreement of which it becomes aware.
- Upon termination of the Agreement, Hotel and Company will continue to honour the terms of the Agreement with respect to any booking made prior to the termination date for dates following the termination date, unless termination occurred due to a monetary breach.

### **Insurance**

Each Party will procure, maintain and keep in full force and effect during the term of the Agreement adequate insurance coverage (including public liability or commercial general liability insurance and property) as required by law, with a reputable company. In addition, Company will obtain insurance coverage as required under applicable Marriott standards as Hotel may notify Company from time to time.

### **Safety, Security & Laws**

Hotel will undertake to comply with all relevant laws, regulations and codes of practice including without limitation, those relating to hygiene, fire, safety and security of persons, planning, permits and licensing for the provision of the accommodation. Hotel will maintain the necessary permits and licences for operating the premises in accordance with applicable legal provisions and regulations.

### **Confidentiality**

"Confidential Information" means the Agreement and the associated business terms, including the net room rates and discounts. Each party will maintain the Confidential Information in the strictest confidence and will limit access to those of its employees, officers, and agents with a need to know such Confidential Information for the performance of obligations hereunder. Confidential Information may be disclosed in response to a subpoena or other legal process, to the extent the subpoena or legal process compels disclosure of such Confidential Information and the other party is informed of such disclosure. Furthermore, the Confidential Information may be disclosed in a dispute resolution matter between the parties regarding matters arising from the Agreement.

### **Authority**

Each of the undersigned represents and warrants that it has the right, power and authority to enter into the Agreement on behalf of the respective entities to the Agreement.

### **End-user Customer Information**

"End-user customer Information" means the first and last names, addresses, phone numbers and other personal data of any individual booking a guest room. Each party will comply with all applicable laws regarding the collection and sharing of end-User customer Information. End-User customer Information may be used in accordance with the policies of Marriott International, Inc.

**Intellectual Property**

For the purpose of advertising and promoting Marriott guest rooms on Authorized Channels, Marriott hereby grants Company a limited non-exclusive, non-transferable, worldwide, royalty free license during the term of the Agreement to use, reproduce, display and distribute the applicable hotel name, rates, images and descriptions ("Licensed Content") that Marriott or the applicable hotel has provided to Company subject to the following restrictions: Company will not use the Licensed Content (i) in any radio, television or internet marketing or advertising, and (ii) in a manner that, in Marriott's sole determination, is disparaging or that otherwise could reasonably be expected to have an adverse impact on the goodwill associated with the Licensed Content, diminish their value, or the corporate image, business or reputation of Marriott. Company agrees that the Licensed Content is the sole and exclusive property of Marriott or its affiliates or licensors. Further, Company acknowledges that it will not acquire any interest in the Licensed Content or the goodwill associated with the Licensed Content by virtue of the Agreement or Company's use of the Licensed Content. Any work product generated in conjunction with the Licensed Content hereunder shall be deemed a "work for hire" owned exclusively by Marriott. In any event, Company hereby assigns any right it may have in such work product to Marriott.

Except as reasonably necessary to fulfil its obligations under the Agreement, Company will not use, copy, or distribute Licensed Marks and Licensed Content without Marriott's prior written approval in each instance. Company shall not make any changes to the Licensed Content without Marriott's prior written approval (not to be unreasonably withheld). Company shall immediately cease any use of Licensed Marks and Licensed Content in violation of this Section or upon the written request of Marriott. Any breach of this clause shall entitle Marriott to terminate the Agreement immediately without prejudice to any other rights or remedies that it may have against Company. Company will not use, copy, distribute or scrape any Licensed Content or intellectual property belonging to Marriott or any of their affiliates not expressly authorized by Marriott by written prior approval.

Within five (5) business days of receiving written notice from Marriott or the relevant Marriott Hotel, Company will cease providing Licensed Content to any Authorized Channel that in the sole discretion of Marriott or the applicable Hotel is violating the terms of this Agreement or is maintaining a business practice that is contrary to Marriott's business model.

**Marketing Guidelines**

Marriott has defined "Standards and Guidelines for Online Marketing", including Content Guidelines, Online Advertising Guidelines, Keyword Buying, Paid Search, Search Engine Optimization, Social Media & Commerce and Spyware & Other Automated Tools (collectively, "Guidelines"). These Guidelines are hereby incorporated herein and made a part of the Agreement. Company will, and will cause any companies it works with directly or indirectly with to, review and fully comply with these Guidelines. "Standards and Guidelines for Online Marketing" may be altered by Marriott at any time at its sole and only discretion and are viewable at [www.marriottwholesalers.com](http://www.marriottwholesalers.com).

**Governing Law**

This Agreement shall be governed in all respects by the laws of the State of New York, without regard to conflict of law provisions. Any claim or dispute hereunder must be resolved by a court located in the State of New York. Each party hereto agrees to submit to the personal jurisdiction of the courts located within in the State of New York for the purpose of litigating all such claims or disputes.