



2016-2018 CONFIDENTIAL TARIFF AGREEMENT

Sundial Beach Resort and Spa
1451 Middle Gulf Drive Sanibel Island, FL 33957
T. 239-472-4151 F. 239.395.7229

And

Ocean Holidays / Ocean Beds
Simon Hilton, Head of Product USA
3204 Rolling Oaks Blvd. Kissimmee, FL 34747
P: 407-390-6422 ext 110 F: 1-260-454-3058
E: Simon.Hilton@Ocean-Holidays.co.uk

Equitable House 80-100 South Street, Romford, RX1 1RM UK T: +44 (0)207 939 7781

This agreement issued on May 18, 16 is between **THE SUNDIAL BEACH RESORT AND SPA, SANIBEL ISLAND FLORIDA**; hereafter referred to as “**Resort**” and **Ocean Holidays/Ocean Beds** hereafter referred to as the “**Operator**”. This agreement is effective only if the Resort hereof receives signed acceptance.

Contact Details

Resort	Sundial Beach Resort & Spa	Website: www.sundialresort.com
Address	1451 Middle Gulf Drive	Tel: +1-239-472-4151
City & ZIP Code	Sanibel Island, FL 33957	Fax: +1-239-472-7229
Country	USA	
Accounting Contact	Darla Lindsay	darla.lindsay@sundialresort.com
Reservation Contact (only for special services, regular reservations see “Reservations”)	Marina Bloetz	marina.bloetz@sundialresort.com
Property Revenue Manager (for above allotment requests)	Teresa Stowell	tstowell@shr.global
FIT Contracting Contact	Karen Smith	ksmith@highwiremarketing.com

Operator initials: SPH

Sundial initials: _____

GENERAL PROVISION

The **Operator** will develop packages including the **Resort** and incorporate these packages into flyers and brochures, which will be printed in a reasonable quantity so as to insure the successful promotion of the **Resort**. The **Operator** agrees to distribute this collateral material in a manner prudent to encourage successful sales for the **Resort** from retail travel agents. Packages and printed rates will in no way reflect any discounts off the published rates without the **Resort's** consent.

The rates provided in this F.I.T. Net Rate Agreement are for the sole purpose of sale by the **Operator** via a traditional wholesale distribution system. The Resort provides locally negotiated net wholesale rates 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-Resort) components such that the cost of the total package is at least 25% more than the Resort net rate. **In no event shall "Packaged Rates" be sold as a Resort-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 Resort's branded web site. For the avoidance of doubt, a mark-up of at least 25% over the net rates will be deemed to satisfy the preceding requirement. With respect to both "Packaged Rates" and "Marked-up Rates", the **Operator** shall not advertise that it has the "lowest prices available" for The Sundial Beach Resort and Spa room inventory.

The rates provided under this F.I.T. Net Rate Agreement must never be exposed to the consumer or the general public, and may incorporate the participation of a retail travel agent(s). Providing net or discounted room rates directly to a consumer constitutes a violation by the **Operator** of this F.I.T. Net Rate Agreement. In addition, the rates provided pursuant to this F.I.T. Net Rate Agreement shall not be subcontracted, distributed or assigned by the Operator to any third party agent or distributor for further distribution thereby to consumers unless the Operator provides written notice of such arrangement (including the name of such third party and the material terms of the arrangement therewith) to the Resort and the Resort approves of such arrangement. Includes AMOMA. If the **Operator** is found to have violated any provision of this clause, this F.I.T. Net Rate Agreement shall be immediately terminable by the **Resort** upon delivery of written notice of termination to the **Operator**, and the **Operator** shall indemnify both the **Resort** and its parent company against any and all losses incurred thereby as a result of any violation of The Resort's Best Rate Guaranty policy caused by such violation (including, without limitation, any rate discounts required to be granted to consumers and a \$50 processing fee per room night for each such violation).

Terms and Conditions of the Agreement

Reservation Procedures

Reservation rooming list must include the dates of request, name of guest, room category type, age of any child, arrival and departure dates, and any special requests. Reservations must be made via email directly to the resort's Reservation Department. The Resort reservation's email address is: prioritybooking@sundialresort.com. The reservation contact is Marina Bloetz, e-mail marina.bloetz@sundialresort.com

The Resort's Reservation Department will be notifying you periodically of closeout dates. It will be necessary for you to respond to all closeout notifications immediately upon receipt. Reservations received more than 48 hours after notification will be subject to availability and may not be guaranteed.

Blocks will be monitored on a yearly basis. If the Operator does not utilize at least eighty percent (80%) of the committed room allotment each season or produce a minimum of \$15,000 in total room revenue, the Resort reserves the right to renegotiate the room block or terminate the agreement.

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Groups

Group rates are available for groups of 10 rooms or more, wholesale rates may be offered. Please contact Donna Brown for rates and more information, Phone: (239) 395-6004 or donna.brown@sundialresort.com

Holiday Dates: requires 4 night Minimum Length of Stay if touching these dates

2016	
26-30 May	Memorial Day Weekend
Nov. 22-26	Thanksgiving Break (11/24)
Dec 23, 2016-Jan 7, 2017	Christmas/New Years
2017	
Dec 24-Jan 4, 2017	Christmas/New Years
Feb. 18- 20	President's week
April 8-22nd	Easter Break (Easter 4/16)
Sept 1 -4	Labor Day Weekend
Nov. 21-25	Thanksgiving Break (11/23)
2018	
Dec 22-Jan 6, 2018	Christmas/New Years
Feb. 16-19	President's week
Mar 23-April 8	Easter Break (Easter 4/1/18)

Cancellation and No Show Policy

Must be received as follows:

- ☐ Cancellation of reservations must be in writing by facsimile or E-Mail only and must be received by reservations control no later than the applicable cut off date by season. If the reservation is received prior to the cut off date, no penalty assessed.
- ☐ **If reservations are *not canceled prior to the cut off date by season*, OPERATOR agrees to pay a penalty charge according to Resort policy of one night's room and tax. This penalty charge will also apply to any no-shows.**
- ☐ Early departures will be assessed a one-night penalty plus 11% tax.
- ☐ Requests for refunds due to cancellation should indicate confirmation number, cancellation number, guest name, and original dates of arrival/departure.

Payments

Acceptable methods of payment are either credit card payment, check or wire transfer. Only checks made payable to the Resort and forwarded to the Accounting Office that are immediately negotiable through a U.S.

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Clearing House Bank will be accepted. Please be sure to specify the client's name, arrival date, and invoice number that payment is applied to.

Resort Accounting Contact information is Darla Lindsay, e-mail darla.lindsay@sundialresort.com

Voucher

Resort will accept manifest bookings or vouchers. For vouchered reservations, clients must present vouchers at check-in or the resort may refuse to honor the reservation. Vouchers must specify the client's name, arrival and departure date, and all additional items covered by the voucher (ie tax, service charge, or resort fee). Please provide the Resort an example of your voucher when returning this agreement.

Resort Fees

The Resort shall assess a \$25.00 per room, per night resort fee. The resort fee is exclusive of the **11% state tax**. Resort fees include resort wide wifi, beach chairs and umbrellas, parking, fitness center, bike rentals, kayak rentals, pool towel service, tennis court times, kids game room (unsupervised), dive in movie, live weekend entertainment (seasonal).

Please indicate whether the resort fee should be charged to the individual's incidental account or routed to the Operator master account:

☒ Individual Pays ☐ Operator will pay

Clear and Conspicuous Disclosure

Sundial Beach Resort & Spa requires the Operator to comply with the Clear and Conspicuous Disclosure standard for any Automatic Resort Charge, ie Resort Fee, for the Resort. "Clear and Conspicuous Disclosure" or "Clearly and Conspicuously Disclose(d)" means that a statement, representation, claim or term being conveyed is readily noticeable and reasonably understandable by the persons to whom it is directed in that disclosure. The following, without limitation, shall be considered in determining whether a statement, representation, claim or term, is Clearly and Conspicuously disclosed:

- a. Is of sufficient prominence in terms of size, placement, color, contrast, duration of appearance, sound and speed, as to be readily noticeable and reasonably understandable by a person to whom it is directed acting reasonably under the circumstances
- b. It is presented to the person (s) to whom it is directed in a coherent and meaningful sequence with respect to other representations, statements, claims or terms conveyed
- c. It is not contradictory to any representations, statements, claims, or terms it purports to clarify, modify, or explain, or otherwise contradictory or confusing in relation to any other representation, statement, claim or term being conveyed
- d. There are no abbreviations being used
- e. When, in print or electronic media or orally represented, it is in close proximity to the representation. Statements, claims, or terms if clarifies, modifies, explains, or to which it otherwise relates and
- f. It is delivered in volume and cadence sufficient for any ordinary consumer to hear and comprehend it

With respect to proprietary advertising conveyed visually or in writing, in all such advertising that includes a quote for the actual amount of the room rate to be charged:

- a. The name of the Automatic Hotel Charge, the amount of the charge and the frequency of the charge if the charge is to be made more than once during the guest's stay, shall be disclosed directly beneath or next to the quoted room rate, and above or before the governmentally imposed taxes or fees, in a manner that is Clear and Conspicuous
- b. The disclosures required in the manner set forth in subsection (a) shall be set forth in a list of specific charges that will be made by the resort for the guest's stay. This list may include only the identifica-

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tion of the room rate, Automatic Hotel Charges, governmentally imposed taxes and fees, the amount of these charges, and a total of all charges

- c. The disclosures required to be made shall not be included with other text other than to be made in the context of a paragraph or other narrative form, include abbreviations, be placed or referenced under titles or heading that are misleading or deceptive
- d. The goods or services provided by the Resort in exchange for payment of the Automatic Hotel Charge shall be Clearly and Conspicuously disclosed directly beneath and on the same page as the Automatic Resort Charge or the total of charges. Provided however, that if the advertising is conveyed on a proprietary web site, email, or other proprietary or electronic medium, said disclosure of goods and services may be made wither directly on the page or by hypertext link that is underlined, which link describes the nature of the charge.

Operator at all times shall use commercially reasonable efforts to comply with any and all applicable third party booking disclosure obligations (the "Third Party Obligations") set forth above and in the settlement agreement executed between the Sundial Beach Resort & Spa and the Florida Attorney General's office entered into on (the "Settlement") including, but not limited to Section II., A.5, entitled Independent Third Parties' Disclosures. Sundial Beach Resort & Spa acknowledges that Operator had no input in negotiating, nor is it a party to or bound by, such Settlement. In addition, Operator acknowledges that Sundial Beach Resort & Spa is legally bound by the Settlement. Consequently, the Parties agree that in the event that Sundial Beach Resort & Spa believes in its sole discretion that Operator is not in compliance with the Third Party Obligations, Sundial Beach Resort & Spa shall notify Operator describing such alleged noncompliance in reasonable detail, and if Operator has not remedied such alleged noncompliance within thirty (30) days Sundial Beach Resort & Spa may, as its sole remedy, terminate this Agreement immediately. The Settlement is available for review on the Florida Attorney General's website or upon request.

Brochure and Intellectual Property

The Resort reserves the right to proof ALL photography and copy used in any brochure or tariff. The Resort or a representative will provide digital images and appropriate collateral materials upon request, and reserves the right to approve all copy and images being represented in any brochure, collateral or material for distribution. The Resort agrees to grant to Operator a non-exclusive, non-transferable, royalty free license to use the Marks only for the purposes set forth herein. Operator shall not utilize the Marks except to incorporate them into the approved advertising materials and otherwise strictly in accordance with this agreement. Except for the right to use the Marks as set forth herein, nothing contained in this Agreement shall be construed to grant Operator any right, title or interest in or to the Marks. Operator acknowledges that all right, title, and interest in and to the Marks as well as any goodwill associated with or derived from the Marks remains the sole and exclusive property of Sundial Beach Resort & Spa. Operator shall not take any action inconsistent with Sundial Beach Resort & Spa of its Marks; challenge Sundial Beach Resort & Spa ownership, right or title in and to the Marks, challenge the validity of the Marks, or engage in any activities that would adversely affect the value of the goodwill associated with the Marks. In no event shall Operator alter, modify, dilute or change any of the Marks or otherwise bring the Marks into disrepute shall not combine the Marks with any other trademarks, service marks, names, symbols, drawings or logo's without the Resort's prior written approval which may be withheld in the Resort's sole discretion.

Operator may never assume participation in any cooperation advertising or brochure without written approval from the Resort.

Independent Contractor

In the performance of the Agreement, Operator shall be an independent contractor and not an employee of the Resort. Operator is not an agent of, or authorized to transact business, enter in agreements, or otherwise make commitments on behalf of the Resort unless expressly authorized in writing by an officer of Sundial Beach Resort & Spa with such authority or as expressly set forth herein. The Resort will not pay or withhold

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federal, state or local income tax or other payroll tax of any kind on behalf of Operator or its employees, agents, members, or the like. Operator is not eligible for, not entitled to, and shall not participate in the Resort pension, health, or other benefit plans. Operator is responsible for the payment of all required payroll, taxes, whether federal, state, or local in nature, including, but not limited to, income taxes, Social Security taxes, Federal unemployment Compensation taxes, and any other fees, charges, licenses, or payments required by law. Operator agrees, to the fullest extent permitted by applicable law, to indemnify Sundial Beach Resort & Spa against any fines, damages, assessments, or attorney fees in the event a court or administrative agency shall find that Operator, or any of its employees, is actually an employee of the Resort.

FIT Rates/Government Tax

These rates are subject to change. You will be notified should these changes occur. The additional charge costs printed in your brochure must never be more than the gross (rack) rates.

Payment

Vouchers will be accepted in lieu of prepayment if credit has been established. Sundial Beach Resort & Spa understands the OPERATOR wishes to establish credit in order to receive direct billing privileges of its account. In order to confirm OPERATOR'S credit, the Resort credit application must be completed, signed and returned with original copies of The Resort's *Confidential Tariff Agreement*.

In the event the Resort in its sole discretion approves of Operator's credit, authorization to direct bill will be issued. If direct billing privileges are established, it is agreed that all invoices are due and payable to the Resort within thirty (30) days of date of invoice.

Until credit is approved, full prepayment (room and tax) must be received within fourteen (14) days prior to guest arrival. Resort policy mandates if reservation is made within fourteen (14) days of arrival date, payment must be secured at the time reservation is made with the Resort.

Please be sure to specify the client's name and arrival date. Once wire transfer has been initiated, please send an e-mail or facsimile to the Resort credit office advising transfer amount, client's name, and date of arrival (tour operator agrees to be responsible for all applicable bank fees).

Credit Application

The Resort policy mandates that credit applications be updated on an annual basis. OPERATOR'S completion of and signature on enclosed credit application are necessary for processing in order to retain direct billing privileges, if established.

While every effort will be made to support invoices with Agent vouchers where supplied, accounts are payable if alternative evidence is produced of a client having been provided with the requested service.

The Resort reserves the right to withdraw any allocation of credit should an account be outstanding more than thirty (30) days. The Resort reserves the right to change the OPERATOR'S existing method of payment and agrees to notify said client in writing of the change.

Mutual Indemnification

Operator will defend, indemnify, and hold harmless from all losses, damages, liabilities, and expenses which may arise or be claimed against Sundial Beach Resort & Spa and be in favor of any persons, firms or corporations for any injuries or damages to the person or property of any persons, firms, or corporations consequent upon or arising from any acts, omissions, negligence or fault, by Operator's failure to comply with any laws, statutes, ordinance codes or regulations.

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Sundial Beach Resort & Spa shall not be liable to Operator for any damages, losses, or injuries to persons, customers, or property of Operator or customers which may be caused by the acts, negligence, omissions or faults of any persons, firms, or corporations except when such injury, loss, damage results from negligence of Sundial Beach Resort & Spa, its agents or employees.

Assignment, Successors, and Assigns

The Resort is relying on the skill and experience of Operator and, therefore, it is agreed that Operator shall not assign or transfer this Agreement or any portion thereof without the prior written consent of Sundial Beach Resort & Spa, which may be withheld in Sundial Beach Resort & Spa's sole and absolute discretion. Upon notification to Operator, Sundial Beach Resort & Spa may assign this agreement or any of its rights, duties, or obligations hereunder, to any affiliated entity or to any subsequent purchaser, successor, assignee, or owner of the Resorts, provided that the assignee fully assumes all liabilities hereunder. Sundial Beach Resort & Spa has the right to withdraw any property(ies) upon the sale or assignment thereof. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives and assigns.

Force Majeure

In the event of the occurrence of any Force Majeure, the Parties' obligations hereunder shall be suspended until the cessation of such Force Majeure, at which time such obligations shall be promptly reinstated. "Force Majeure" shall mean and include any fire, explosion, flood, strike, labor disputes, accident, breakdown, emergency repair, riot, act of war, terrorism, act of governmental authority, act of God or any other event beyond the reasonable control of a party which renders substantially impossible the performance of the obligations described herein. The party unable to perform due to a Force Majeure event shall give the other party notice within Five (5) days of the occurrence of any such Force Majeure event.

Waiver

A failure of either party to insist upon or enforce any term or provision or to exercise any right, option, or remedy of the Agreement, or to require at any time performance of any provision hereof, shall not be construed as a waiver of any such terms or provision. No waiver by either party or any term or provision hereof shall be binding unless made in writing and signed by such party.

Severability

If any provisions of this Agreement are held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect.

Entire Agreement and Modification

The Agreement contains all the agreements of the parties, superseding any prior agreements and writing and may not be changed or modified other than by agreement in writing signed by both parties.

Confidential Information

All information provided or obtained in connection with this Agreement, including but not limited to, Rates, Guests, credit card information and services provided, constitutes confidential and proprietary information. Each party shall notify its agents and employees of their confidentiality obligations with respect to confidential information and will require its employees and agents to comply with these obligations. Each Party shall exercise the utmost care to maintain the confidentiality of such information of the other Party and shall not disseminate, publish, release, copy or disclose such information other than for the performance of its obligations under this Agreement without the written consent of the other Party. The confidentiality obligations of each Party and its employees will survive the termination or expiration of this Agreement, each Party acknowledges and agrees that in the event of the violation of any provision of this confidentiality clause, irreparable damage would be inflicted, and therefore, the aggrieved Party shall be entitled to immediate court ordered in-

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junction relief to halt any apparent violation of the Agreement. Such remedy shall be in addition to any other remedies available to the aggrieved Party, at law or in equity.

Non Exclusivity

This Agreement does not make Operator the exclusive provider of the services described above. The Resort is free to enter into the same or similar agreements with any other person or entity in its sole and absolute discretion without liability, and without restriction by Operator as to any terms of such other agreements.

Governing Law

This Agreement shall be governed, construed, and enforced exclusively in accordance with the laws of the State of Florida. The Parties hereby irrevocably submit and agree that Lee County, Florida and/or the Federal District Court with jurisdiction over Lee County, Florida shall be the exclusive venue to bring any suit, action, or proceeding arising out of or relating to this Agreement or any actions contemplated by this Agreement and hereby waive any and all objections to jurisdiction or venue.

Attorney's Fees

The prevailing party in any litigation between the Parties relating to this Agreement shall be entitled to reasonable attorney's fees and court costs, including appellate costs, from the other party.

General Terms

This Agreement is the entire agreement between the Parties, superseding all prior proposals both oral and written, negotiations, representation, commitments and other communications between the parties and may only be amended or modified in writing by an authorized Resort representative. Operator shall notify the Resort of any guests with special disabilities or needs not already accommodated by the Resort at least 30 days in advance of the guests' arrival so the appropriate accommodations or arrangements may be made. This contract, with exhibits attached (if any), constitutes the entire agreement between the parties and may not be amended or changed unless done so in writing signed by The Resort and Operator.

Termination

Either party may terminate this Agreement, with or without cause, with thirty (30) days written notice to the other Party without any further liability.

Notwithstanding the above, the Resort may immediately terminate this Agreement in the event of an assignment by the other party for the benefit of creditors, of the other party's insolvency, of the other Party's dissolution, loss of Charter, or loss of any necessary qualification to do business, the other Party is adjusted bankrupt or insolvent by any court of competent jurisdiction, a trustee or receiver is appointed for the other Party or its assets or any substantial part thereof, or if the other Party consents to any such appointment or the other Party files a voluntary petition under any bankruptcy or other similar law. In the event of termination, Operator shall pay any and all amounts due to the Resort within thirty (30) days after notice of cancellation. All sold reservations reported within thirty days (30) of receipt of this written notice will be honored under the terms and conditions of this agreement.

Headings

Section headings are not to be considered a part of this Agreement and as such are not intended to be a full and accurate description of the contents of that section.

Miscellaneous

This contract must be signed and returned within thirty (30) days of receipt, otherwise the terms will be considered null and void.

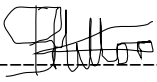
Operator initials: SPH

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The undersigned hereby represents that he/she is fully authorized to execute this Agreement on behalf of Sundial Beach Resort & Spa or Operator and is in full agreement with all terms stated herein. IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

Operator: Ocean Holidays/Ocean Beds

Resort: Sundial Beach Resort & Spa

Signed: -----

Signed: -----

Print Name: Simon Hilton

Print Name: Karen Smith

Title: Head of Product

Title: Leisure Sales Consultant

Date: 13th June 2016

Date: May 18, 16

Operator initials: _____

Sundial initials: _____