

10/21/2018



SPHM  
HOSPITALITY

## SPHM – MEMORANDUM OF UNDERSTANDING



By: | Agustinus Agus Purwanto, SE MM



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## Memorandum of Understanding

### ***Sun Paradise Hotels Management [SPHM Hospitality]***

***with***

***<Insert Owner's Entity Name Here>***

### **OPERATING & MANAGEMENT AGREEMENT TECHNICAL SERVICE AGREEMENT**

	Dated	<b>&lt;Insert Date Here&gt;</b>
1	Owner	<b>&lt;Insert Owner's Entity Name Here&gt;</b> represented by its duly authorized representative and Director Mr. <b>&lt;Insert Name Here&gt;</b> having its registered office at <b>&lt;Insert Address&gt;</b>
2	Operator	<b>Sun Paradise Hotels Management [SPHM]</b> , represented by its duly authorized representative and Chief Executive Officer Mr. Agustinus Agus Purwanto, having its office at Perum Kebonsari Indah Blok Q-14, Jl. Letjen Sutoyo, Kebonsari, Summersari, Jember 68122, Indonesia
3	Hotel Details	<b>&lt;Number of Keys&gt;</b> key <b>&lt;Greenfield / Existing&gt;</b> 4 star hotel, located at <b>&lt;Address of Site / Hotel&gt;</b> .
4	Term of Management Agreement	<ul style="list-style-type: none"><li>➤ Term: 20 years from the date of commencement of operations of the Hotel</li><li>➤ Termination by Owner: There is a lock-in period for first 3 years. After 3 years, the Owner can terminate the agreement anytime by providing 6 months notice, and past 3 years fees.</li><li>➤ Operator can terminate the agreement by providing 6 months notice.</li></ul>
5	Title & Mortgage	The Owning Company represents that it has a clear and marketable title and there is no litigation or encumbrance to the properties.
6	Critical Covenants of the Owning Company	<p>The Owning Company covenants that it will build to Sun Paradise Hotels' specifications a 4 star hotel in <b>&lt;Insert Address&gt;</b>, at an approximate cost of US\$ 150 key.</p> <p>The approval rights for the hotel design and development for the Spree Hotels shall be with the Operator.</p> <p>The Operator shall initiate and arrange licenses for travel desk, wi-fi vendors, and all other required licenses on behalf of the Owner, subject to mutual approval.</p>
7	Critical	Operator shall operate the Hotel with appropriate standards and for

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	<b>Covenants of the Operator</b>	<p>any activities in connection therein which are customary and usual to such operation, and as far as shall be feasible, conduct such operation profitably and in accordance with the character and tradition of the Operator.</p> <p>The Operator shall maintain full and adequate books of account and other records on behalf of the Owner for the Hotel, reflecting the results of operations on an accrual basis,</p> <p>The Operator shall provide the Owner a profit and loss statement periodically showing results of the operation of the Hotel.</p>
8	<b>System of Accounts</b>	As per the Uniform System of Accounts for the Lodging Industry, Tenth Edition, or as revised from time to time. Published by the American Hotel and Lodging Association.
9	<b>Hotel Operations Fees</b>	<ul style="list-style-type: none"> <li>➤ Base Management and Franchise Fee: 2% of Total Revenues</li> <li>➤ Incentive Fees: 5% of Gross Operating Profit (GOP) &lt;50%</li> <li>➤ Incentive Fees: 6% of Gross Operating Profit (GOP) &gt;50%-60%</li> <li>➤ Incentive Fees: 7% of Gross Operating Profit (GOP) &gt;60%</li> <li>➤ Sales &amp; Marketing Contribution: 1.5% of Total Revenues</li> </ul> <p>The Base Management Fee and Incentive Fee indicated above will be calculated and paid monthly, net of all applicable taxes, except the Income Tax liability of the Operator.</p>
10	<b>Pre-Opening Fee</b>	The owner will pay Pre-opening Fees as
11	<b>Pre-Operating Expenses</b>	<p>The Parties shall agree upon a Pre-Opening Programme within 90 days before the launch of the hotel, which will set out the details of the actions to be completed prior to the opening of the Hotel, the timelines within which such actions require to be completed and the Pre-Opening Budget setting out the costs to be incurred in respect of the Pre-Opening Programme.</p> <p>The Owner will reimburse all costs incurred by the Operator during the pre-operating stage of the Project. These costs will be incurred in accordance with the Pre-Opening Budget or incurred after obtaining prior approval from the Owner.</p>
12	<b>Staff</b>	<p>The Operator will appoint the General Manager and will appoint the Financial Controller of the Hotel to conduct operations of the facility in consultation with the Operator.</p> <p>Both appointments will be subject to the approval of the other party.</p> <p>For appointment of all the other staff the Operator will have full independence, and they will be on the rolls of the Owner. The General Manager will be the only employee on the rolls of the Operator, but the costs of the same will be reimbursed by the Owner to the Operator.</p>

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		All costs/expenses such as salaries, benefits etc. of such staff will form part of the Operating Expenses as defined by the Uniform system for Accounts.
13	Technical Services Fee & Scope of Work	<p>The technical services fees are IDR 350 millions. Applicable taxes to be borne by Owner.</p> <p>This includes the following work on the behalf of the Owner:</p> <ul style="list-style-type: none"> <li>• Selection and appointment of all consultants</li> <li>• Briefing the consultants as per Sun Paradise Hotels specifications</li> <li>• Monitoring the commissioning of a market survey from a leading consultant</li> <li>• Periodically monitoring the work under progress</li> <li>• Site visits during construction (if outstation then flight / stay in 3/4 star hotel charges will be reimbursed to the Operator)</li> <li>• Rectification monitoring of pre-opening deficiencies (snags)</li> <li>• Pre-opening activities including training, hiring, of manpower, execution of launch marketing and PR activities, and handover to operations team</li> </ul> <p>All out of pocket expenditure by the Operator will be reimbursed. Prior approvals for the same will be taken by the Owner.</p>
14	Reserve for replacement of FF& E	2% in the first year, 3% of revenues in the second year, and 3% thereafter. This account will be only used for replacement of FF&E, and capital expenses will be separately borne by Owner. Operator will give Owner an annual budget for such expenditure incurred from this account.
15	Trade Name & Logo	<p>The brand name from the Operator's portfolio of brands that will be applicable to these projects will be <b>Sun Paradise Hotels</b>. This is subject to the hotels adhering the brand guidelines set out by the Operator.</p> <p>Owner's name shall be acknowledged in the name of the hotel, as per the Operator's design guidelines. However the logo design, fonts, etc shall be subject to the Operator Approvals. For the avoidance of doubt the Operator shall have sole approval rights on the branding and marketing materials of the hotel.</p> <p>Operator will be designing the brand standards, and all external signage will be duly approved by Operator.</p> <p>Owner not to create a website for this hotel, or use (or attempt to use, or register, or license) the Operator's brand without the Operator's express approval.</p>
16	Arbitration	Venue of arbitration will be Jakarta and/or Province where the agreement is made
17	Governing Law	Indonesian Law, courts in any province which agreement is made to have sole jurisdiction

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18	<b>Approvals</b>	This term sheet is subject to all requisite Board and other approvals, due diligences that would form part of the course of this transaction.
19	<b>Confidentiality</b>	No party may disclose to any other party the contents of this term sheet, without the express written consent of the other party. Owner agrees not to share brand and transaction related details with any Party except advisors to the Owner, and those advisors and employees shall be bound by this confidentiality agreement.

*Signed and Agreed: -*

Operator	Owner
<b>Sun Paradise Hotels Management [SPHM]</b>	<b>&lt;Insert Entity Here&gt;</b>
Name : Agustinus Agus Purwanto	Name : <b>&lt;Insert Owner's Name Here&gt;</b>
Designation : CEO	Designation : <b>&lt;Insert Owner's Designation Here&gt;</b>
Signature :	Signature :