

**Agreement**

**between**

**UNITE HERE LOCAL26**

**And**

**Nine Zero**

**March 1, 2018 to August 31, 2022**

**Boston's Local 26 Union Hall** (617) 832-6699  
101 Station Landing, 4th Floor  
Boston, MA 02155

**Trust Fund Benefits Office** (617) 451-0318  
33 Harrison Avenue, 3rd Floor  
Boston, MA 02111

**Davis Vision** (800) 828-6102

**Regan Associates, Legal Program** (617) 367-1100  
45 School Street  
Boston, MA 02108

**Modern Assistance Program** (617) 774-0331

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## **Agreement**

Agreement made between UNITE HERE Local 26 affiliated with UNITE HERE hereinafter called the *Union*, its successor and assigns, and the Nine Zero, hereinafter referred to as the *Employer or the Hotel*.

The Union is hereby recognized as the sole collective bargaining agent for certain classifications of employees as listed hereunder in the specific hotels as individually designated.

### **Article 1 Recognition**

The Union, its successor and assigns, is recognized as representing all regular full-time and regular part-time hotel service, housekeeping, food and beverage, and laundry employees (including room cleaners, housepersons, bell persons, telephone operators, kitchen employees, servers, bussers, bartenders, cashiers, hosts, concierges, and laundry workers, and front desk, recreational, and parking employees) employed by the Employer at the Hotel, but excluding all guards as defined by the National Labor Relations Act, and all secretarial, office clerical, sales, and maintenance employees and all managers and supervisors and host supervisors.

In the event that during the term of this Agreement additional classifications are organized and provided they are so recognized by the Employer, or certified by the National Labor Relations Board, it is agreed that they shall become a part of this Agreement on the date of recognition or certification.

### **Bargaining Unit Work**

It is understood and agreed that supervisory employees are not covered by this Agreement. It is further agreed and understood that employees whose job classifications are included in the contract cannot be considered supervisory employees.

Supervisors shall not normally perform bargaining unit work, except under the restrictions which are contained in Article 47 (Lateral Service). The Hotel may have no more than one (1) chef who may be a working chef and two (2) additional kitchen supervisors, who may be working supervisors, plus additional kitchen supervisors who may be working supervisors in particular hotels as enumerated below, may be excluded from the unit as supervisory employees.

Working chefs and/or working kitchen supervisors shall not be scheduled in place of bargaining unit employees, nor shall they perform bargaining unit work when bargaining unit employees are not scheduled to work. There shall be no restrictions on culinary classifications assisting other culinary classifications (e.g., cold prep assisting with plating hot food) for brief periods of time to satisfy guests' and hotel's needs. This shall not result in permanent job combinations.

### After Acquired Hotels

This Agreement, together with any amendments to which the parties agree, shall also cover all employees employed in the classifications listed above, or in classifications called by different names when performing similar duties, in any hotel within the City of Boston, which after the effective date of and during the term of this Agreement, is owned by, operated by or substantially under the control of the Employer. The term "Employer" shall be deemed to include any person, firm, partnership, corporation, joint venture or other legal entity substantially under the control of the Employer covered by this Agreement, or one or more principal(s) of the Employer covered by this Agreement or a subsidiary of the Employer covered by this Agreement, or any person, firm, partnership, corporation, joint venture or other legal entity which substantially controls the Employer covered by this Agreement. Coverage of such an operation is conditioned upon and shall occur when the Union demonstrates that it has been authorized by a majority of the employees in the operation to represent them for the purposes of collective bargaining, but not sooner than ninety (90) calendar days after the operation officially opens to the public. The methods by which such authorizations may be obtained and majority support verified are set forth in Appendix C.

### **Article 2 Union Security**

All employees covered by this Agreement who are not members of the Union shall be required to become members after thirty (30) days from the signing of this Agreement. All new employees shall become members of the Union the 31st day of employment. New employees may sign a Union membership application before commencing work or be cleared through the Union's Free Employment Service. The Union shall be notified weekly of all new employees hired during the previous week and all employees terminated during the previous week. All employees who become members as set forth above shall be required to maintain themselves in good standing with the Union during the life of this Agreement. Failure of an employee to remain in good standing shall be cause for his/her discharge.

### **Article 3 Check Off**

Any employee who is a member of the Union may sign and furnish to the Employer an approved, revocable authorization in writing directing and authorizing the Employer to deduct his/her Union dues and Initiation Fee from his/her paycheck during each calendar week in which he/she is employed. Upon receiving such authority as described above, the Employer will deduct said dues, initiation and reinstatement fees and, after collection, the proceeds will be delivered once each month to the Financial-Secretary of the Local who is hereby designated by the Union to be the proper and authorized custodian of the said funds. The name and address of the authorized Financial-Secretary, and any changes therein, will be furnished in writing to each Employer by the Union.

The Union agrees to hold the Employer harmless and to reimburse the Employer against any claims made by an employee for back pay, reinstatement or repayment of dues or initiation fees

to employees arising from any action taken by the Company at the request of the Union to implement the union security and checkoff clauses in this Agreement.

The employer agrees to deduct certain specified amounts each week from the wages of those employees who shall have given the employer written authorization to make such deduction to be remitted no later than once each month to the Credit Union designated by the employer. The employer shall not make deductions and shall not be responsible for remittance to the Credit Union for any deductions for those weeks during which the employee has no earnings or in those weeks in which the employee's earnings shall be less than the amount authorized for deduction.

To permit the Union to properly and efficiently carry out its responsibilities, the Employer, within the structure of the computer capabilities of the Employer's system shall provide the following information to the Union:

- (a) By the tenth (10<sup>th</sup>) day of each month, a list of all employees hired into the bargaining unit during the preceding month, including each employee's name, social security number, date of birth, ethnicity, address, phone number, department, location, job title, hire date, status (full time, part time, etc).
- (b) By the tenth (10<sup>th</sup>) day of each month, a list of all bargaining unit employees terminated and the reason therefore, placed on leave of absence or transferred out of the bargaining unit, and of all employees transferred into the bargaining unit, during the preceding month including each employee's name, social security number, date of birth, ethnicity and the date(s) of such personnel transactions, and the expected date of return for leaves of absence.
- (c) The reports described in subsections (a) and (b) shall be deposited in an electronic format approved to by both parties.
- (d) The Employer shall furnish the Union with a quarterly list of all employees in the bargaining unit, including each employee's name, Social Security number, department, location, job title, home address, phone number, status (full time, part time, etc) and date of hire, date of birth and ethnicity. This report shall be deposited in an electronic format approved by both parties

Monthly dues remittance:

The Employer shall remit each month to the designated financial officer of the Union, the amount of deductions made for that particular month, together with a list of employees and their Social Security numbers, for whom such deductions have been made. The information shall be deposited in an electronic format approved by both parties.

The political contribution deduction shall be made once each month during which an employee who has performed compensated service has in effect a voluntarily executed political contribution deduction authorization. The money shall be remitted within thirty (30) days after the last day of the preceding month to the *UNITE HERE TIP Campaign Committee, 275 Seventh Avenue, New York NY 10001* accompanied by a form stating the name and Social Security number of each

employee for whom a deduction has been made, and the amount deducted. A copy of said form shall be sent to *UNITE HERE Local 26, 101 Station Landing, 4<sup>th</sup> Floor, Medford MA 02155.*

The Union shall indemnify, defend and save the Employer harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of action taken by the Employer in reliance upon payroll deduction authorization cards submitted by to the Employer.

Nothing contained in this agreement shall be construed so as to require any employer or employee to violate any applicable law.

#### **Article 4** **Hiring**

##### Union Referral

Whenever new employees are required in bargaining unit classifications except as to extra banquet personnel, the Union shall be given the first opportunity to furnish such applicants, satisfactory to the requirements of the Employer. The referral by the Union of applicants for jobs shall be on a nondiscriminatory basis and shall not be based on, or in any way affected by, Union membership, bylaws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership policies or requirements. The Employer retains the right to reject any job applicant referred by the Union.

##### Orientation

Upon request by the Union, Union representatives shall be afforded the opportunity to meet with new hires for thirty (30) minutes during the new employee orientation sessions, or within the first thirty (30) days of employment if the Employer does not hold an orientation session within that time frame, without Employer representatives present. The Union shall provide advanced written notice of any Union representatives designated to conduct such sessions. New hires participating in the session will be on paid time. The union shall not make any disparaging comments about the Employer during such sessions.

##### Neutrality

In the event that the Hotel becomes subject to a state or federal right to work law, the Employer agrees to remain neutral with respect to any of its employees' or prospective employees; decisions regarding membership in or support for the Union. The Employer, its supervisors, managers and other agents will not take any action or make any statement that directly or indirectly states or implies any opposition to Union membership or to the selection or maintenance of the Union as the employees' collective bargaining representative, and will not encourage or assist employees either directly or through third parties to terminate Union membership, revoke dues checkoff authorization or invoke any right to reduce financial support for the Union. The Employer will inform any employee who inquires about union membership or support that the employee should contact the Union.

The Employer agrees not to hire kitchen employees from employment agencies that charge the employees for placement. The parties to the Agreement shall post the provisions of this article in places where notices to employees and applicants for employment are customarily posted.

### **Article 5** **Report Guarantee**

Any employee covered by this Agreement who reports for work shall be given a minimum of eight (8) hours work or eight (8) hours pay, if on his/her regularly scheduled day, and a minimum of eight (8) hours work or eight (8) hours overtime pay if on an overtime day. The Employer may, however, contract the employee before 7:00 p.m. on the day before a scheduled shift to give the employee the choice of whether to work the scheduled shift. If the employee chooses to work, Employer may assign the employee other work which the employee is reasonably capable of performing, in addition to the employee's normal duties, provided this does not cause another employee to lose a scheduled shift. If the employee chooses not to work the scheduled shift, employee will not receive pay for the shift.

If an employee's normal workday is less than eight (8) hours, the employee will be given the number of hours of work or pay equal to the number of hours in his/her normal workday. This article shall not apply when the Employer does not request the employee to report for work but only for an interview. The provisions of this article shall not apply when the person reporting for work is under the influence of liquor or otherwise not acceptable for employment.

If an employee requests permission to leave before the completion of his/her scheduled shift and permission is granted, he/she will be paid only for the actual hours of time worked.

These eight (8) hour minimums will not apply under certain circumstances and modified under others. They are as follows:

1. They will not apply where the unavailability of work is due to fire, flood, power failure, "Act of God", civil disturbance, or loss of use of the property beyond the Employer's control. Under these circumstances, an employee will receive the minimum set by state law and regulations.
2. The Hotel will be able to schedule food and beverage employees on a meals only basis providing only a four (4) hour minimum guarantee. This scheduling shall include sufficient time allowance for room opening, closing and side work. No split shifts will be scheduled unless by request of the employee. Further, the Hotel maintains the right to permanently close restaurants during certain meal periods. If done, the Hotel will give the Union advance notice and will not require or expect wait staff formerly working the particular meal to be available for work if the Hotel decides to reopen the restaurant in the future.
3. If à la carte restaurants are experiencing slow periods, the Hotel may schedule a "*waiter with additional duties*." Such an individual will perform the duties of the wait and bus positions. The rate of pay shall be \$13.46 an hour effective March 1, 2018, with contractual increases for

tipped employees. It is understood that the Hotel and the Union will confer regarding the level of business giving rise to or maintaining the use of the "*waiter with additional duties*" position.

4. The Hotel may create new turndown (housekeeping) positions within the bargaining unit warranting different shift hours.

5. Attendance at in-house meetings will be compensated at the minimum set by state law and regulations.

6. No split shifts will be scheduled unless requested by the employee.

If an employee does not have any hours on the posted weekly schedule, the employee may notify the Hotel by Wednesday of the prior week that the employee does not want to be on the on-call list for the following week. If the employee so notifies the Hotel, the employee will not be called for extra shifts that may become available in the following week and therefore will not be put in the position of refusing work that may become available. If the employee does not so notify the Hotel, the employee may be called in for shifts that become available in the following week.

## **Article 6 Hours and Overtime**

The standard workweek and workday for all regular full-time employees except those specially noted elsewhere in the Agreement shall consist of forty (40) hours, composed of five (5) eight (8) hour days worked within seven (7) days. Hours worked in excess of eight (8) hours each day or forty (40) hours in each week shall be paid for at one-and-one half times the regular rate.

Double time the employee's regular straight time hourly rate of pay shall be paid to regular full-time employees for all hours worked on the seventh (7<sup>th</sup>) consecutive day worked, except where the seven (7) consecutive day of work is caused by a change in the employee's regular schedule. It is understood and agreed that in no event shall overtime be paid twice for the same hours under any overtime provision of this Agreement.

Open shifts shall be scheduled in the following order:

1. Employees in the same job classification where the open shift occurs who are scheduled for less than forty (40) hours by job classification seniority
2. Qualified employees from outside of the job classification where the open shift occurs who are scheduled for less than forty (40) hours by Hotel seniority
3. Employees in the same classification where the open shift occurs who are scheduled for forty (40) hours by rotation within each work week based on job classification seniority.

4. Qualified employees from outside the job classification where the open shift occurs who are scheduled for forty (40) hours by rotation within each work week based on Hotel seniority.

The Employer agrees to consult with the Union upon request regarding any problems in the distribution of open shifts or overtime. In the event of consistent and demonstrated abuse of the scheduling process by cancellation of shifts, failure to schedule in advance of a work week, or a failure to fill open shifts when there is a demonstrated need to do so, then the Union may move the matter directly to arbitration.

When overtime is required the Hotel will seek qualified volunteers to work the overtime based on job classification seniority among the qualified employees who are working that day. If sufficient staffing is not attained, qualified employees will be selected by inverse seniority. If additional staffing is necessary, qualified employees working on the previous shift on the day in question will receive first right of refusal for working the overtime hours.

No schedule will be intentionally altered to prevent employees from receiving overtime hours.

All regular employees shall have two (2) consecutive days off except in cases of emergency.

It is the intent of the Hotel to provide its employees with consistent schedules, shifts and days off in order to balance their lives outside of the workplace. Although changes in an employee's schedule may arise in meeting the needs of the business, the Hotel will do what is feasible to limit these occurrences especially as they may apply to senior employees.

The Hotel will provide a fixed weekly schedule of working days, shifts and days off which schedule shall not be changed by the Hotel without giving one week's notice to the employee affected. It is understood that the Employer will not change the days off frequently since the Employer recognizes the wishes of the employees to have the same days off each week as long as possible.

The Employer shall have posted in each working place a current schedule indicating hours of work and days off of each employee.

Employees will not normally be scheduled for ten (10) consecutive days of work.

Each non-gratuity employee shall be provided with the opportunity to have two (2) paid duty-free rest breaks of not less than ten (10) minutes each. Each gratuity employee shall be provided with the opportunity to have one paid duty-free rest break of not less than fifteen (15) minutes each.

The standard workday for regular full-time employees shall consist of eight (8) hours without any split in hours.

None of the foregoing provisions shall apply to banquet waitpersons or banquet bartenders.

All employees except those required to eat while on duty shall be allotted reasonable time off for meals which shall not be considered as time worked.

In compliance with Massachusetts State Law, the Hotel will provide consistent lunch breaks for all employees. However, it does maintain the right to schedule lunch breaks to meet the needs of both the Hotel and its guests.

### **Article 7** **Voter Registration**

Two (2) times a year, the Hotel will confer upon request with the Union to provide employees the opportunity to register to vote in the employee cafeteria during rest and meal breaks.

### **Article 8** **Holidays**

Regular full-time and regular part-time employees who have acquired seniority status and who work during the workweek of the holiday or the workweek preceding the holiday shall receive the following holidays with pay:

New Year's Day  
Martin Luther King's Birthday  
Washington's Birthday  
Memorial Day  
July 4th  
Labor Day  
Thanksgiving  
Christmas

The requirement for work in the holiday workweek or the preceding workweek shall not apply to regular banquet employees. Eligible employees who do not work on these holidays shall be paid their respective regular day's pay; pay for part-time employees shall be on a pro rata basis in the same proportion that the employee's average regular weekly schedule bears to forty hours, computed based on the individual employee's average regular weekly work schedule during the six calendar months next prior to the holiday. Employees who work on the holiday shall, in addition to the regular day's pay, be paid the regular rate for all work performed on the holidays. Employees out of work because of a leave of absence, absence due to industrial accident or layoff for lack of work of over two weeks shall not be eligible for holiday pay.

If an individual is scheduled to work on a holiday and calls out sick, he or she will forfeit their holiday pay but will receive the Paid Personal Time day benefit, if available.

If an individual calls out sick on either his/her last scheduled day of work prior to or immediately after a holiday, he or she will forfeit their holiday pay but will receive the Paid Personal Time day benefit, if available.

The Employer shall provide all bargaining unit employees with one (1) turkey before and for Thanksgiving and another on or before December 23 of each year. For the first year of this agreement the Thanksgiving and Christmas turkeys shall not weigh less than twenty (20) pounds.

### **Article 9 Vacations**

The following vacation schedule shall be in effect from March 1, 2018:

<b>Years of Service</b>	<b>Weeks of Vacation</b>
1 year	1 week
2 - 5 years	2 weeks
6 - 14 years	3 weeks
15 - 24 years	4 weeks
25 years- 29 years	5 weeks
30 years or more	6 weeks

A separate check will be given for each vacation week taken.

An employee may use a maximum of five (5) single vacation days in any one calendar year for those employees who qualify for at least one-week of vacation.

An employee may carry over up to one week's worth of accumulated vacation time with notice given to the Human Resources Department one month before the employee's anniversary date.

A regular full-time employee shall receive for each vacation week forty (40) hours at his/her regular hourly rate of pay. A regular part-time employee shall receive for each vacation week the average number of hours he/she worked per week during the twelve (12) months preceding the vacation at his/her regular hourly rate of pay.

The Employer shall fix the times or periods when such vacation may be taken between January 1st and December 31st of each year.

By February 15th of each contract year, hotel management will provide a twelve (12) month blackout/grayout schedule on a departmental basis. Employees will select and notify management of their desired vacation weeks by April 1 of each contract year. The employee will provide up to three alternative dates for consideration. By May 1st of each contract year, management will provide feedback and a vacation schedule based upon these requests and business requirements. Vacations that are submitted in a timely manner will be given out by seniority. If no vacation request is submitted by an employee, he or she will have their vacations scheduled when and where feasible by seniority.

An employee who voluntarily leaves his/her employment before the fixed time for taking his/her vacation shall not be entitled to vacation pay except after six months of service with the Employer. An employee leaving the employ of the Employer shall have his/her vacation allowance computed and paid on a pro rate basis. An employee who is discharged for reasons causing financial loss to

either the employer or its employees will not be considered eligible for payment of any vacation allowance.

In computing the vacation pay, employees who have lost more than 30 days in his/her anniversary year due to absence shall be required to make up his/her time before becoming eligible for a vacation. An employee may take his/her vacation prior to making up his/her days of absence but will not receive his/her vacation pay until he/she becomes eligible.

Employees who may be absent from work because of an industrial accident incurred in the Employer's service shall be allowed up to 60 days' vacation credit for such absence in computing days worked for vacation credit.

Employees who are on sick leave and are entitled to vacation pay shall be paid the same when their vacation period arrives.

The sale of an entire hotel for continued hotel operation shall not affect the vacation rights of employees as described in this Agreement, and vacations shall be paid by the successor, transferee, lessee, or assignee as though no change in ownership had occurred.

## **Article 10** **Wages, Benefit Funds, Pension & 401(k)**

### **A. Economic Package:**

The bargaining parties agree to the following annual economic increases retroactive to March 1, 2018:

3/1/2018	3/1/2019	3/1/2020	3/1/2021	Cumulative
\$1.50	\$1.25	\$1.25	\$1.85	\$5.85

The Union shall annually allocate each package increase for that year to hourly wage rate increases and benefit fund contribution increases in its sole discretion but may not allocate to any fund to which the Employer has not agreed to contribute. In the event that the Union intends to raise the wage rate of any classification by more than twenty percent (20%) the Union will meet and discuss its intention with the Hotel.

Allocations to wage and benefit fund contribution increases shall occur only on March 1 of each contract year.

In addition to wage and benefit fund allocations the Union in its sole discretion may allocate money from the annual package increase to the following:

- Bonuses
- Expansion and enhancement of health benefits
- Additional PPT days

- Benefit Pay Calculation
- Other items negotiated by the parties

The Union shall advise the Employer of each allocation at least sixty (60) days prior to the effective date of the allocation, provided that if the Union's notice to the Employer is less than sixty (60) days, the Employer will not be excused from paying the increases as allocated by the Union unless there is actual prejudice to the Employer by the delay and then the Employer may be excused only for a period of time equal to the length of the Union's delay in giving notice.

#### **B. Wages:**

All employees shall receive general hourly wage increases in accordance with the terms of this Article.

The amount of the overall wage allocation will be divided by 0.88 to determine the non-tipped and bartender wage increase. The non-tipped wage increase will be divided by 2 to determine the tipped wage increase. Employees shall be compensated at no less than the minimum wage rates listed in Appendix A and as those rates are increased with each yearly allocation.

The following departmental job classifications are considered tipped: waitpersons. All other departmental job classifications are considered non-tipped.

If there is a shortage of fifty dollars (\$50.00) or more in an employee's paycheck, the employer will correct it within 48 hours, excluding Saturdays, Sundays and Holidays.

#### **C. Benefit Funds:**

**Health Fund:** Effective March 1, 2018, the Employer shall contribute the amount per hour as determined by UNITE HERE Health to maintain the agreed upon level of benefits and reserves to the Health Fund for all hours for which an employee covered by this Agreement is compensated, including and without limitation, holiday and vacation hours and all FMLA hours compensated or not compensated.

The Employer and the Union understand and agree that the amounts the Employer contributed to the Health Fund previously for the period March 1, 2018 through November 30, 2018 exceeded the foregoing standard and it is their intent that the Health Fund is to restate the amount due for that period of time in accordance with that standard and credit the excess amounts contributed by the Employer against the Employer's contribution obligation beginning in January 2019, calculated based on the rates communicated by the Fund's actuary on November 8, 2018 and the agreed upon level of benefits and reserves.

Effective March 1, 2019, March 1, 2020 and March 1, 2021 the Employer shall contribute the new amount per hour as determined by UNITE HERE Health (UHH) for that contract year to maintain the agreed upon level of benefits and reserves to UHH for all hours for which an employee covered by this Agreement is compensated, including without limitation, holiday and vacation hours and all FMLA hours compensated or not compensated.

The increase in the Employer contribution to UHH effective March 1, 2020 shall be no greater than forty cents (\$0.40) per hour. Any increase in the contribution rate above forty cents (\$0.40) per hour shall be paid for out of the economic package in Section A of this Article.

The increase in the Employer contribution to UHH effective March 1, 2021 shall be no greater than forty-five cents (\$0.45) per hour. Any increase in the contribution rate above forty-five cents (\$0.45) per hour shall be paid for out of the economic package in Section A of this Article.

The Employer shall report an employee's termination or resignation to the Fund on the next required work report due to the Fund, but no later than thirty (30) calendar days after the termination or resignation. The bargaining parties along with UNITE HERE Health representatives will meet to determine options for reporting incentives and/or penalties.

**Legal Fund:** Effective March 1, 2018, the Employer shall contribute seventeen cents (\$0.17) per hour to the Greater Boston Hotel Employees Legal Services Trust Fund for all hours for which an employee covered by this Agreement is compensated, including and without limitation, vacation and holiday hours for the maintenance of a comprehensive prepaid legal program for the use of eligible employees and their dependents. All future increases shall be made in accordance with Section A of this Article.

**Education Fund:** Effective March 1, 2018, the Employer shall contribute twenty-one cents (\$0.21) per hour to the Greater Boston Hotel Employees Local 26 Education and Training Fund for all hours for which an employee covered by this Agreement is compensated, including and without limitation, vacation and holiday hours. Effective March 1, 2019, the contribution shall be fourteen cents (\$0.14) unless the Union allocates a greater amount from the available one dollar twenty-five cents (\$1.25). All future increases shall be made in accordance with Section A of this Article.

**Housing Fund:** Effective March 1, 2018, the Employer shall contribute nine cents (\$0.09) per hour to the Greater Boston Hotel Employees Local 26 Housing Program for all hours for which an employee covered by this Agreement is compensated, including and without limitation, vacation and holiday hours. Effective March 1, 2019, the contribution shall be three cents (\$0.03) unless the Union allocates a greater amount from the available one dollar twenty-five cents (\$1.25). All future increases shall be made in accordance with Section A of this Article.

The Employer and the Union agree to be bound by the Trust Agreements of The Greater Boston Hotel Employee and Welfare Trust Fund ("Fund") and UNITE HERE Health ("Health Fund") or such new, merged or successor Trust Fund(s), as may, from time to time, be amended, and they do hereby irrevocably designate as their respective representative on the Board of Trustees, such Trustees named in the Trust Agreement(s) as Employer and Union Trustees, together with their successors, and agree to abide and be bound by all procedures established and actions taken by the Trustees pursuant to the Trust Agreement(s). Any provision in this Agreement that is inconsistent with the Trust Agreement(s), or the Plan of Benefits, rules, or procedures established by the Trustees, shall be null and void.

The contributing Employer acknowledges and agrees to comply with all fund policies, procedures and timetables regarding contributions and collection matters.

Payments to the Health, Legal Services, Education and Housing Funds shall start with the first hour worked for all employees in the classifications covered by this Agreement.

Employees shall participate in the funds listed in this Article under eligibility rules as determined by the trustees if they have applied in writing for such participation and have authorized a contribution to be deducted from weekly wages. Benefits from the above Funds and eligibility for participating employees shall be determined by the trustees of the Funds.

The Employer and Union shall instruct the trustees of the funds to continue to give serious consideration to the fulfillment of their legal responsibilities and fiduciary obligations in administering the funds so as to protect and not violate the interest of the funds' beneficiaries. In the event that an employee owes contributions for previous weeks due to layoff, absence, payroll error or other reasons, the Employer shall deduct no more than twice the normal contribution rate per pay period until the employee's payments are current. Both the employee and the Union must agree to any other arrangement in writing.

The parties agree that the Hotels will not join, promote, seek grants or financing for, partner with, or operate any Health, Education, Housing or Legal Services programs for bargaining unit members that provide the same or similar services to those provided through the Greater Boston Hotel Employees Local 26 Trust Funds and/or UNITE HERE Health, without the written consent of the President of Local 26.

**D. Pension Fund:**

Effective March 1, 2018, the Employer shall contribute one dollar eighty-five cents (\$1.85) per hour to the UNITE HERE Workers and Hospitality Employers Variable Defined Benefit Pension Fund for all hours for which an employee covered by this Agreement is compensated, including and without limitation, vacation and holiday hours. All future increases shall be made in accordance with Section A of this Article.

The Employer and the Union agree to be bound by the Trust Agreement of The UNITE HERE Workers and Hospitality Employers Variable Defined Benefit Pension ("Pension Fund") or such new, merged or successor Pension Fund, as may, from time to time, be amended, and they do hereby irrevocably designate as their respective representative on the Board of Trustees, such Trustees named in the Trust Agreement as Employer and Union Trustees, together with their successors, and agree to abide and be bound by all procedures established and actions taken by the Trustees pursuant to the Trust Agreement. Any provision in this Agreement that is inconsistent with the Trust Agreement, or the Plan of Benefits, rules, or procedures established by the Trustees, shall be null and void.

**E. 401(k) Plan:**

The Employer shall match 50 percent of the first four percent of the employee's base pay contribution that is placed by the employee in the employee's 401K account. All matching contributions will be credited to the employee's 401K account.

Employees enrolled in the 401K plan after May 1, 2009 will not be eligible for the Employer match. If an employee exits the 401K plan after May 1, 2009 they will no longer be eligible for the Employer match.

### **Article 11 Meals**

All regular employees shall be entitled to one meal without charge for each shift worked, which shall be consumed on the premises for the convenience of the Employer. The value of such meals shall not be computed as income for tax purposes, so long as such exclusion is permitted by law.

If any employee works a split shift, i.e. eight hours within ten hours, then said employee is entitled to two meals.

Any other previous practices with respect to provision of meals or other food or drink at meal time or break time shall be continued.

### **Article 12 Lockers and Rest Rooms**

Suitable lockers and sanitary rest rooms shall be provided for regular employees, and suitable protection shall be provided for the outer garments of Banquet Waitpersons at no cost to them. "Showers shall be suitably maintained in hotels which presently have shower facilities available for employees." In the event of a general or individual inspection of lockers, there must be present a Union Steward, Chief Steward, or Union representative, or the employee whose locker is to be inspected. In the event of their refusal to be present, the Employer may conduct the inspection.

### **Article 13 Uniforms and Dress Code**

When the Employer requires that employees wear uniforms of identical fabric, color and style, they shall be supplied in adequate size and number and shall be cleaned by the employer. Tuxedos, black pants, black skirts, white shirts, white blouses, black shoes, black stockings, bow ties, or neckties shall not be considered to be uniforms except according to past practice.

All employees shall be permitted while on duty to wear an official Union button evidencing union membership.

The Employer shall not be responsible for uniforms required of steady or extra banquet waitpersons or banquet captains. Uniforms for long-end banquet employees shall be cleaned by the Employer at regular intervals at no cost to the employee.

The Employer shall have the right to establish and from time to time to change reasonable dress codes and grooming requirements. The cleanliness, fit, comfort, style and safety of uniforms are important to both the employer and the employees. Additionally, the quality of linen service with respect to standards of cleanliness, reliability of delivery and accuracy of count are integral to the health and safety and productivity of employees dealing with laundered linen service. To further advance the parties' joint and respective interests on issues related to uniforms, linen and the laundering of both, upon request by the Union or the Employer, an ad hoc committee, with equal number of representatives of the hotel and the Union shall meet to consider and discuss any issues raised by either party. Both parties shall appoint their own representatives and meetings shall be conducted on paid time.

#### **Article 14** **Seniority**

Hotel seniority shall become effective after an employee has satisfactorily completed his/her probationary period and shall be retroactive to the date of hire. Departmental classification seniority shall begin on the employee's most recent starting date in the classification, except as provided below. Employees shall be given full seniority credit for all time worked on a regular schedule of twenty (20) hours per week or more, or as a banquet long-end employee. Employees shall be given one-half seniority credit for all time worked on a regular schedule of less than twenty (20) hours per week. A list of departments presently in use in the hotel for departmental classification purposes has been delivered to the union simultaneous with the execution of this agreement. When the Hotel establishes a new or consolidated department, the application of seniority shall be subject to the grievance and arbitration procedure. For seniority purposes all front and service bars shall be treated as one department; cocktail waitpersons shall be one department.

Departmental classification seniority shall govern where practicable the choice of available vacation periods, choice of available days off, and choice of shifts when open. When the Employer schedules a reduction in hours, an employee scheduled less than forty (40) hours may maximize her/his schedule up to forty (40) hours by bumping a shift or shifts from an employee with less hotel seniority who has the least departmental seniority in a classification in which the bumping employee was previously classified. The employee being bumped may not bump another employee and may not grieve her/his schedule being changed as a result of being bumped. The bumping, senior employee shall notify his/her department manager of the election to bump within four (4) days of the schedule being posted. The Employer will, where practicable, lay off employees rather than cut hours to enable as many senior employees as practicable to maintain as many hours as practicable within a straight time schedule.

Departmental classification seniority shall govern layoffs and recalls, provided the senior employee is qualified and will work the available hours scheduled and required by the Employer. An employee to be laid off shall have the following options:

1. To bump an employee with less hotel seniority who has the least departmental seniority in a classification in a department in which the employee to be laid off has prior satisfactory experience in the hotel. For this purpose the laid off employee shall be credited with all

time previously worked in the previous classification, and shall retain such previous seniority credit after bumping back to the previous job.

2. The employee may bid on any available position, in accordance with the procedure provided by this Agreement.
3. The employee may take a layoff.

An employee bumped in accordance with the foregoing procedure shall have the same options as a laid off employee.

Recall shall be in reverse order of layoff for employees on lack of work status and for employees who have bumped into another job classification.

Employees shall lose their seniority for:

1. Quitting employment.
2. Discharge for just cause.
3. In the event that a laid off employee fails to return to work within five (5) days after notice is given or sent to the last known address on file with the Employer
4. Layoff or failure to work for a continuous period of six (6) months where an employee has less than two years of hotel seniority.
5. Layoff or failure to work for a continuous period of twelve (12) months or more where an employee has more than two years of hotel seniority.
6. If an employee accepts substitute employment while on a leave of absence.
7. Failure to return from a leave of absence as scheduled.
8. Working in a non-bargaining unit job with the Employer for more than six (6) months; during such six (6) month period, seniority shall be frozen but not lost.

The Employer shall supply the Union with seniority lists and shall maintain such lists on a current basis each six (6) months.

## **Article 15** **Job Openings**

The parties agree that promotions from within the bargaining unit are preferable to hiring from outside the bargaining unit, recognizing that special skills may require external hiring in certain positions. The Employer will take reasonable steps to aggressively encourage internal promotion applications. The Employer will upon request confer with the Union regarding possible steps to increase internal promotions. If an employee is certified through a mutually established Training Program they shall be deemed qualified for that classification.

Bargaining unit job openings shall be posted for at least five days in locations reasonably accessible to all employees. Such postings shall include the job classification(s), contractual rate(s) of pay, and schedule(s) of hours and days to be filled.

Employees may submit written requests for such promotional opportunities within the posting period subject to the need for external hiring specified in paragraph one. The Employer will give consideration to such bids, and the senior qualified employee will be given the opening unless a junior employee is more qualified. The Employer may also determine not to fill the job.

If a bargaining unit member is denied a job transfer or promotion, upon his or her request, the hotel will meet with the employee to discuss the reasons for the selection decision in preparing the employee for future opportunities.

An employee transferred or promoted to another job classification and/or department in or out of the bargaining unit shall be given a trial period of up to thirty (30) days. The employee's hotel seniority rights shall not be jeopardized by failing such a trial period. There will be no bumping under this clause. Employees successfully bidding and retained on a new job in the bargaining unit may not bid for another job until after he/she has been on the new job for at least six months, unless the union and hotel agree otherwise in special cases.

The Employer may take such steps as are necessary to fill a job during the posting and hiring procedure above.

## **Article 16** **Bulletin Boards**

The hotel will provide a bulletin board for the posting of official union notices of union meetings, union elections, union recreational and social affairs and other noncontroversial matters. In the event the Bulletin Board has a protective glass covering a key shall be provided to the Union in order for the Union to have access to the Bulletin Board.

## **Article 17** **Visits by Union Representatives**

Authorized business representatives of the Union shall have the privilege of visiting the premises during working hours, at reasonable times, to investigate grievances or for any other Union business which may be necessary to be transacted during working hours. The Union representative shall not talk with dining room employees while meals are being served; shall not interfere with employees in the performance of their duties; and shall not engage in group or

prolonged discussions in public areas. The Union representative shall not visit the guest room floors of the Hotel, but the Union Steward(s) in Housekeeping shall be made available to the representative upon reasonable request during his/her working time. A Union representative shall notify the management of his/her presence on the premises. No Employer representative or agent shall follow or otherwise place under surveillance any Union representative while the representative is in the establishment.

The Union will notify the Employer in writing who the authorized business representatives of the Union are.

If the Employers feel that the provisions of this Article are being abused and no agreement is reached between the parties, the Employer shall submit this visitation article to interest arbitration in accordance with the rules of the American Arbitration Association.

### **Article 18** **Discipline and Discharge**

Employees may be discharged, suspended, or disciplined by the Employer for just cause. The parties agree that the policy of progressive discipline shall be used in all cases where warranted. Any discipline resulting in a suspension other than a *suspension pending investigation* (where termination is a consideration) or a suspension for absenteeism related issues will not be served by the suspended employee until the first step meeting set out in the grievance procedure is held.

Disciplinary records will not be made available to other employers.

Upon prior arrangement with the Director of Human Resources, an employee will be given the opportunity to inspect his/her personnel file in the Personnel Office during nonworking time.

If an employee so requests, a union steward or other union representative shall be present at a disciplinary interview or an investigatory interview which the employee reasonably believes might lead to disciplinary action.

No disciplinary action may be used against an employee at arbitration nor can a commendation be used for an employee's defense that is more than 24 months old from the date on which the grievance was filed (exception: can be used for impeachment purposes). Commendations or meritorious letters may not be used by an employee at arbitration that are more than 24 months old from the date the underlying grievance was filed (exception: can be used for impeachment purposes).

Copies of disciplinary actions will be sent to the Union.

Employees shall only be issued warning notices on the job during work time.

An employee shall not be disciplined for violation of the Employer's policy limiting the number of unscheduled PPT days which may be taken in a given time period if no more than six (6) such

days are taken, if the employee calls in appropriately to report such absences. The above shall not apply to unscheduled call outs on a holiday.

### **Article 19 Management Rights**

The management of the hotel and the direction of the working force are vested solely and exclusively in the Employer and shall not in any way be abridged except as set forth in this agreement.

The union recognizes that subject only to the express conditions of the agreement the Employer has the right to hire, promote, transfer, layoff, discharge or discipline employees for just cause, assign work, and schedule hours, classify employees, curtail any activity or cease any operation, make and enforce the observance of reasonable Company rules and regulations after notice to the Union and maintain the efficiency of employees.

The determination of the type of service or products it will provide, the number of meals it will serve in its food outlets, the assignment of overtime, quality standards, hours of work, starting and quitting times and methods and procedures of operations to be used are the exclusive rights of the Employer, subject to the express conditions of the agreement.

The foregoing itemizations are descriptive of the general rights of management and are not to be construed as limitations thereon.

### **Article 20 Grievance Procedure**

Any differences, disputes or grievances relating to the interpretation of this Agreement which arise during the term of the Agreement shall be disposed of as provided by this grievance and arbitration procedure.

No grievance shall be considered under the grievance procedure unless it specifies the nature of the grievance in writing to the Employer within thirteen (13) days after the circumstances giving rise to when the grievance first occurred or within thirteen (13) days after the date when the grievant reasonably should have known the grievance exists. Grievants shall endeavor to include in the grievance the facts, the Article(s) of this agreement believed violated, and the relief sought. Each grievance submitted must bear the signature of a shop steward or other union official.

A grievance must be referred to the next step within the time frame laid out in that particular step or the grievance will be considered settled on the basis of the last answer given. The hotel shall reply in writing within the stated time periods; a failure to reply within the specified time period shall be considered to be a rejection of the grievance. If a grievance is once settled in any of the following steps, it shall be considered closed and shall not thereafter be subject to the grievance procedure or to arbitration hereunder.

***Step 1:*** In the first instance the subject matter of any grievance shall be discussed between the Human Resources Director and/or the Department Head and the employee, the union steward

and/or the Business Agent, who shall make every reasonable effort to adjust the grievance. The parties shall endeavor to meet within fifteen (15) days from the grievance filing date. If they fail to do so any disciplinary action, including a performance suspension, may be imposed by the employer. The matter may continue to be grieved. The hotel shall reply in writing within five (5) business days of the receipt of the grievance; a failure to reply within the specified time period shall be considered to be a rejection of the grievance.

**Step 2:** If the parties are unable to adjust the grievance satisfactorily within five (5) business days after its submission then the matter shall be presented by the union to the Manager or his/her designee within five (5) business days after Step 1 for discussion between management and the employee and/or a union steward and the union representative. The hotel shall reply in writing within five (5) business days of the second step presentation; a failure to reply within the specified time period shall be considered to be a rejection of the grievance.

**Step 3: Arbitration.** If no adjustment is reached within five (5) business days from the time it is submitted to the Human Resources Director or his/her designee in Step 2, the matter may be submitted within twenty (20) days thereafter to arbitration with a copy of such submission to the Employer. If the grievance is not so submitted, the matter shall be considered closed. The arbitrator shall be selected on a rotational basis from the panel of four pre-determined arbitrators listed below, administered by the Labor Relations Connection. On an annual basis (contract anniversary) either party may terminate any panel member. Replacement arbitrators will be selected by the party whose arbitrator selection was removed in an expedited manner.

1. Sarah Garraty
2. Roberta Golick
3. James Litton
4. Mark Irvings

Once an arbitrator is selected, he or she will hear the case within ninety (90) days from the date of selection. A decision must be rendered by the arbitrator within thirty (30) days after the close of the hearing which shall be extended to sixty (60) days should either party desire to file a brief. The expense for the arbitrator shall be borne jointly by the parties. The arbitrator shall be bound by the terms of this Collective Bargaining Agreement and shall have no right in any way to modify or revise it.

## **Article 21** **Hotel Guest Relations**

Every hotel employee will at all times show respect and courtesy for hotel guests. This respect is shown in their communications, conduct and other actions in interacting with hotel guests. Violations of this policy will result in either progressive discipline or if the employee's conduct is so egregious, immediate termination.

## **Article 22** **Jury Duty**

Each employee shall be paid their regular wages for the first (3) three days, or part thereof, while on jury duty. If an employee serves more than three (3) days on jury duty, he or she shall be paid the difference between the amount received as juror's compensation and the employee's regular straight time hourly rate and calculated for only those scheduled work days lost. If an employee is excused or released from jury service prior to the end of his or her regular work day, he or she shall promptly telephone his or her supervisor to determine whether the hotel requires him or her to return to work. Employees must present a copy of the jury duty voucher in order to receive payment. The employee is responsible to inform his or her supervisor within a week upon receipt of notice to attend jury duty.

## **Article 23** **Construction Work**

The Employer and the Union agree that all major construction work involving contracts in excess of \$2,000 involving the renovation or painting of the hotel, performed at the hotel, shall be done only by employees of the Employer or of contractors who are covered by a collective bargaining agreement.

In the event that no such union contractor in Boston is readily available on the schedule as determined by the employer to perform the work, the employer agrees that employees working for that non-union contractor shall receive wages and benefits at least of the applicable level provided under the Davis-Bacon Act. Upon request by the Union, the employer shall require either the General Contractor or the Subcontractor to provide the Union with payroll records verifying the payment of such wages and benefits to the subcontracted employees.

## **Article 24** **No Strike or Lockout**

The Hotel shall not engage in any lockout, and the Union and the employees shall not authorize, condone or engage in any strike, slowdown, picketing, cessation of work or other interference with the business during the life of the Agreement by reason of any dispute or disagreement, (1) between the two parties signatory hereto, (2) between either of the parties signatory hereto and a third party (except as set forth hereunder), or (3) between individuals, corporations, or unions not signatory to this Agreement.

Where the Union has been designated by the National Labor Relations Board as the bargaining agent for the employees of a leased or subcontracted operation of the Hotel which is performing work which had been performed by Hotel bargaining unit members Section (2) in the above paragraph shall not be operable, provided that, the strike is identified as a strike against said lessee or subcontractor, the Hotel has received written notice by the Union of the date of the intended strike thirty (30) days prior to the strike, and the Union is conducting a legal strike which has also been sanctioned by its International.

## **Article 25**

### **Invalidity**

In the event that any of the provisions of this Agreement may be declared invalid or illegal by operation of law, it is agreed that this Agreement shall be amended by modifying or eliminating such provisions and that all other provisions of this Agreement shall continue in full force and effect until termination of the Agreement in accordance with the terms hereof.

## **Article 26**

### **Funeral Pay**

A regular employee shall be paid for time lost from work during up to three (3) consecutive days following the date of notice of death in connection with the death of a member of his or her immediate family (i.e. parent, step-parent, spouse, domestic partner, child, step-child, brother, sister, or grandparent). A days' pay shall be computed for regular full-time and regular part-time employees as set forth in Article 7 (Holidays). For purposes of this Article, "funeral" is understood to mean a remembrance or memorial service as well as an actual funeral, where the memorial service or remembrance is held within ninety (90) days following the death of the relative or otherwise as agreed by the parties.

## **Article 27**

### **Successor**

a. In the event that the Employer voluntarily sells, transfers, or assigns all its right, title, or interest in the operation covered by this Agreement or substantially all of the assets used in such operation (or any part thereof in a permanent transaction), or in the event there is a change in the form of ownership of the Employer, the Employer shall give the Union reasonable advance notice thereof in writing, and the Employer further agrees that as a condition to any such voluntary sale, assignment, or transfer, the Employer will obtain from its successor or successors in interest a written assumption of this Agreement including a promise that the successor or successors shall retain the employees employed in each of the units represented by the Union (subject to changes in the level of staffing) and retain facially valid I-9 forms maintained by its predecessor in interest without re-verifying the work authorization status of any employee for whom Employer provides to the successor a facially valid I-9 form, and furnish a copy of the written assumption agreement to the Union, in which event the assignor shall be relieved of its obligations hereunder to the extent that the assignor has fully transferred its right, title, or interest. The foregoing provisions concerning I-9 forms shall not apply where no such forms are required by domestic law, or where applicable law mandates the successor, without regard to any voluntary election by the successor, to require bargaining unit employees to complete new I-9 forms, and shall not prohibit the successor(s) from taking reasonable actions and/or requiring employees to take reasonable actions to correct material omissions and errors in I-9 forms received from a predecessor. Nothing in this provision shall be construed to require the Employer or any successor to employ individuals who are not authorized to work in the United States, or to prohibit the Employer or any successor from conducting an E-Verify review of I-9 forms received from a predecessor if such E-Verify review is mandated pursuant to the Employer's or successor's status as a Federal Government contractor or by other provision of law.

b. This subsection applies when separate, unaffiliated entities own and operate the Hotel. It is recognized that the Owner of the Hotel and the Union have a common interest in protecting work opportunities for all employees covered by this Agreement. It is also recognized that the Owner needs the flexibility to select from time to time the operating entity best suited to realization of the Owner's business objectives, and that this can be accomplished without injury to the interests of the employees in the bargaining unit. Therefore, Owner shall ensure that while Owner owns the Hotel, the terms of any future operating agreement or management contract covering the Hotel shall specifically require a written assumption of the collective bargaining agreement between the Union and operating entity including a promise that the successor or successors shall retain the employees employed in each of the units represented by the Union (subject to changes in the level of staffing) and Owner shall furnish a copy thereof to the Union. Further, should Owner or a direct or indirect subsidiary of Owner sell or otherwise transfer a controlling ownership interest in all or any part of the business of the Hotel (in one or a series of related stock or asset transactions), or in the event there is a change in the form of ownership of the Hotel or assets to which Owner is a party, Owner shall as a condition to such transaction obtain from the other party(ies) to the transaction who will take thereby any interest in the business or the assets used in the business a written assumption of the obligations of the Owner as set forth in this sub-paragraph "b," and a binding obligation that any operator it retains to operate the Hotel will assume and be bound by this collective bargaining agreement. Owner will furnish a copy of the assumptions delineated in the previous sentence to the Union. Owner further agrees that, to the extent it has such documents, as a condition of any such sale, transfer, or assignment, it will transfer to the successor(s) completed Forms I-9 for all bargaining unit employees, obtain from its successor(s) a written agreement that the successor(s) will maintain these Forms I-9 in lieu of completing new Forms I-9 for bargaining unit employees ("I-9 Agreement") and furnish a copy of the I-9 Agreement (but not copies of the I-9s themselves) to the Union not less than 30 calendar days prior to the closing of the transaction. The foregoing obligation shall not apply where no such forms are required by domestic law or where applicable law mandates the successor, without regard to any voluntary election by the successor, to require bargaining unit employees to complete new I-9 forms, and shall not prohibit the successor(s) from taking reasonable actions and/or requiring employees to take reasonable actions to correct material omissions and errors in I-9 forms received from a predecessor. Nothing in this provision shall be construed to require the Employer or any successor to employ individuals who are not authorized to work in the United States, or to prohibit the Employer or any successor from conducting an E-Verify review of I-9 forms received from a predecessor if such E-Verify review is mandated pursuant to the Employer's or successor's status as a Federal Government contractor or by other provision of law.

c. The Employer shall not divide or diminish the scope of the bargaining unit by contracting for the use of any space within the Hotel and within the control of the Employer for operations of any sort customarily performed by bargaining unit employees, including but not limited to food and beverage outlets; any such contracting may be done by the Employer only in accordance with the terms of this Agreement, including those concerning subcontracting, and this provision does not alter or reduce to any extent the Employer's rights under such provisions. Nothing in this subsection shall preclude an owner or any other party in interest from contracting for the use of space that is not controlled or managed by the Employer as an existing part of the

hotel operation, or preclude the continued leasing or future leasing, whether to the current or any other lessee, of any space currently leased in the Hotel, or preclude the leasing of space currently controlled by the Employer to a different third party subject to the provisions of section (b) in the following sentence. The Owner shall not require the Employer to relinquish any part of the Hotel premises managed by the Employer except for (a) use in operations that would not be covered by this Agreement if they were conducted by the Employer or (b) use in operations that would be covered by this Agreement provided that the economic package paid to or on behalf of employees performing work covered by this Agreement shall not be less than the economic package paid to or on behalf of employees under this Agreement and shall include an employer-paid defined benefit pension plan. The economic package shall include all emoluments of employment having definite and quantifiable economic value, including but not limited to wages (including premiums, bonuses and incentives, guaranteed workdays or workweeks, health and hospitalization benefits, retirement plan participation, paid vacation, paid holidays and paid sick leave). Nothing in this section or the Agreement generally is intended to expand or otherwise add to the existing bargaining unit covered by the applicable collective bargaining agreements listed and attached hereto in Addendum A.

d. If ownership of the Hotel is transferred in an involuntary transaction, the Employer shall deliver to the Union copies of the entire contents of the personnel files (excluding attorney-client privileged documents, investigatory materials and medical records) of all bargaining unit employees except those files which are delivered to the transferee because it has employed or has made a legally-binding commitment to employ the employees to whom the files pertain.

e. The provisions of this Agreement prohibiting strikes shall be suspended upon the initiation of any proceeding to authorize the sale of the hotel in an action filed under Chapters 7 or 11 of the United States Bankruptcy Code or under Canada's Bankruptcy and Insolvency Act with respect to the Hotel or with respect to a business segment that includes the Hotel, or by delivery to the Employer of a notice of sale in foreclosure or other similar notice that the Hotel will be taken in a transaction that is not voluntary by the Employer, except where prohibited by domestic law, and shall remain suspended unless and until the condition that caused the suspension has been resolved completely or the Union delivers a written waiver of the suspension. The Employer shall deliver written notice to the Union of a filing or notice covered by this subsection within five days after the Employer files or receives the petition or notice, and shall include a copy of the petition or notice. Notwithstanding any provisions of this subsection "e" to the contrary, the provisions of this Agreement prohibiting strikes shall remain in full force and effect if (a) in the case of the initiation of any proceeding to authorize the sale of the hotel in an action filed under the applicable bankruptcy laws, the assumption of the obligations of the owner under this Agreement (as defined hereinafter) is made an express condition of such sale, or (b) in the case of a notice of sale in foreclosure or similar notice that the Hotel will be taken in a transaction that is not voluntary by the Employer, the lender or other entity causing the issuance of the notice has agreed in writing in an instrument making the Union an express third party beneficiary of the promise, that if it retains ownership of the Hotel, to assume the obligations of the Owner under this Agreement (as defined hereinafter), or if the Hotel is sold or transferred, that it will require as a condition for such sale or transfer, that any purchaser or transferee to assume the obligations of the Owner under this Agreement (as defined hereinafter). For purposes

of this subsection "e," the "obligations of the Owner" shall include (i) the obligation of the purchaser or transferee (the "New Owner") to assume this Agreement and to retain the then-current bargaining unit employees, both of which as and to the extent required by subsection "a" above, or (ii) if the New Owner is not the operator of the Hotel, either directly or through a wholly owned or controlled affiliate, the obligation not to hire a replacement managing entity unless that entity agrees to assume this Agreement and to retain the then-current bargaining unit employees, both of which as and to the extent required by subsection "b" above.

f. The Union shall not be required to post a bond or other security as a condition to obtaining an injunction or other equitable relief against a violation or threatened violation of this Section.

g. The obligations of this section shall expire one (1) year following the expiration of this Agreement. During this one (1) year period, the obligations of this section shall be enforced through the procedures for arbitration provided elsewhere in this Agreement and the Union shall retain the power to seek injunctive relief through judicial action as provided in this section.

### **Article 28 No Discrimination**

The Employer and the Union agree that there shall be no discrimination as to wages, hours or working conditions against any employee on account of race, color, creed, national origin, disability, religion, veteran status, sex, sexual orientation, union status or activity, age or any protected status as provided by law.

Any references including job classification to one gender shall be deemed to include the opposite gender.

### **Article 29 Sexual / Harassment and Workplace Violence**

Harassment and workplace violence will not be tolerated at any hotel. Individuals engaging in such conduct will be subject to discipline including immediate discharge. Harassment for the purposes of this article includes, but is not limited to, abusive or threatening language, conduct creating a hostile work environment, workplace violence and sexual harassment.

Sexual harassment is also considered a form of sex discrimination. No employee shall be subjected to sexual harassment in the workplace. This shall include sexual harassment because of a person's sexual preference according to the law.

In this spirit a statement of policy and commitment to this principle will prevail in all work areas. The parties also agree that the employers will take reasonable steps to eliminate sexual harassment from the hotel whether from supervisors, employees or customers, including scheduling once each year, in December or earlier, for all employees and supervisors, of an awareness program regarding the problem of sexual harassment. The employers will confer upon request with the union regarding the contents and scheduling of such programs.

This shall include sexual harassment because of a person's sexual orientation.

The Employer agrees to give priority consideration to any grievance involving sexual harassment.

### **Article 30 Probationary Employees**

The Employer, during the employee's probationary period, may discipline or discharge said employee at the Employer's sole and exclusive discretion, and neither the Union nor the probationary employee shall have recourse to the grievance or arbitration procedure for any act of discipline or discharge during the probationary period. For all employees the probationary period shall be sixty (60) calendar days.

### **Article 31 Communication**

House rules and job postings shall be provided in such languages, up to the four (4) major languages, as are necessary to communicate effectively in each Hotel.

### **Article 32 Health and Safety**

The Employer recognizes its obligation to provide a safe and healthy working environment for each employee. The Union agrees that each employee is obligated to obey reasonable rules related to health and safety.

The Employer agrees to give priority consideration to any grievance involving health and safety.

#### **First-Aid and Defibrillators: First Responder Committee**

The Hotel shall maintain defibrillators on property. The Union and the Hotel will confer annually on the proper maintenance, inspection, training of employees on the use of defibrillators. The parties agree that the hotel must notify the Union in writing within thirty (30) days of the hotel's intent to no longer have defibrillators located on property.

### **Article 33 Employee Safety**

A. The Employer shall provide a safety alarm to each employee assigned to work in a guest room without other employees present, at no cost to the employee. Each employee shall be required to carry the device with him or her at all times when working and to utilize such device when he or she believes there is an ongoing crime, harassment, or other emergency in the employee's presence. The devices shall be able to summon immediate on scene assistance to their location from another employee or security guard. The purpose of this section is to protect employee safety. The device may not be used to track or discipline for productivity-related issues. The employee in danger may cease work and leave the immediate area where the incident occurred to await the arrival of the employee or security personnel responsible for providing

immediate assistance. Such systems shall be installed in the Hotel no later than the end of the 2019 calendar year.

B. The Hotel shall record an accusation that a guest has made an unwanted sexual advance, request for sexual conduct, or other verbal or physical conduct of a sexual nature towards an employee or towards another guest of the establishment, including the name of the guest. The Hotel shall inquire for the name of the guest if that information is not included in the initial notice to the Hotel. If the Hotel is unable to learn the name of the guest, the Hotel shall learn and record as much identifying information about the guest as is reasonably possible. The Employer shall maintain a list of all guests so accused for at least five (5) years from the date of the most recent accusation against the guest. Guest as used throughout this section means registered guest, others occupying guest rooms with registered guests, and visitors invited to guest rooms by a registered guest or other occupant of a guest room. Upon request, the Hotel shall reassign the employee to a different floor or work area away from the guest for the entire duration of the guest's stay.

If the Employer learns that any guest on the list is staying at the hotel, the Employer shall notify the Union and any housekeeper, room server or any other employees assigned to work in this guest's room of the same prior to the start of their scheduled shift, and shall warn the employees to exercise caution when entering that designated room during the time the guest is staying at the Hotel. The Employer reserves the right to assign a non-bargaining unit employee to service the room.

C. Upon receipt of an allegation of sexual assault or other criminal conduct by a guest against an employee, the Hotel shall promptly contact local law enforcement with jurisdiction, immediately notify the employee that law enforcement has been contacted, that he or she may be asked to provide a statement, and that they have a right to decline to do so, and provide the employee with sufficient paid time to provide a police statement, and shall fully cooperate with any investigation into the incident undertaken by the agency.

D. When an allegation of sexual assault or criminal conduct by a guest against an employee is supported by a police report and statement made by such employee under penalty of perjury, the Hotel shall inform the guest that he or she is prohibited from returning to the Hotel, and shall maintain such prohibition for at least three (3) years from the date of the incident alleged in the statement.

E. There shall be no retaliation against any employee for seeking to enforce his or her rights under this section by any lawful means or for otherwise asserting rights under this section.

#### **Article 34** **Pregnancy Protection**

If an employee so requests, and consistent with both the employee and employer's obligations under applicable law, the Employer shall provide a reasonable accommodation related to such employee's pregnancy, childbirth, or related conditions, including but not limited to the need to express milk for a nursing child. "Reasonable accommodation" may include, but not be limited to, more frequent or longer breaks, time off to recover from childbirth, temporary transfer to a less strenuous or less hazardous position, job restructuring, light duty, additional break time, reduction in room assignments, private non-bathroom space to express breast milk, assistance with manual labor and modified work schedules. Any time off provided as a reasonable accommodation will run concurrently with any protected leave the employee is otherwise entitled to take for the condition under applicable law.

## Article 35

### Paid Personal Time

#### **Section 1: PPT Accrual**

Each employee who has one (1) years' service or more as of December 1 of each year shall be allowed up to 48 hours of Paid Personal Time (PPT) per benefit year. All other employees with less than 12 months of employment will begin to accrue 1 hour of PPT for every 30 hours worked, capped at 40 hours of PPT during the benefit year and in accordance with M.G.L. c. 149, § 148C and associated rules and regulations. This accrual system shall apply to employees who have less than twelve (12) months of employment on December 1 of each successive year. Employees may use PPT time after 90 days of employment. PPT is intended to constitute sick time under M.G.L. c. 149, § 148C, and no Hotel shall be obligated to provide paid sick time beyond what is provided in this article.

#### **Section 2: PPT Accumulation and Cash Out**

Accumulation from year to year will be permitted. Any employee may cash out unused accumulated PPT hours above eighty (80) and no more than one hundred sixty (160) from the Hotel at 50% of the hour's value. Any employee may cash out unused accumulated PPT hours above one hundred sixty (160) from the Hotel at 100% of the hour's value.

#### **Section 3: PPT Usage**

##### PPT Not Used as Paid Sick Leave

(a) PPT should be scheduled and planned whenever possible, provided that PPT used as paid sick leave, as set forth in the Earned Sick Time law, G.L.C. 149, s. 148C, and any regulations enacted thereunder shall be used subject to (b) and (c) below. Employees may request to use PPT(s) up to twenty-four (24) hours before the posting of the schedule. The Hotel should respond immediately to all requests for PPT requested twenty-four (24) hours before the posting of the schedule. For requests made in advance of twenty-four (24) hours, the Hotel shall respond within two days. Requests for PPT are granted on a first-come, first-serve basis. If two or more employees on the same day request the same day off, seniority shall govern which of the employee(s) receives the day-off, if business needs do not allow all requests to be granted. The Hotel will not unreasonably deny PPT requests.

##### PPT Used as Paid Sick leave

(b) In the event an employee uses accrued PPT as paid sick leave (including leave to care for and attend appointments related to the physical or mental illness, injury, or health condition of the employee or that of a family member, to attend routine medical appointments of the employee or that of a family member, to travel to and from a pharmacy or other location required in the course of the aforementioned care, and to address psychological, physical or legal effects of domestic violence), then the leave shall comply with the minimum requirements of M.G.L. chapter 149, section 148C, including, but not limited to: (i) PPT may be used in hourly increments; (ii) if the need for paid sick leave is foreseeable, an employee must provide advance notice to his or her supervisor; (iii) if the need is unforeseeable, an employee must utilize the standard call-in procedures, if practicable; (iv) in the case of emergency, an employee should notify his or her direct supervisor, as soon as practicable; (v) when permissible, an employee may be required to provide documentation regarding an absence, including when an employee is out of work on paid sick leave for more than twenty-four (24)

consecutively scheduled hours, the employee can be required to provide supporting documentation from a health care provider and (vi) an employee who requests or uses paid sick leave for authorized circumstances or makes a complaint about a suspected violation of this policy shall not be subject to discrimination or retaliation.

(c) "Family member" is defined for purposes of this Article as the employee's child, spouse, parent, step-parent, or spouse's parent. Child includes a biological, adopted or foster child, stepchild or legal ward or a child for whom the employee has assumed the responsibilities of parenthood. Parent includes a biological, adoptive, foster or step-parent of an employee or of an employee's spouse or the person who assumed the responsibilities of parenthood when the employee or employee's spouse was a child.

### **Article 36** **Room Attendants**

No Room Attendant shall be required to do more than twelve (12) rooms without additional compensation equal to one-half the employee's regular straight time hourly rate of pay per room for each room over twelve (12) within the eight (8) hour day. When a Room Attendant does more than twelve (12) rooms within his/her normal day, he/she will be paid such extra payment for each such extra room and shall receive no other payment for the time required to do such extra rooms. For work performed after eight (8) hours, the sole payment shall be at the rate of time and one-half the employee's regular straight time hourly rate of pay. Extra rooms will be distributed equitably. The Employer agrees to consult with the Union upon request regarding any problems in extra room distribution.

The present contractual room quota shall be reduced by one (1) room on a day in which there are seven (7) double doubles in a Room Attendant's assignment. The room quota shall be reduced by two (2) rooms when there are ten (10) double doubles in a Room Attendant's assignment.

The present contractual room quota shall be reduced by one room on a day when there are ten (10) check out rooms in the Room Attendant's assignment. The room quota shall be reduced by two (2) rooms when there are eleven (11) checkout rooms in the Room Attendant's assignment. The room quota shall be reduced by three (3) rooms when there are twelve (12) checkout rooms in the Room Attendant's assignment.

The room attendant will accept all reasonable assignments of extra rooms given out on his/her shift whether or not such assignments would require the employee to work beyond an eight (8) hour shift. Appropriate compensation including overtime where applicable will be paid for the extra room(s) assigned. Room Attendants will be paid weekly for all extra rooms done.

*Special Attention Rooms.* Rooms requiring special attention and which will be held to a higher cleaning standard shall be identified by a special code on the Room Attendant's assignment sheet. One (1) room shall be dropped for any room so designated. Additionally, inspectresses, supervisors and management shall not hold Room Attendants to a higher standard of cleaning for rooms not specially designated. Hotels may continue to designate rooms as VIP rooms but not require a higher cleaning standard for such rooms. "VIP" rooms shall not be identified on a Room

Attendant's daily assignment unless it requires special attention, in which case it will be designated a special attention room by that hotel's special attention code and a room will be dropped from the daily assignment. The order of rooms to be cleaned may be designated by the notation "priority." VIP rooms may be so identified on the work sheets of quality assurance associates.

For purposes of the above room quota, all rooms in a suite with more than one room shall count toward the quota, i.e., a two (2) room suite shall count as two (2) rooms, a three (3) room suite as three (3) rooms, etc.

The regular full-time night Room Attendants' workday shall be eight (8) hours including meal periods with time and one half for all time worked in excess of eight (8) hours in one night. Room Attendants shall be permitted to report one (1) hour later on Sunday or holiday or to leave one (1) hour earlier, without affecting their wages for the day, provided they complete their normal days' work.

Room Attendants shall be allowed to leave their sections ten (10) minutes before quitting time to allow for changing to street clothes.

When Room Attendants are required to dust three (3) vacant rooms, they may be required to make up one (1) room to compensate. They may be required to make up one (1) room for two (2) sleep-outs.

To the extent reasonably possible, considering occupancy and other factors, Room Attendants shall be assigned to permanent floors or sections. When a vacancy exists in a floor or section assignment, seniority shall be given consideration.

Sufficient linen, equipment, and cleaning materials will be provided to all Room Attendants. The Employer shall make reasonable efforts to provide sufficient linen to Room Attendants on their respective floors.

Any employee cleaning a room requiring special cleaning for vomit or defecation shall be paid \$25.00 additional for cleaning such room.

Room Attendants shall be paid \$1.90 cents for each cot made up. Effective January 1, 2019 the payment shall be \$2.27; January 1, 2021 the payment shall be \$2.63; January 1, 2021 the payment shall be \$3.00

Three (3) cots shall equal one (1) room. Pull out beds shall be counted as cots for purposes of this paragraph when they are not the primary bed(s) in that room.

The Employer and the Union agree that gratuities left by guests in hotel rooms are for the exclusive benefit of room attendants. No one shall be permitted to remove a gratuity from a guest room other than the room attendant who cleaned that room.

### Bought Rooms

The maximum number (excluding call outs) of rooms that the Hotel may sell as extra rooms to Room Attendants shall be

September 1, 2019	12% of occupied rooms
September 1, 2020	7% of occupied rooms
January 1, 2022	5% of occupied rooms

These minimums should be rounded up to the next board, with a 1 board minimum

If Hotel is currently below any of these maximums it may not sell more extra rooms than currently being sold.

Hotel shall send the Union the number of occupied rooms and the number of extra rooms sold on a quarterly basis.

The penalty for the Hotel for selling more than the extra room cap above shall be \$5.00 per room sold above the bought room allowances, which shall be paid to the Education Fund.

### **Article 37 Housekeeping Housepersons**

Within one hundred and twenty (120) days of ratification Hotel shall meet to negotiate the Union guidelines for staffing and scheduling of Housekeeping Housepersons.

The parties agree that housepersons are important and necessary to the efficient operation of the Housekeeping Department. The Employer agrees to consult with the Union upon request concerning any problems of housepersons.

Housepersons will receive the same compensation under the same circumstances that a Room Attendant is compensated for making up a cot.

### **Article 38 Bellpersons**

Bellpersons, baggage porters, and doormen shall not be assigned the duties of housepersons, yardpersons or lobby porters, except that this clause shall not be construed to eliminate the present duties performed by them.

When bellpersons are required to make up cots, they shall be paid at the same rate as housekeeping employees.

For placing cots in rooms between 10:00 p.m. and 8:00 a.m., bellpersons shall be paid the same amounts as specified above. Pull-out beds shall be counted as cots for purposes of this paragraph when they are not the primary bed(s) in that room.

Three dollars and twenty-five cents (\$3.25) shall be paid for tours, canceled airline flights, school and athletic groups booked after the signing of this Agreement where bellpersons are required to place baggage in rooms. In Hotels where more than the minimum amount specified by the previous Agreement was being paid, the amount actually being paid shall be continued. Fronts shall be rotated. Bell captains may take fronts in the hotels where such a practice has been in effect. Bellpersons performing house errands shall have an opportunity to make up all fronts lost.

### **Article 39 General Conditions**

No employee shall suffer a reduction in his/her hourly rate as a result of this Agreement, and this Agreement shall not interfere with the employees receiving higher wages or compensation for superior knowledge and ability, nor shall this Agreement serve to deprive these employees of any privileges enjoyed before the Agreement was made.

Whenever an employee substitutes for another employee in a higher classification, said employee shall be paid at the minimum rate for such higher classification, and the employee shall not raise any jurisdictional or other like objections to such change of duties. When transferred temporarily to a lower paid classification for the convenience of the employer, the employee shall continue to receive his regular rate of pay. Such transfers shall be subject to Article 14 (Seniority)

The Union may grieve and arbitrate unreasonable workloads.

The Employer will provide the Union with the rate range structure for each kitchen job classification.

The fact that a gratuity is not included shall be announced to the guest on all checks except in gourmet rooms. Gratuity calculations shall be printed at the bottom of each check for 15%, 18% and 20%. This provision shall be made effective in each room when a new supply of checks is next ordered for that room after the signing of this Agreement. There shall be an automatic gratuity of 18% added to all checks for parties of six (6) or more.

A turn sheet shall be kept for room service orders except where room service employees are assigned by floors. Turns shall be rotated to the extent practicable.

A turn sheet shall be kept in each room for waitpersons. Turns shall be rotated to the extent practicable.

*Lost and Found:* Items, excluding food and beverage, turned into lost and found shall be tagged with the name of the employee turning in the item and the date turned in. Such items shall be kept in a secure location, and if unclaimed after twelve (12) months, shall be given to the employee turning them in, in accordance with Massachusetts General Laws, Chapter 134, Section 3. If such

items are claimed, the Employer shall keep a record, available to the Union upon request, of the name of the person claiming the item.

Packaged food and perishable items (i.e. flowers/floral arrangements) given to hotel employees as a gratuity may be claimed by securing a package pass on the item(s). If an employee takes the above-gratuity out of the hotel without a package pass the individual circumstances will be reviewed on a case by case basis before subjecting the individual to discipline. The removal of unopened stamped or unstamped alcohol gratuities will be governed by the licensing laws of the City of Boston. No employee shall be required to contribute to another employee or to the employer ("kickbacks"). This shall not preclude the voluntary practice of some employees tipping other employees, e.g., waitpersons tipping buspersons, or the voluntary pooling of tips among tip employees such as captains, waitpersons and buspersons.

*Pre-tax Deductions:* Unless the employee makes a written request to the contrary, an employee's contributions for health and welfare premiums and 401K payments and MBTA passes will be deducted from his/her weekly wages prior to deduction of state, federal and FICA taxes.

#### **Article 40** **Leave of Absence**

An employee who receives a written leave of absence from the Employer shall be entitled to all seniority rights upon his or her return to work, which shall be to his/her prior position, provided that he/she returns to work prior to the expiration of the leave of absence, and provided also that he/she has not accepted substitute employment elsewhere during the leave of absence. The leave may be for up to three (3) months. The Employer may require certification from the employee's physician as to the employee's inability to work prior to granting medical leave of absence for any disability including pregnancy-related disabilities, and doctor's certification of ability to work prior to return from a medical leave of absence. In returning from leave, an employee must notify hotel management of his/her intent to return to work a minimum of one (1) week prior to his/her anticipated date of return to work.

The employee may apply for an extension if necessary. Upon return to work from an extended leave of absence the employee shall be returned to his/her former position, without loss of prior seniority.

#### **Family Medical Leave**

The parties agree to comply with all provisions of the Family and Medical Leave Act and any amendments to the same.

Immediately following the birth of a child, bargaining unit employees with one (1) or more years of service will be eligible for six (6) weeks of paid maternity leave.

An employee with one (1) or more years of service whose spouse gives birth shall be granted two (2) weeks paid parental leave for the care of the employee's spouse and family to commence with sixty (60) days of the birth of the child.

Employees are eligible for leave under the FMLA if they have worked at least 1,250 hours during the twelve (12) months prior to the requested leave of absence. An Employer may require an employee to use 50% of their accrued PPT and/or vacation time on a FMLA leave. The remaining 50% of accrued PPT and/or vacation time may be used, at the sole discretion of the employee in accordance with regular scheduling policies.

Permission for leaves of absence shall not be unreasonably denied, bearing in mind, the needs of the business.

#### **Union Leave of Absence**

In the event an employee is appointed to any office or position within the Union they shall be given a leave without pay upon proper notification to the Hotel. Proper notification shall be two (2) weeks prior to the beginning of the leave. Such leave shall not constitute a break in seniority and will be for a maximum of one (1) year, a minimum of one (1) workweek and shall be taken as full week leaves or multiples thereof. The parties agree the Union can appoint up to four (4) employees, and not more than one (1) per department at any one time, and an employee cannot be granted Union leave more than three (3) times in one calendar year.

#### **USERRA Protection**

The Employer shall comply with the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), as amended. Any employee covered by USERRA shall be entitled to seek enforcement of asserted USERRA rights through the grievance and arbitration procedures in Article 20 of this Agreement, provided that the employee may be required by the Employer to waive any right of court enforcement as a condition to proceeding to arbitration on the employee’s USERRA claims.

Further, the employer shall continue to make contributions into the health and welfare, education, legal, and housing trust funds during the first year of military service on behalf of any employee who volunteers for military service or is called up to military service because the employee is either in the National Guard or is a Reservist. Such contributions shall be at the minimum level of contributions for coverage required by the Plan.

Upon completion of their military service and upon their return to work, the Employer shall, as provided in applicable regulations make retroactive pension contributions, if any on behalf of the above referenced employees for the entire period that the employee was on leave for military service.

#### **Article 41**

#### **Benefit Payment Calculation**

Pay for vacation, holiday, sick pay, jury duty and funeral leave for waitpersons, bellpersons, baggage porters, bell captains, and doormen, shall be calculated at one-and-one half times their current hourly rate. The Employer agrees to discuss with the Union upon request regarding the administration of any regulations issued by the Internal Revenue Service related to the reporting of gratuities as income, so long as the law is observed.

## **Article 42** **Union Stewards**

The Union may designate one (1) union steward for every thirty (30) bargaining unit members in the hotel.

The above number for the Hotel may only be increased by the Union for the purpose of satisfying the needs of a significant number of employees who do not have English as a first language.

The Employer shall recognize such Stewards and treat them with the respect due them as representatives of the employees.

The Union shall notify each Hotel in writing of the identity of the Union Stewards and Chief Steward.

## **Article 43** **Banquet Department**

Long-end (steady) banquet waitpersons, bartenders, coffee servers, and barpersons (barbacks) shall be recognized as regular employees and afforded all of the rights and benefits of a regular employee under this Agreement.

Long-end employees shall be given 48 hours of notice of their schedules except for reasons of emergency, customer needs or for other reasons beyond the reasonable control of the Hotel.

Employees from the Preferred List shall be considered for Long-End positions before external candidates from outside the hotel.

The Employer will contribute to the Health and Welfare, Legal, Education and Housing Funds for Long-end employees at the specified rate for one hundred and one hundred twenty (120) hours per month for twelve (12) months per year. They will be accorded full participation in these programs subject to the eligibility and payroll deductions for employee contributions as are required of all participating employees.

The Employer will contribute to the Pension Plan for long-end employees at the specified rate for one hundred and thirty-five (135) hours per month for twelve (12) months per year.

### Discounted Banquet Pricing:

A “published menu” is defined as a menu that is offered by the Hotel to the general public at the same price. Published menus and the prices shall be set at the beginning of each calendar year. The Hotel at its sole discretion may offer clients a discount from a published menu price. The banquet gratuity shall be based on no less than eighty percent (80%) of the published menu price.

For in house functions, the banquet gratuity shall be 10 percent (10%) of the published menu price.

**3/1/18**

Extra Bartender daily rate with meals	\$52.25
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Banquet Waitpersons And extra banquet Waitpersons & Tuxedo, Breakfast and luncheon (3hrs. or less for one meal)	\$18.80
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Banquet Waitpersons Serving more than fifteen Persons for Breakfast and Luncheon shall receive for Each additional person Served	\$1.21
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Dinner 3 hours or less for one meal	\$19.80
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Banquet persons serving more than ten persons for Dinner banquets shall receive for each	\$1.91
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Coffee jobs and receptions shall be paid for at the rate of the function occurring at that time of day. For receptions combined with or immediately followed by the meal, only one meal payment will be paid plus extra hours if applicable, except that past practices on payments of such receptions at individual Hotels shall be followed. Banquet waitpersons shall normally serve a minimum of fifty (50) guests at a reception.

Discounted Banquet Pricing:

A "published menu" is defined as a menu that is offered by the Hotel to the general public at the same price. Published menus and the prices shall be set at the beginning of each calendar year. The Hotel at its sole discretion may offer clients a discount from a published menu price. The banquet gratuity shall be based on no less than eighty percent (80%) of the published menu price.

The service charge for in-house functions is 10% of the retail price. When no published price exists, the price for the item(s) will be set by the Hotel based on the retail price of comparable menu items.

Banquet waitpersons per hour of time required of them beyond the function hours to set up, continue service, and break down as well as for standby time spent between the completion of service and the breakdown. This shall apply only to those waitpersons, if any, as are designated

by the hotel to stand by, continue service, and break down, provided they spend such time on the hotel premises.

Current	\$9.20
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A minimum tip of fifteen percent (15%) will be added to the food and beverage charge for functions of employees in the bargaining unit who work a function.

A minimum fifteen percent (15%) tip on liquor will be shared by the bartender and bar person:

Bartender.....	12.75%
Bar Person.....	2.25%

Upon request, the Employer shall furnish to the Union a breakdown of the distribution of the tip. The Union may also upon request examine the banquet check.

Regular luncheon menu or dinner menu buffets will be paid for at the lunch or dinner rate and shall be prorated for each cover over thirty (30) covers.

Continental breakfasts shall be paid for at the buffet rate.

Steady waitpersons (a la carte) serving banquets when on duty shall receive, in addition to their hourly pay and tips:

Current.....	\$8.75
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Extra waitpersons acting as banquet captains shall receive per meal an additional

Current .....	\$9.65
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When a captain physically waits on a regular station at a function, only then shall the captain participate in the gratuity for that function.

All Long-end (steady) banquet waitpersons shall be assigned work in rotation. A separate rotation ("wheel") shall be maintained in each hotel for breakfast, luncheon, dinner, and receptions. Extra banquet waitpersons shall not be required to report more than one hour before sit down unless required earlier for special reasons. All banquet waitpersons shall be served in food lines on a first come, first-served basis, except for those waiting on head tables, and except when a host requests special service arrangements. Long-end (steady) banquet waitpersons will not be required to rack glasses or scrape dishes except to properly stack dishes on trays. The hotel shall endeavor to assign extra covers as equally as possible among those waitpersons serving that function. In order to share in a gratuity, a banquet waitperson must be assigned a station and physically serve said station. Past practice is hereby restated for all hotels and steady bartenders which provides that when steady bartenders are assigned to work on functions they are entitled to

receive the wages and conditions applicable to the function or functions in lieu of the hourly rate, i.e., depending on their work assignment on the day in question they are paid the function rate or the hourly rate, but not both rates for the same work.

New Year's Eve Rates

(8 hours)\*\*

To Be Paid In Lieu Of Hourly Rates

Classification	<b>3/1/18</b>
Bartenders	\$51.95
Waitpersons	\$42.75
Captains & Hostesses	\$48.75
Head Waitpersons	\$52.75
Bar Persons	\$43.75
Bus Persons	\$43.75

\*\*These New Year Eve rates will be paid in lieu of the hourly rate to a la carte employees working on New Year's Eve function in function facilities for the duration of the function plus one (1) hour in advance of service but in no event for more than eight (8) hours for which period extra banquet waitpersons will be paid double the meal rate.

**Banquet Referral (Roll Call)**

The hotels shall have sole right to establish the operation and rules of their own banquet referral lists. The decision of the hotels in exercising their rights under this paragraph shall not be subject to the grievance and arbitration procedure. In establishing their own lists and hiring hall, banquet employees shall be subject to the union security clause or pay a service fee, as negotiated by the parties.

The Employers must maintain preferred and roll call extra banquet employee lists in addition to their Long-end banquet employees.

The parties agree on the principle that extra banquet work (after Long-end, preferred list and roll call employees) should be made available to the extent reasonably possible to qualified employees in other classifications. To that end, each hotel and the Union will confer on a system for that purpose. In addition, each hotel and the Union will focus on appropriate banquet training for employees. The Hotels shall have the sole right to establish the operation and rules of their own extra work procedures. The decision of the hotels in exercising their rights under this paragraph shall not be subject to the grievance and arbitration procedure.

**Article 44**  
**Local Practices Committee**

At the request of either the Hotel or the Union, the parties will establish a Local Practices Committee to review practices or procedures that may be in dispute at the Hotel. The Committee's purpose is to hold good faith discussions to make recommendations and resolve these disputes outside of the grievance process.

The Committee shall consist of an equal number of Employer and Union representatives. Meetings shall be held during business hours and facilitated by the HR Director. The length of the meetings and the number of participants shall be decided by mutual agreement between representatives of the Union and the Hotel prior to the meetings being held.

The Committee's agreed upon recommendations will be presented to the General Manager and implemented upon his/her approval.

Any recommendations requiring a Memorandum of Agreement that would become part of the Collective Bargaining Agreement will be sent to the Union President and the Hotel for approval.

**Article 45**  
**Alcohol & Drug Abuse**  
**Preventive Program**

In the interest of maintaining a safe and healthy work environment, the parties agree as follows:

A. All employees as a condition of employment shall be required to undergo drug and alcohol testing whenever:

1. there is reasonable cause to believe that an employee may be under the influence of drugs or alcohol;
2. an employee is injured on the job and requires medical treatment in a hospital setting;
3. an employee is involved in a work-related accident which involves injuries to others which requires treatment in a medical facility and transportation by emergency medical technicians or property damage exceeding \$10,000;
4. it is a part of the terms and conditions of a drug and/or alcohol "last chance" agreement.

B. Employees taking drugs as prescribed by a licensed physician for a personal illness shall not be considered in violation of Hotel policy. Employees taking medication which may affect their fitness for duty and/or job performance are required to consult with Human Resources prior to commencing work. Human Resources may not prevent an employee from working if the employee files a letter signed by a physician stating that he or she understands the nature of the work and in his or her opinion the prescribed medication will not render the employee unsafe or unable to properly perform his or her job.

C. Testing may be done by hair, breath, saliva or urine as the circumstances require. (Testing shall only be performed by a qualified testing organization (including a hospital). The parties shall agree upon a list of the regular providers of such testing services to the Employer. Said

determination shall be made by a certified Substance Abuse Professional (SAP) or a person licensed by the Commonwealth of Mass. as an Alcohol and Drug Abuse Counselor ( LADAC ) in addition to the hotels current drug testing facilities and appropriate hospitals.

D. Discipline and consequences of positive test results or refusal to submit a sample.

1. An employee, who refuses to submit, cannot submit, or who attempts to alter or tamper with a sample will be deemed to have failed the test.
2. Although the Hotel reserves the right, in appropriate cases, to terminate. An employee who tests positive for drugs and/or alcohol or is deemed to have failed the test may be returned to work after consulting with the union following an Appropriate professional evaluation by Modern Assistance Programs or any other agreed upon organization.

E. Employee assistance drug and alcohol education and training.

1. The Hotel will support drug and alcohol education and training programs in conjunction with the Union.
2. Referrals, counseling, treatment are available through the Union Health and Welfare Plan. If an employee with a substance abuse issue contacts Human Resources or a member of management to request assistance, the Hotel will work with the Union to provide needed assistance. Such contact, however, shall not insulate an employee from discipline for policy violations, misconduct, absenteeism or performance problems or excuse him/her from future compliance with Hotel safety and performance standards and work rules.

The Hotel must notify the Union immediately of its intention to administer drug testing.

#### **Article 46** **Lateral Service**

In order to support the mission of service in the hotel, a high degree of cooperation with managers and with workers is required. In order to promote cooperation in the workplace, managers and workers are encouraged to develop ongoing communication. This provides opportunities to explore ways to accomplish the needs of the hotel while recognizing the personal styles and needs of each worker. Consistent with the needs of the workplace, the Union recognizes that cooperation can be beneficial to both the worker and the hotel.

Management may, using reasonable discretion, utilize a policy of lateral service for brief periods of time to satisfy guests' and hotel's needs. Lateral service is designed to allow employees to help where needed until guest needs are satisfied. It is not designed to be, nor will become, a job combination program nor a permanent cross-utilization initiative.

Hotel supervision may perform bargaining unit work under the following circumstances:

1. Pursuant to lateral service.
2. Emergencies (Unforeseen occurrences).
3. For training purposes (which will not be used as a substitute for the creation of additional bargaining unit positions or to replace a current bargaining unit employee).
4. To introduce new methods of operation or procedure.

### Article 47 Subcontracting

If the hotel should decide to contract out its bargaining unit work as opposed to permanently closing down any portion of its facilities then the following will apply:

1. The hotel will notify the union at least 90 days in advance of the effective date of any such action and during this 90 day period will arrange a meeting between the union and the new operator.
2. The Employer will be a joint employer with any subcontractor and the employees shall remain subject to this Agreement.
3. The union will recognize the special concerns and needs of the subcontracted operation and incorporate such concerns and needs within the terms of this Agreement.
4. If the Employer and union cannot reach a resolution in their contractual discussions, the parties will submit their differences to non-binding mediation. The Federal Mediation and Conciliation Service will be requested to assign a mediator under such circumstances.
5. The hotel, if requested by the union, will bargain over the effects of the subcontract and its impact, if any, on displaced employees.

### Article 48 Immigration

The Union and the Employer have a mutual interest in avoiding the termination of trained employees. Accordingly, to the extent not addressed by this Agreement, at the request of the Union, the Employer will meet and discuss issues related to compliance with the Immigration Reform and Control Act and any other current or future legislation, government rules or policies related to immigrants which impact bargaining unit employees.

#### **1. Non-discrimination.**

No employee covered by this Agreement shall suffer any loss of seniority, compensation, or benefits solely due to any changes in the employee's name or social security number, provided that the new social security number is valid and the employee is authorized to work in the United States. The Employer shall not take action against an employee solely because the employee is subject to an immigration proceeding where the employee is otherwise permitted to work.

**2. Workplace immigration enforcement.**

The Employer shall:

Notify a representative of the Union as soon as practical if the Employer receives a no-match letter from the Social Security Administration, if it is contacted by the Department of Homeland Security (DHS) or, (formerly the INS) related to the immigration status of an employee covered by this Agreement or if a search and/or arrest warrant, administrative warrant, subpoena, or other request for document is presented. The Union agrees that it shall keep confidential any information it obtains pursuant to this provision and that it will use any such information solely to represent and/or assist the affected employee(s) in regards to the DHS matter.

Recognizing the intent of the Article, the Employer will admit agents of the DHS only as it deems necessary and appropriate.

The Employer shall permit inspection of I-9 forms by DHS or DOL only after a minimum of (3) three days written notice or other such period of time as provided by law or where such inspection is otherwise in accordance with the provisions of this Section. The Employer also shall permit inspection of I-9 forms where a DHS search and/or arrest warrant, administrative warrant, subpoena or other legal process signed by a federal judge or magistrate specially names employees or requires the production of I-9 forms. The Employer shall not provide documents other than the I-9 forms to DHS for inspection or reveal to the DHS the names, addresses or immigration status of any employees in the absence of a valid DHS administrative subpoena, or a search warrant or subpoena signed by a federal judge or magistrate or where otherwise required by law or it is otherwise deemed by the employer to be appropriate under the circumstances.

To the extent legally possible, the Employer shall offer a private setting for questioning for employees by DHS.

**3. Reverification of Status**

- a. The Employer will provide an employee with a least sixty (60) days' notice that the documents provided by the employee demonstrating work authorization are scheduled to expire and that the employee will need to re-verify their I-9 documentation and provide valid evidence of continued work authorization. Such notice will be provided to an employee through an electronic message to the employee's account in the Employer's human resource system. If the human resource system is unavailable, the Employer may provide notice to the employee at the time clock, by mailing a notice to the employee's address on file, and/or by direct communication from the employee's manager or human resources office.
- b. No employee employed continuously on or before November 6, 1986, shall be required to document immigration status.
- c. The employer shall not retain in its files copies of the identity and work authorization documents presented by the employee.

- d. The Employer shall not require or demand proof of immigration status, except as may be required by 8 USC 1324a (1)(B) and listed on the back of the I-9 form or as otherwise required by law.
- e. In the event of a sale of the business of its assets, the employer shall offer to transfer the I-9 forms of its employees to the new employer or, at the employer's option, to jointly maintain the I-9 forms of its employees with the successor employer for the period of three (3) years, after which the successor employee shall maintain said forms.
- f. The Employer shall not take adverse employment action against an employee based solely on the results of a computer verification of immigration or work authorization status.

#### **4. Social Security Discrepancies**

In the event that the employer receives notice from the Social Security Administration ("SSA") that one or more of the employee names and Social Security numbers ("SSN") that the employer reported on the Wage and Tax Statements (Forms W-2) for the previous tax year do not agree with the SSA's records, the employer agrees to the following.

- a. provide a copy of the notice to the employee and the Union upon receipt
- b. the employer agrees that it will not take any adverse action against any employee listed on the notice, including firing, laying off, suspending, retaliating, or discriminating against any such employee, solely as a result of the receipt of a no match letter or other discrepancy and
- c. the Employer agrees that it will not require employees listed on the notice to bring in a copy of their Social Security card for the employer's review, complete a new I-9 form, or provide new or additional proof of work authorization or immigration status solely as a result of the receipt of a no-match letter, unless otherwise required to avoid risk of prosecution, and
- d. the employer agrees not to contact the SSA or any other government agency, solely as a result of receiving a no-match from the SSA.

#### **5. Seniority and Leave of Absences for immigration related issues**

Upon request, employees shall be released for up to five (5) unpaid working days per year during the term of the Collective Bargaining Agreement in order to attend to DHS proceedings and any other related matters for the employee and the employee's immediate family (parent, spouse, and/or dependent child). The Employer may request verification of such leave.

The Employer shall not discipline, discharge, or discriminate against any employee because of national origin or immigration status, or because the employee is subject to immigration or deportation proceedings, except as required to comply with the law. An employee subject to immigration or deportation proceedings shall not be discharged solely because of pending immigration or deportation proceedings, so long as the employee is authorized to work in the United States.

In the event that an employee has a problem with his or her right to work in the United States, after completing his or her introductory or probationary period, the Employer shall notify the Union in writing, and upon the Union's request, agrees to meet with the Union to discuss the nature of the problem to see if a resolution can be reached. Whenever possible, this meeting shall take place before any action by the Employer is taken.

In the event that an employee does not provide adequate proof that he/she is authorized to work in the U.S. following his/her probationary or introductory period, and his/her employment is terminated for this reason, the Employer agrees to immediately reinstate the employee to his/her former position, without loss of prior seniority (but length of service for vacation or other benefits does not continue to accrue during the period of absence) upon the employee providing proper work authorization within 12 months from the date of termination.

If the employee needs additional time, the Employer will rehire the employee into the next available opening in the employee's former classification, as a new hire without seniority, upon the employee providing proper work authorization within a maximum of 12 additional months. The parties agree that such employees would be subject to a probationary period in this event.

The Employer will furnish to any employee terminated because he/she has not provided adequate proof he/she is authorized to work in the U.S. a personalized letter stating the employee's rights and obligations under this section.

The provisions in Article 8 on pro-rated vacations for terminated employees shall not apply to employees covered by this section.

#### **6. Limited-English proficient workers**

- a. While English is the language of the workplace, the Employer recognizes the right of employees to use the language of their choice when speaking amongst themselves during work hours provided that such conversations are conducted in a manner that is respectful of guests and other employees and is consistent with quality guest services.
- b. Upon request of the employee, the Employer shall provide interpreters from its staff, where such staff is available, for employees not fluent in English during any investigation interview that may lead to discipline or discharge. Where the Employer is unable to so provide an interpreter, the Union may provide an interpreter.

#### **7. Change of Status/Immigration.**

On the day an employee becomes a U.S. citizen, the Employer will compensate the employee with a one (1) time paid personal holiday in recognition of his or her citizenship.

8. **Loss of DACA, DAPA or TPS**

If an employee obtains appropriate work authorization within five (5) years after losing work authorization status solely as a result of change in DACA, DAPA, or TPS status, the employee must provide documentation of the work authorization and return to work within six (6) months after obtaining it or forfeit the leave provided in this subsection. The reinstated employee will displace the least senior employee in the employee's former job classification. An employee will not accrue vacation or other benefits based upon particular Plan policies during such absence.

**Article 49**  
**Diversity**

**A. Commitment to diversity.**

The Employer is committed to a comprehensive approach to a diverse workforce, practicing equal employment opportunity and engaging in affirmative efforts to create and maintain an environment that supports and encourages the contribution of all employees. We shall strive to have a productive and hospitable environment with a work force reflective of the diversity in the greater Boston area. The Employer is committed to respect the needs of the current workforce, which is composed primarily of immigrants from many different parts of the world. We are proud of that diversity and the benefits it brings to our hotels and the hotel industry in general.

**B. Affirmative Steps**

In addition, if necessary, the Employer shall take affirmative steps to further diversify the workforce to properly reflect the Boston area, including African-American workers, by:

1. Cooperating with a diversity Ombudsperson, selected by the parties, in accordance with Paragraph 8, hereafter.
2. Participating in good faith in a "Citywide Diversity in the Hospitality Industry Taskforce", with at least one senior Management Representative from each hotel, senior Union Representatives, and Community Representatives to be selected by the Mayor of the City of Boston. Recognizing that fresh approaches require acceptance by the hotels and the employees represented by the Union, the taskforce shall operate through consensus recommendations and decisions as it works towards developing and implementing initiatives, programs and/or recommended policy and/or procedural changes within the industry. It is a key function of the Ombudsperson to facilitate that consensus building process, to determine if a consensus has been achieved within the respective groups comprising the Taskforce and, if appropriate, to make recommendations to the Taskforce to avoid or resolve impasses within it.
3. Providing the Taskforce with hiring, promotion and recruitment data from each of the hotels. The parties agree that all hotel specific data shall be combined with the data of other hotels

and presented in such a format as to ensure that no committee person can identify what information came from an individual hotel or employer. The Ombudsperson shall contract with a labor economist or other data specialist to perform this data blending and analysis. Both the Ombudsperson and the data specialist shall sign appropriate confidentiality agreements regarding all information and data obtained in their official capacities.

4. The Taskforce shall meet regularly, as it so determines and at least quarterly, beginning as soon as practicable after this Agreement has been executed and ratified, the members of the Taskforce appointed and the Ombudsperson selected.

5. The mission of the Taskforce shall be to:

- a. Develop an Outreach program that informs and educates the Community about job opportunities and availability in the hotels covered by agreements with the Union.
- b. Review and make recommendations to the Hotels regarding suggested amendments to the application and hiring procedures that may present obstacles to members of the African-American and broader diverse community members.
- c. Work with existing Community job development and training programs that will assist Employers in identifying potential job applicants.
- d. Use the resources available in the Greater Boston Hotel Employees/Local 26 Education/Training Program to further the efforts of the Taskforce.
- e. Track the results of these efforts for the duration of this Agreement in a formal report twice yearly to the members of the Taskforce.
- f. The work of this Taskforce will not supersede any rights of the Employer and the Union in this Agreement. Nothing herein shall require the Hotel to violate its own AAP.

6. The Employer further pledges to participate in good faith in a Hotel Diversity Committee. The Hotel Diversity Committee shall have equal numbers of senior management and senior union representatives. The Committee shall meet twice a year for the duration of this Agreement. The Committee shall be provided with hotel specific hiring, promotion and recruitment data which may be analyzed with the assistance of the Ombudsperson. The purpose of the Committee shall be to assess the success of the Hotel's hiring, promotion and recruitment practices when compared with the benchmarks and recommendations of the Citywide Taskforce. The Employer pledges to negotiate in good faith with the union to correct any failures to follow the recommendations and benchmarks described by the Citywide Taskforce.

7. The mission of the Ombudsperson shall be to serve as an ex-officio member of the Citywide Taskforce and any Hotel Diversity Committee, as needed, with full access to its deliberations and records; to meet with the responsible executives of the Employer, with or without the presence of Union representatives at the Ombudsperson's discretion, to discuss

specific complaints by employment applicants about the Employer's hiring practices or decisions; to recommend to the Employer specific measures to deal with these complaints; to coordinate the analysis of any data provided by the hotels and to recommend to the Taskforce long-term systemic policies to insure diversity. All reasonable costs of the Ombudsman and Labor Economist or data specialist shall be divided equally among all hotels signatory to this agreement.

8. The Ombudsperson shall be jointly selected by the Union and the Employer members of the Taskforce, with the Union and the Employers as a group, each having one vote. If the parties fail to agree, they shall request the American Arbitration Association to provide a list of 8-10 candidates with appropriate education and experience in the diversity field nationally and qualified to assist the parties in achieving their goals hereunder. The parties shall select from said list by alternate strikes. The Union and the Employer group together shall have the right to terminate the services of the Ombudsperson.
9. All information provided or made available to the Ombudsperson, the Taskforce or the Hotel Diversity Committee shall be deemed confidential and proprietary. Under no circumstances may advice or recommendations or conclusions of the Ombudsperson or of the Taskforce or any member thereof, or any information made available to the Ombudsperson (collectively, "information"), the Taskforce or the Diversity Committee, as the case may be, be disclosed to any person except to a member of the Taskforce or Diversity Committee, who has signed an appropriate confidentiality provision, nor may such information be used in any proceeding or forum, without the express written consent of the Hotel. It is recognized that the Ombudsperson may be requested by the Taskforce to undertake a public role in connection with Taskforce initiatives and to that end may be authorized by the Taskforce to disclose specific information. Similarly, community representatives on the Taskforce, if asked to undertake activity on its behalf, will be authorized by the Taskforce to use such information as is necessary to accomplish the objective asked of them. The above references empowerments and authorizations shall require the joint consent of the Union and the group of hotels and shall be deemed provided by request(s) to undertake such public roles.

## Article 50 Technology

- (i) Technological change includes the use of automation, machines, computers, robots, software, tablets or other handheld devices that replace or substitute for or materially increase or decrease the type or manner of work performed by employees in the Employer's workplace.
- (ii) The Employer shall provide the Union at least 30 days' notice before implementation of any plans to upgrade, modify, improve, or extend technology currently in use by bargaining unit employees that are made after the effective date of this Agreement. The Employer shall provide the Union at least 165 days advance notice prior to the implementation of any new technological change, occurring after the effective date of this Agreement, that replaces or substitutes for or materially increases or decreases the type or manner of work performed by employees in the Employer's workplace, at any hotel covered by a collective bargaining agreement.

(iii) With respect to the implementation of new technology and subject to appropriate confidentiality agreements, the Employer shall explain to the Union the intended function of the new technology, the nature of the technology and who will develop it, the timing of its planned implementation, and the expected work needed to implement the technology and keep it running, and where available shall share prototypes. If the Union requests to bargain, it must do so within fifteen (15) days of the Employer's notice and shall include any information requests with such notice. The Employer shall promptly negotiate the impact of the new technology on the bargaining unit employees and the work they perform. Upon notice of a demand to negotiate, the process shall be governed by the following rules:

1. Information: The Employer shall provide any information requested by the Union within twenty (20) days of receipt of the notice. The Union shall be afforded up to thirty (30) days, following receipt of requested information to meet with affected employees.
2. Negotiation: At the conclusion of the initial information gathering period, the parties shall meet over the following fifty (50) days in an attempt to reach a resolution.
3. Mediation: Should the parties fail to resolve the issue within fifty (50) days from when the negotiation period opens, either party may request the services of a federal mediator.
4. The Employer shall not implement any technology during such negotiations, but the Employer shall have the right to implement the technology upon the expiration of this 165-day period. The Employer shall not implement any technology unless the Employer has carried out these duties to the Union.

(iv) This notice and negotiation process shall be the sole and exclusive procedure for resolving disputes over the implementation of new technology. Any disputes arising out of this process shall be subject to the grievance and arbitration process under this collective bargaining agreement covering the affected employees. The arbitrator, however, shall have no authority to order any particular outcome to the bargaining process.

(v) Any employee displaced due to technological change shall be entitled to recall to the classification from which the employee was displaced for 24 months following the date of displacement and to preference for other job openings at the hotel where the new technology is implemented in or out of the bargaining unit, after all other preferences possessed by incumbent employees at the hotel have been exercised but before new employees are hired, provided the employee is qualified for the position or can be qualified in a reasonable period of time with adequate training provided by the Employer. Preference in hiring also will be given to any employee displaced due to technological change, who applies for another position for which he or she is qualified, at other commonly-operated hotels or condos subject to a collective bargaining agreement with a UNITE HERE affiliate and within the same State as the hotel from which the employee was displaced.

(vi) The Employer shall make all non-supervisory job postings electronically accessible to employees laid off under this subsection and to the Union to assist employees in their job searches.

(vii) While employees are waiting for an offer of a permanent position, the Employer shall offer all available extra work within their classification to them in order of classification seniority.

(viii) If an employee displaced under this subsection is recalled to (A) another position within the Union's bargaining unit at the hotel, the employee shall retain his or her house seniority and continuous service for vacation purposes, or (B) to a position outside the bargaining unit represented by the Union, continuous service with the Employer shall be recognized for vacation/PTO and health insurance purposes. If an employee displaced by technological change is hired into a new position at other commonly-operated hotels or condos subject to a collective bargaining agreement with a UNITE HERE affiliate and within the same State as the hotel from which he or she was displaced, the provisions of that hotel's collective bargaining agreement shall apply.

(ix) No employee who has completed his or her probationary period and is recalled pursuant to this subsection shall be required to complete a new probationary period but if the employee cannot perform satisfactorily the work on the shift or station to which recalled he or she may transfer or be transferred back to layoff status within thirty (30) days after his/her date of recall.

(x) The Employer shall continue to make contributions to UNITE HERE Health for any employee displaced as a result of the implementation of new technology, at the minimum level necessary to maintain existing benefits for six (6) months following the date of displacement.

(xi) If an employee displaced under this subsection elects not to seek another position with the Employer at the outset of the displacement or is not offered another position during the 24-month job search period, he/she will be permanently laid off and offered the opportunity to execute a severance agreement to be negotiated between the Employer and the Union.

(xii) If technological changes reduce the duties of a classification without eliminating them, the classification shall continue to exist, but the Employer may adjust staffing levels, full or part-time status, or after bargaining with the Union the Employer may consolidate existing classifications or distribute the remaining duties to other bargaining unit classifications. If new technology performs functions previously performed by bargaining unit employees and requires human operation of machines, the machines shall be operated by bargaining unit employees and the Employer shall train employees in the affected classification to operate new technology. If the machines used by bargaining unit employees require daily maintenance to ensure the continued operation, then bargaining employees will be trained to perform the work, unless such work is of the kind typically performed by other bargaining units or the Company's IT department. The Employer may limit training to those employees who volunteer to be trained. Training opportunities shall be offered in accordance with house seniority among those in the affected classification. The Employer shall allow up to two (2) Union representatives to be present to observe the training but to not participate in it. If operation requires a level of skill which may practically be obtained only through academic study, and the necessary courses are offered at

educational institutions in the county where the hotel is located, the Employer shall pay the tuition and fees, of an employee taking such coursework, up to maximum amounts agreed to between the Employer and the Union. The Hotel shall not be obligated to pay for the time employees spend in the coursework. If an employee completes the coursework successfully (average grades of at least "C") the Employer shall offer the employee the work of operating the machine(s) associated with the employee's former job functions. Such offers shall be for the next available position performing this work following the employee's completion of this coursework.

## Article 51

### Termination

This Agreement shall remain in full force and effect from March 1, 2018 until midnight August 31, 2022. This Agreement shall automatically be renewed in full force and effect from year to year after August 31, 2022 unless the union or the Employer signatory hereto individually or through their agent give at least 60 days written notice prior to August 31, 2022 or such notice prior to any August 1<sup>st</sup> in any following year to the other parties hereto. In the event that this contract shall be terminated in accordance with the above provisions, it is agreed that no strike or lockout of any kind shall be caused or permitted by either party while negotiations are pending for a new agreement, unless at least five days' written notice by registered mail is given to other party.

In Witness Whereof the parties hereto by their duly authorized representatives have affixed their hands and seals on the \_\_\_\_\_ day of \_\_\_\_\_.

UNITE HERE Local 26;

By: B Lang

Nine Zero

By: P Sula

**APPENDIX A**  
**Minimum Wage Rates**

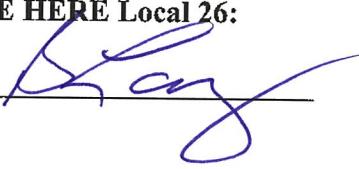
	3/1/2018 Non Tipped \$1.14 Tipped \$.57	3/1/2019 Non Tipped \$1.01 Tipped \$.51	3/1/20	3/1/21
<b><u>Kitchen Classifications</u></b>				
Storeroom	\$22.54	\$23.55		
Kitchen Utility	\$22.71	\$23.72		
Pantry Worker	\$22.76	\$23.77		
Floor Steward	\$22.84	\$23.85		
Head Storeroom	\$22.94	\$23.95		
Head Pantry & Salad	\$23.01	\$24.02		
Short Order Cook	\$23.27	\$24.28		
All Comis	\$23.27	\$24.28		
General Cook	\$23.27	\$24.28		
Rounds Cook	\$23.52	\$24.53		
First Cook	\$24.02	\$25.03		
Night Chef	\$24.02	\$25.03		
Saucier & Second Cook	\$24.02	\$25.03		
Head Butcher	\$24.02	\$25.03		
Restaurant Chef	\$24.02	\$25.03		
Pastry & Bakery Chef	\$24.27	\$25.28		
Sous Chef and Banquet Chef	\$24.77	\$25.78		
<b><u>Other F&amp;B Classifications</u></b>				
Buffet Attendant		\$23.60		
Steady Waitpersons	\$11.32	\$11.83		
Waitperson with Add'l Duties	\$13.43	\$13.94		
Buspersons	\$19.89	\$20.90		
Bar persons	\$22.51	\$23.52		
Room Service Honor Bar Attendants	\$22.54	\$23.55		
Dining Room Captain	\$22.57	\$23.58		
Other Cashiers	\$22.57	\$23.58		

Receiving Clerks	\$22.64	\$23.65		
Hosts/Hostesses	\$22.67	\$23.68		
Food Checkers	\$22.69	\$23.70		
Combination Food & Beverage Checker/ Cashier	\$22.69	\$23.70		
Front Bartender	\$23.04	\$24.05		
Serv. Bartender	\$23.28	\$24.29		
 <b><u>Front Service Classifications</u></b>				
Bellhop	\$14.89	\$15.90		
Baggage Porters	\$14.89	\$15.90		
Door Person	\$14.89	\$15.90		
Night Bellhop (after 11pm)	\$15.49	\$16.50		
Auto Runner	\$12.32	\$12.83		
Watchperson	\$22.54	\$23.55		
Elevator	\$22.54	\$23.55		
Porters	\$22.54	\$23.55		
Info Clerks	\$22.54	\$23.55		
Bus Drivers	\$22.54	\$23.55		
Telephone Operators	\$22.62	\$23.63		
Front Office Cashiers	\$22.62	\$23.63		
Telephone Supervisors	\$22.69	\$23.70		
Timekeepers	\$22.69	\$23.70		
Assistant Room Clerks	\$22.72	\$23.73		
Room Clerks	\$22.84	\$23.85		
 <b><u>Housekeeping Classifications</u></b>				
Linen Room Employees	\$22.54	\$23.55		
Sewing Persons	\$22.54	\$23.55		
Bath Persons	\$22.54	\$23.55		
Night Cleaner & Cleaners	\$22.54	\$23.55		
Room Attendants	\$22.59	\$23.60		
House Person	\$22.59	\$23.60		
Assistant Housekeepers	\$22.59	\$23.60		

**Appendix B**  
**Letter of Agreement**

It is understood and agreed by both parties that any separate agreements made between the Union and the Employer signatory to the 2018 to 2022 Collective Bargaining Contract which have not heretofore been revoked by the parties shall continue in full force and effect for the duration of this collective bargaining agreement unless the Union and the Hotel involved in any such separate agreement shall mutually agree to amend or revoke any such agreement.

**UNITE HERE Local 26:**

By: 

**Nine Zero**

By: 

**APPENDIX C**  
**After Acquired Card Check Neutrality Procedure**

1. The parties hereby establish the following procedure for the purpose of ensuring an orderly environment for the exercise by the employees at any hotel described in the last paragraph of Article 1 of the Collective Bargaining Agreement (hereinafter referred to respectively as "Hotel" and "Employees") of their rights under Section 7 of the National Labor Relations Act and to avoid picketing and/or other economic action directed at the Employer in the event the Union decides to conduct an organizing campaign among Employees.

2. The parties mutually recognize that national labor law guarantees employees the right to form or select any labor organization to act as their exclusive representative for the purpose of collective bargaining with their employer, or to refrain from such activity.

3. The Employer will take a positive approach to unionization of Employees. The Employer will not take any action nor make any statement that will directly or indirectly state or imply any opposition by the Employer to the selection by such Employees of a collective bargaining agent, or preference for or opposition to any particular union as a bargaining agent.

4. The Union and its representatives will not coerce or threaten any Employee in an effort to obtain authorization cards.

5. Whenever the Employer finds it necessary to hire new Employees for vacancies in job classifications covered by this Agreement at a Hotel, the Employer shall notify the Union to request applicants for such vacancies. When requesting applicants, the Employer shall state the qualifications applicants are expected to possess. The Union may furnish applicants for the job vacancies specified by the Employer. The Union's selection of applicants for referral shall be on a non-discriminatory basis and shall not be based upon or in any way affected by membership in the Union or the Union's by-laws, rules, regulations, constitutional provisions, or any other aspects or obligation of Union membership policies or requirements, or upon personal characteristics of an applicant where discrimination based upon such characteristics is prohibited by law. The Employer agrees that any interest demonstrated by an applicant in joining the Union shall not constitute grounds for discriminatory or disparate treatment nor adversely impact the applicant's ability to be hired by the Employer. The Employer shall be the sole judge of an applicant's suitability, competence and qualifications to perform the work of any job to be filled.

6. If the Union provides written notice to the Employer of its intent to organize Employees at a Hotel, the Employer shall provide access to its premises of the Hotel and to such Employees by the Union. The Union may engage in organizing efforts in non-public areas of the Hotel during Employees' non-working times (before work, after work, and during meals and breaks) and/or during such other periods as the parties may mutually agree upon.

7. Within ten (10) days following receipt of written notice of intent to organize Employees at a Hotel, the Employer will furnish the Union with a complete list of such Employees, including both full and part-time Employees, showing their job classifications and departments. Within two (2) weeks thereafter, the Employer will furnish a second list of such

Employees to the Union, including the addresses of all Employees. Thereafter, the Employer will provide updated complete lists monthly. The Union will indemnify and hold the Employer harmless from any liability and costs of litigation arising from any lawsuit filed by an employee of the Hotel because the Employer has released to the Union the address of the employee, or to restrain the Employer from releasing the employee's address.

8. The Union may request recognition as the exclusive collective bargaining agent for such Employees. James Litton, or another person mutually acceptable to the Employer and the Union, will conduct a review of Employees' authorization cards and membership information submitted by the Union in support of its claim to represent a majority of such Employees. If that review establishes that a majority of such Employees has designated the Union as their exclusive collective bargaining representative or joined the Union, the Employer will recognize the Union as such representative of such Employees and will extend to such employees the Collective Bargaining Agreement between the Union and the Employer together with any amendments agreed to by the parties. The Employer will not file a petition with the National Labor Relations Board for any election in connection with any demands for recognition provided for in this agreement. The Union and the Employer will not file any charges with the National Labor Relations Board in connection with any act or omission occurring within the context of this agreement; arbitration under Paragraph 12 of this Appendix, shall be the exclusive remedy.

9. The Union will not engage in picketing or other economic activity at any Hotel covered by this Appendix, and the Employer will not engage in a lockout of the Employees. This paragraph will expire with respect to any group of Employees upon recognition of the Union as the representative of such Employees pursuant to paragraph 8; provided, however, if the Employer recognizes any union besides Union as the exclusive collective bargaining representative of Employees, or any of them, this paragraph shall terminate immediately and without notice.

10. No work traditionally performed by Employees in the classifications covered by this Agreement shall be performed in any operation covered by Article I of the Collective Bargaining Agreement under any sublease, subcontract, or other agreement unless the terms of any lease, contract or other agreement are consistent with provisions of Articles 46 and 28 of the Collective Bargaining Agreement.

11. This Appendix and the last paragraph of Article 1 of the Collective Bargaining Agreement shall survive the expiration or termination of the Collective Bargaining Agreement, provided that in the event the Union is recognized at a time when no current collective bargaining agreement is in effect with the Employer, then the terms and conditions to be extended to Employees in an operation upon recognition of the Union pursuant to Paragraph 8 shall be the terms and conditions then legally applicable to employees of the Employer until a new collective bargaining agreement exists, at which time such new Collective Bargaining Agreement shall apply.

12. The parties agree that any disputes over the interpretation or application of this Agreement shall be submitted to expedited and binding arbitration, with James Litton serving

as the arbitrator. If he is unavailable to serve within fourteen (14) calendar days of notification then Larry Holden, or another mutually acceptable person, shall be the arbitrator. The arbitrator shall have the authority to determine the arbitration procedures to be followed. The arbitrator shall also have the authority to order the non-compliant party to comply with this Agreement. The parties hereto agree to comply with any order of the arbitrator, which shall be final and binding, and furthermore consent to the entry of any order of the arbitrator as the order or judgment of the United States District Court for the District of Massachusetts, without entry of findings of fact and conclusions of law.

13. All bargaining unit work at one (1) restaurant shall be performed only by members of the bargaining unit covered by the Collective Bargaining Agreement (or as provided by Paragraph 10 above). During the first twelve (12) months of operation, the Employer may establish the terms and conditions of employment for all employees working in that restaurant, except that the employees may participate in the benefits offered by the Employer. The employees of that (1) one restaurant shall be covered by the terms and conditions of the Collective Bargaining Agreement after twelve (12) months of operation, provided they have been recognized.

14. This Agreement shall be in full force and effect from the date it is fully executed on behalf of the employer and the Union until three (3) years from the official public opening of the hotel, or if sooner upon recognition of the Union and the extension of the Collective Bargaining Agreement to the Hotel.

August 18, 2016

Mr. Brian Lang  
President - UNITE HERE, Local 26  
33 Harrison Avenue, 4th Floor  
Boston, MA 02111

Dear Mr. Lang:

THI VI Boston LLC, a Delaware limited liability company ("Owner"), has entered into an agreement with KHP Boston Hotel LLC, a Delaware limited liability company ("KHP"), to purchase the Nine Zero Hotel (the "Hotel"). The Hotel is subject to a collective bargaining agreement and various industry-wide and Hotel-specific side letters and memoranda of agreement (collectively, the "CBA") with UNITE HERE, Local 26 (the "Union"). Owner has leased the Hotel to THI VI Boston Lessee LLC, a Delaware limited liability company ("Operating Lessee"). Operating Lessee has contracted with KHRG Boston Hotel, LLC, a Delaware limited liability company ("Operator"), to operate the Hotel and the Operator employs all of the individuals employed to operate the Hotel.

This letter agreement ("Agreement") sets forth the Owner's and the Union's agreement to be bound by the following Successor and Assigns requirements with respect to the provisions of the CBA:

- i. In the event that the Operator or any other management entity ceases to operate or manage the Hotel, in whole or part and the property continues to be operated as a hotel, condominium or any use covered by the CBA with or without hiatus, then any replacement management entity (including either Owner or Operating Lessee, as applicable, if either Owner or Operating Lessee manages the property itself) shall contemporaneously hire the current employees represented by the Union and assume the CBA as a successor under the CBA.
- ii. In such a case, the replacement management entity (including either Owner or Operating Lessee, as applicable, if either Owner or Operating Lessee manages the property itself) shall assume all of the obligations under the CBA of the prior manager or Operator of the Hotel to the employees, the Union or any of the funds to which the Hotel is required to contribute under the CBA. Further, no provisions, terms, or Obligations contained in the CBA shall be affected, modified, altered or changed in any respect whatsoever by the consolidation, merger, sale, transfer, or assignment or by any change of any kind in the legal status, ownership or management. Unless either Owner or Operating Lessee becomes the manager of the property itself (in which case either Owner or Operating Lessee, as applicable, shall assume the CBA), Owner shall continue to be bound by this letter when the replacement management entity has assumed the CBA.
- iii. Owner shall make it a written material condition of any transaction or series of transactions of any kind whatsoever which transfers majority ownership of the Hotel that the party assuming such majority ownership must assume and be bound in writing to this Agreement if a REIT entity and to the CBA if not a REIT entity. Owner shall make it a material condition of any transfer of management or operational control, that the transferee replacement management entity assume its obligations under the CBA.

iv. Not less than ten (10) business days prior to the closing of any transaction described in paragraphs (i), (ii) or (iii) above, Owner shall give the Union notice in writing of such transaction and the notice to the Union will provide the full and complete identity of the successor owner, Operator or other transferee (the "Transferee") together with a duly executed copy of the pertinent portion of the transaction agreement pursuant to which either (a) the Transferee agrees to assume the CBA, or (b) the Transferee REIT entity agrees to assume and be bound by this Agreement, as the case may be.

Said notice will be held by the Union in strict confidence and the Union, upon request of Owner, will agree to a confidentiality pledge upon terms mutually acceptable to Owner and the Union, provided however that such confidentiality pledge will be ineffective upon Owner's violation of this Agreement. If the Union is provided with a signed copy of the relevant portions of the agreement whereby the Transferee REIT entity agrees to assume this Agreement or non-REIT entity Transferee agrees to assume the CBA, as the case may be, the Union will not contact the Transferee prior to the closing.

Owner further agrees that, to the extent it has such documents, as a condition of any such sale, transfer, or assignment, it will transfer to the successor(s) completed Forms I-9 for all bargaining unit employees, obtain from its successor(s) a written agreement that the successor(s) will maintain these Forms I-9 in lieu of completing new Forms I-9 for bargaining unit employees ("I-9 Agreement") and furnish a copy of the I-9 Agreement (but not copies of the I-9s themselves) to the Union not less than 10 business days prior to the closing of the transaction. The foregoing obligation shall not apply where applicable law mandates the successor, without regard to any voluntary election by the successor, to require bargaining unit employees to complete new I-9 forms, and shall not prohibit the successor(s) from taking reasonable actions and/or requiring employees to take reasonable actions to correct material omissions and errors in I-9 forms received from a predecessor. Nothing in this provision shall be construed to require the Employer or any successor to employ individuals who are not authorized to work in the United States, or to prohibit the Employer or any successor from conducting an E-Verify review of I-9 forms received from a predecessor if such E-Verify review is mandated pursuant to the Employer's or successor's status as a Federal Government contractor or by other provision of law.

v. Except as provided herein, the Union acknowledges and agrees that Owner and Operating Lessee shall have no obligations under the CBA or any other collective bargaining agreement at the Hotel. Further, this Agreement is limited to the Hotel. Nothing in this Agreement or the CBA shall require the Owner or Operating Lessee, its principals or any person, firm, partnership or corporation, joint venture or other legal entity which substantially controls the Owner or Operating Lessee to extend the terms of this Agreement, the CBA or any other collective bargaining agreement to the Hotel to employees at any other hotel in the City of Boston.

This Agreement shall survive and continue beyond the expiration date of the current and successor CBAs or other collective bargaining agreements at the Hotel, so long as the current successorship provision of the CBA (or its substantive equivalent) remains in a successor CBA. Any dispute arising from this Agreement shall be subject to final and binding arbitration in accordance with the scope and rules for arbitration set forth in the current or most recent CBA, regardless whether the arbitration provisions of the CBA are in effect when the dispute arises.

Violation of this Agreement will be deemed to be irreparably harmful to the Union and its members. In light of this potential irreparable harm, and notwithstanding all parties' obligation to arbitrate all disputes concerning the terms of this Agreement, the Union may seek equitable relief in a court of competent jurisdiction as is necessary to preserve the status quo pending arbitration. If a determination is made by an arbitrator that a violation of this Agreement has occurred, then the union may seek such relief as is necessary to redress and remedy such violation and irreparable harm, including, but not limited to the award of monetary damages and/or injunctive relief either from the arbitrator, the National Labor Relations Board, a court of competent jurisdiction or such other forum as deemed appropriate by the Union.

Nothing herein shall in any way detract or modify the obligations of Operator or any non-REIT entity Transferee under the CBA.

Should any part thereof or any provision herein contained be rendered or declared illegal or an unfair labor practice by reason of any existing or subsequently enacted legislation or by any decree of a court of competent jurisdiction or by the decision of any part or portion of this Agreement shall not invalidate the remaining portions thereof; provided, however, upon such invalidation, the parties agree immediately to meet and negotiate substitute provisions for such parts or provisions rendered or declared illegal or an unfair labor practice. If the parties cannot agree, the issue shall be submitted to binding interest arbitration pursuant to the arbitration procedures in the collective bargaining agreement, regardless whether those procedures are in effect at the time the issue arises or is thus submitted. The remaining parts or provisions shall remain in full force and effect.

*[Signatures appear on following page.]*

Very truly yours,

OWNER

THI VI Boston LLC,  
a Delaware limited liability company

By:

Name: George S. Gabrey

Title: Vice President

ACKNOWLEDGED AND AGREED UPON:

OPERATING LESSEE

THI VI Boston Lessee LLC,  
a Delaware limited liability company

By:

Name: George S. Gabrey

Title: Vice President

Brian Lang, President  
UNITE HERE Local 26