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***CONFIDENTIAL ATTORNEY CLIENT PRIVILEGED MEMORANDUM***

**DATE:** May 1, 2015

**TO:** Hotel Association of New York City, Inc.  
General Members  
General Managers, Human Resources Directors and Controllers

**FROM:** Kane Kessler, P.C.  
Labor and Employment Law Department

**RE:** 2015 Memorandum of Understanding between HANYC Bargaining Group and New York Hotel and Motel Trades Council AFL-CIO ("2015 MOU")

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As reported at Monday's General Membership meeting and in our previous Memoranda, the HANYC Board of Directors unanimously approved the 2015 MOU.

Enclosed please find a copy of the 2015 MOU and a summary of its terms.

Hotels that wish to be bound by the 2015 MOU are required to sign an Authorization and Consent and return it to our office by close of business (5:00 p.m.), Friday, May 15<sup>th</sup>. A copy of the Authorization and Consent and instructions on returning it are also enclosed.

Hotels that do not agree to be bound to the 2015 MOU by signing the Authorization and Consent are at risk of negotiating with the Union individually on June 30, 2019 (when the current Industry Wide Agreement expires) and of paying directly for the Hotel's share of the construction and development of the new Brooklyn Health Center (approximately \$2,500 per employee).

If you have any questions, please do not hesitate to contact David R. Rothfeld, Judith A. Stoll, Alexander Soric, Robert L. Sacks, Lois M. Traub, or Michael Lydakakis.

Enc.

JAS: cmb

cc: Joseph E. Spinnato, Esq.  
Vijay Dandapani, Chairman

## MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding entered into by and between the Hotel Association of New York City, Inc. in its own behalf and in behalf of the HANYC Bargaining Group Hotels<sup>1</sup> (hereinafter collectively referred to as “Employer”) and the New York Hotel and Motel Trades Council, AFL-CIO in its own behalf and in behalf of its members, now employed or hereafter to be employed by the Employer (hereinafter referred to as “Union”).

WHEREAS, the Employer and the Union are signatories to a Collective Bargaining Agreement entered into as to be effective July 1, 2012, which Agreement by its terms, expires on June 30, 2019 (hereinafter referred to as the “IWA”); and

WHEREAS, the Employer and the Union desire to modify and extend the IWA as now restated in this Memorandum of Understanding (hereinafter referred to as “this Agreement”).

NOW, THEREFORE, it is mutually agreed as follows:

1. Except as expressly provided for herein, the IWA is renewed and extended until midnight June 30, 2026.
2. The following wage increases to Schedule A minimum rates and actual rates, if higher, shall apply:

<u>July 1, 2019</u>	All non-tipped employees:	An additional \$1.00 per hour;
	All tipped employees:	An additional \$.50 per hour.

<u>July 1, 2020</u>	All non-tipped employees:	An additional \$1.00 per hour;
	All tipped employees:	An additional \$.50 per hour.

<u>July 1, 2021</u>	All non-tipped employees:	An additional \$1.00 per hour;
	All tipped employees:	An additional \$.50 per hour.

<u>July 1, 2022</u>	All non-tipped employees:	An additional \$1.00 per hour;
	All tipped employees:	An additional \$.50 per hour.

<u>July 1, 2023</u>	All non-tipped employees:	An additional \$1.00 per hour;
	All tipped employees:	An additional \$.50 per hour.

<u>July 1, 2024</u>	All non-tipped employees:	An additional \$1.00 per hour;
	All tipped employees:	An additional \$.50 per hour.

<u>July 1, 2025</u>	All non-tipped employees:	An additional \$1.00 per hour;
	All tipped employees:	An additional \$.50 per hour.

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<sup>1</sup> A list of HANYC Bargaining Group Hotels is attached hereto as Exhibit 1. The aforesaid list is expected to increase on a continuing basis.

Nothing herein is intended to modify Article 6(C).

3. The percentage, on an industry-wide basis, attributable to the wage increases provided for in paragraph 2 shall, in accordance with past practice, be applicable to all wage-related items contained in the IWA, e.g., extra room rates, cots, night shift differential rates, portorage and group fees, banquet rates, etc.
4. IWA contribution rates to the Pension Fund shall be as follows:

Effective Date	Contribution Rate
July 1, 2015	6%
July 1, 2016	6.5%
July 1, 2018	10.5%
January 1, 2026	11.5%

5. On the Effective Date of this Agreement, one-half (1/2) of the contributions currently payable to the Prepaid Legal Fund (0.25%) shall be reallocated to the Health Benefit Fund for the duration of this Agreement. Notwithstanding the foregoing, the Trustees shall maintain the projected liquid assets of the Prepaid Legal Fund at not less than twenty-five percent (25%) of the following year's expenses of the Fund. In the event the liquid assets fall below twenty-five percent (25%), the Association Bargaining Group Hotels shall have the right to reallocate up to the one-half (1/2) of the contributions reallocated to the Health Benefit Fund (0.25%) from the Health Benefit Fund back to the Prepaid Legal Fund, provided that it does not cause the Health Benefit Fund's liquid assets to fall below twenty-five percent (25%). The Employers acknowledge and agree that they shall maintain all benefits currently provided by the Prepaid Legal Fund at no less than current eligibility and coverage during the life of this Agreement, and in no event shall any benefit, eligibility, or coverage be reduced for any reason absent signed agreement by the parties to the contrary.
6. IWA contribution rates to the Health Benefit Fund (not inclusive of the reallocation of the contributions from the Prepaid Legal Fund referred to in Paragraph 5 nor the amount described in the paragraph immediately below) shall be as follows:

Effective Date	Contribution Rate
January 1, 2015	23.5%
July 1, 2015	27%
January 1, 2016	27.5%
January 1, 2017	28%
July 1, 2018	24.5%
January 1, 2019	25.25%
January 1, 2020	26.5%
January 1, 2021	27%

In the event the cost of renovations to the Queens Medical Center, as described in paragraph 7(a), and the cost of acquisition and construction of the Brooklyn Health Center

(collectively, "Construction Costs") exceed a sum equal to three and one-half percent (3.5%) of employee wages, as defined in Schedule B, for the period between July 1, 2015 and June 30, 2018 ("Funding Increase"), the above contributions to the Health Benefit Fund shall be increased on January 1, 2019, by up to an additional one (1) percentage point until such time as such contribution increase results in additional contributions to the Health Benefit Fund equal to the difference between the Construction Costs and Funding Increase.

Nothing herein is intended to modify the minimum funding or maintenance of benefits provisions of the IWA.

7. The parties agree that the following changes shall be made to the Health Benefit Plan as soon as is practicable after the ratification of this Agreement:
  - a. Queens Medical Center: The parties agree that the existing Queens Medical Center needs to be refurbished and expanded and, therefore, commencing as soon as is practicable, the Queens Medical Center shall be completely renovated, refitted, redesigned, and expanded to include the existing square footage that is currently utilized as or for ITP programs, the warehouse, and the noodle factory. The parties shall find a new location to house the ITP program or to provide ITP benefits that is more centrally located in order to better service employees, it being understood that any relocation or change to the ITP program shall not exceed Employer contributions on an annual basis.
  - b. Pharmacy: The pharmacy in each of the Health Centers shall remain open on Saturdays and Sundays. If, after a year, it is unanimously determined by the Trustees that this benefit is being underutilized, the Trustees may agree to keep the pharmacies open on only one (1) weekend day.
  - c. Ambulance: Provided the use thereof is justified under the terms of the Plan, ambulance costs shall be fully covered, absent unanimous agreement of the Trustees to change same.
  - d. Orthodontics: The Fund shall provide orthodontia benefits up to one thousand dollars (\$1,000) for each minor dependent of a covered employee.
  - e. Vision: The current GVS vision benefit shall be discontinued. The contribution amount that was previously allocated to vision benefits shall be reallocated to the general Health Benefit Fund. The Health Benefit Fund will provide vision tests and exams at each Health Center free of charge. The Health Benefit Fund shall reimburse each eligible participant and dependent for vision related expenses (e.g., exams not performed at Health Benefit Fund facilities, frames, lenses, eyeglasses, and contact lenses) up to two hundred dollars (\$200) per calendar year.
  - f. Health Reimbursement Arrangement ("HRA"): The Health Benefit Fund shall create and administer a HRA. Each calendar year, commencing January 1, 2017, the Health Benefit Fund shall pay into a HRA account on behalf of each employee who is eligible for health benefits two hundred dollars (\$200) for individuals and four hundred dollars (\$400) for families. Such HRA account may be used for any purposes permitted by law, including those under IRC Section 213(d). Any unused funds may be carried over into subsequent years

to the maximum extent permitted by law. Sums in a HRA account may not be forfeited for any reason, including cessation of employment, and contributions may continue to be made following any such cessation in accordance with COBRA.

8. Article 54(A) of the IWA shall be modified to include the following:

“Employees employed less than one (1) year will accrue one (1) hour for every thirty (30) hours worked, up to a maximum of forty (40) hours of paid sick leave per calendar year, until they become entitled to benefits pursuant to Article 54.”

9. The parties agree to meet within three (3) months of the Effective Date of this Agreement to discuss the Association’s proposals for food and beverage (a la carte, room service, and banquet) relief unless the parties mutually agree to a later date for the commencement of such discussions.

10. The Employer shall not be permitted to hire from any employment referral agency that requires prospective applicants to pay a fee or commission. The Employer may not, directly or indirectly, charge any prospective applicant any fee or commission.

11. This Successor Agreement is subject to ratification by both parties (“Effective Date”).

Dated: April \_\_\_\_, 2015

HOTEL ASSOCIATION OF NEW YORK CITY,  
INC. on behalf of its Bargaining Group Hotels

NEW YORK HOTEL AND MOTEL  
TRADES COUNCIL, AFL-CIO

By: \_\_\_\_\_  
Joseph E. Spinnato, President

By: \_\_\_\_\_  
Peter Ward, President

The parties agree the percentages, on an industry-wide basis, attributable to wage increases, are as follows:

2019: 2.75%  
2020: 2.68%  
2021: 2.61%  
2022: 2.54%  
2023: 2.48%  
2024: 2.42%  
2025: 2.36%

**CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED MEMORANDUM**

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**DATE:** May 1, 2015

**TO:** Hotel Association of New York City, Inc.  
Labor Relations Members  
General Managers, Controllers and Human Resource Directors

**FROM:** Kane Kessler, P.C.  
Labor and Employment Law Department

**RE:** Summary of Terms of 2015 Memorandum of Understanding between HANYC  
Bargaining Group Hotels and New York Hotel Trades Council, AFL- CIO  
Presented to the Board for Ratification

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1. **TERM:** July 1, 2019 through midnight June 30, 2026.
2. **WAGE INCREASES:** \$1.00 per hour for all non-tipped employees, \$0.50 per hour for all tipped employees, effective every July 1<sup>st</sup> for seven (7) years, subject to Article 6(C).  
These increases are non-compounding and, on an industry-wide basis, are:
  - ☐ 2019: 2.75%
  - ☐ 2020: 2.68%
  - ☐ 2021: 2.61%
  - ☐ 2022: 2.54%
  - ☐ 2023: 2.48%
  - ☐ 2024: 2.42%
  - ☐ 2025: 2.36%

**COMMENT:** Wage percentage increases and wages and benefits percentage increases (“All-in costs”) are historically low.

3. **WAGE RELATED ITEMS:** The wage percentages attributable to the increases mentioned in point number 2 are to be applied to all wage-related items contained in the IWA (e.g., cots, extra rooms, night shift differential, portage and banquets, etc.), in accordance with past practice.

4. **PENSION RE-ALLOCATION:** From July 1, 2015 to June 30, 2018, the Pension Fund contribution is reduced by 3.5 % and re-allocated to the Health Fund in order to pay for the construction and development of the Brooklyn Health Center and the Queens Health Center renovation and expansion.

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**COMMENT: IMPACT ON PENSION FUND:** The Segal Company, the Pension Fund's actuary, has certified that the diversion of the 3.5% of contributions from the Pension Fund to the Health Fund will not have a significantly negative impact on the Pension Plan's funding status or pose a risk to Employers.

5. **PREPAID LEGAL REALLOCATION:** On the Effective Date of the Agreement, one-half of the contributions payable to the Prepaid Legal Fund (0.25%) are reallocated to the Health Fund for the duration of the Agreement or until such time as the Prepaid Legal Fund assets are drawn down to 25 %.

6. **HEALTH FUND CONTRIBUTIONS:**
- January 1, 2015: 23.5%
  - July 1, 2015: 27.25% (23.5% plus 3.5% reallocated from Pension Fund and .25% reallocated from \*Legal Fund)
  - January 1, 2016: 27.75% (24.0% plus 3.5% reallocated from Pension Fund and .25% reallocated from \*Legal Fund)
  - January 1, 2017: 28.25% (24.5% plus 3.5% reallocated from Pension Fund and .25% reallocated from \*Legal Fund)
  - July 1, 2018: 24.75% (24.5% plus .25% reallocated from \*Legal Fund)
  - January 1, 2019: 25.50% (25.25% plus .25% reallocated from \*Legal Fund)
  - January 1, 2020: 26.75% (26.50% plus .25% reallocated from \*Legal Fund)
  - January 1, 2021: 27.25% (27.0% plus .25% reallocated from \*Legal Fund)

\* .25% reallocated from Legal Fund to Health Benefits Fund continues as long as liquid assets of the Legal Fund are not less than 25% of the following year's expenses of the Legal Fund.

**COMMENT: HEALTH FUND LIQUIDITY RESERVE:** The 2015 MOU is projected to maintain the Health Fund's Liquidity Reserve above the 25% contractual mandate at levels higher than in the 2014 MOU. This is a helpful cushion against unforeseen circumstances and should place employers on solid footing on this issue going into the next contract negotiation in 2026.

**COMMENT: IMPROVEMENT ON 2014 MOU:** The 2014 MOU provided for a 1.75% increase in Health Benefit Fund contributions on January 1, 2019. The 2015 MOU only provides for a .75% increase on January 1, 2019. The one (1%) percent is restored six years later on January 1, 2026 to the Pension Fund. On an Industry-Wide basis, the value of the six-year deferral of one (1%) percent amounts to approximately \$120M.

7. **NEW HEALTH FUND BENEFITS:** The 2015 MOU provides for new benefits, e.g., expanded pharmacy hours, ambulance reimbursement, orthodontics for minor children of eligible employees and an HRA card.

**COMMENT:** The cost of these benefits is projected to be completely offset by a combination of savings and new revenues as a result of the Health Fund owning the building at Fulton Street. The cost of these benefits over the term is \$115M. The savings and new revenue are calculated



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to be \$118M from new revenues from rental income to the Health Center of retail space in the new Brooklyn Health Center and the sale of the Schermerhorn site (est. \$25M) combined with savings from the Health Center not having to pay projected rent to the Pension Fund (est. \$4M per year), a discontinuance of an annual transfer to Training of \$800K, and having Pension re-allocated monies used to pay for Brooklyn's FF & E.

8. **INDUSTRY TRAINING PROGRAM ("ITP")**: The 2015 MOU suspends the ITP. When reconstituted, the cost of the Program cannot exceed current Employer contributions.

9. **FOOD AND BEVERAGE DISCUSSIONS**: The Union will commit to meet within three (3) months of the Effective Date to discuss the Association's food and beverage proposals (a la carte, room service, and banquets).

10. **LANGUAGE**: There are two language items:

(a) A restriction on the use of an employment agency that directly or indirectly charges an applicant a fee or such charge by an Employer; and

(b) NYC Paid Sick Leave – The parties acknowledged the applicability of the recently-passed New York City paid sick leave law. This applies only to employees in their first year of employment.

**COMMENT**: Other than these two minor provisions, no new contract language affecting management's rights.

11. **RATIFICATION**: All of the terms of the Agreement are subject to ratification by both parties.

**COMMENT**: The Industry will not be required to negotiate in 2019 when it presently appears that the other major cities will be negotiating with UNITE locals. Thus, the chances that the Union will exert pressure on New York City Hotels to try to gain leverage in negotiations in other cities, as was the case with our 2006 negotiations, is eliminated.

If you have any questions, do not hesitate to contact David R. Rothfeld, Judith A. Stoll, Lois M. Traub, Alexander Soric, Michael C. Lydakis or Robert L. Sacks.

cc: Joseph E. Spinnato, Esq.  
Vijay Dandapani, Chairman

**BARGAINING AUTHORIZATION AND CONSENT  
TO 2015 MEMORANDUM OF UNDERSTANDING**

On behalf of the below named Hotel, I approve of the 2015 Memorandum of Understanding between the Hotel Association of New York City, Inc. ("HANYC"), on behalf of its Bargaining Group Hotels and the New York Hotel Motel Trades Council, AFL-CIO and agree that the Hotel shall become, or remain, an HANYC Bargaining Group Hotel.

Dated: May \_\_\_\_\_, 2015  
New York, New York

HOTEL (Owner, Manager and Operator)

\_\_\_\_\_  
Print name of Hotel

Sign: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

Return to Kane Kessler, P.C. by fax to (212) 541-9799,  
or by email to: [asoric@kanekessler.com](mailto:asoric@kanekessler.com) – or –

Kane Kessler, P.C.  
Attn: Alexander Soric, Esq.  
1350 Avenue of the Americas  
New York, NY 10019-4896

**PLEASE RETURN NO LATER THAN MAY 15, 2015, 5:00 p.m.**