

AGREEMENT made this 28th day of July 2021, by and between Lexington Avenue Hotel, L.P. d/b/a NYC ESH Lexington f/k/a Marriott East Side (“Hotel”) and the New York Hotel & Motel Trades Council, AFL-CIO (“Union”) (collectively, the “Parties”) (the “Agreement”).

WHEREAS, the Hotel and the Union are bound to the Hotel Association of New York City, Inc. – New York Hotel & Motel Trades Council, AFL-CIO, Industry-Wide Collective Bargaining Agreement (“IWA”); and

WHEREAS, the Union filed grievances against the Hotel for failure to pay employees their requested, accrued but unused paid leave time off (“PTO”)(U21-003) and severance pursuant to Article 52 of the IWA (U21-021)(collectively “Grievance”); and

WHEREAS the office of the Impartial Chairperson issued an arbitration award, IC Award #2021-22 in which the Hotel was ordered to pay the requested PTO and the owed severance pay; and


WHEREAS the office of the Impartial Chairperson issued an arbitration award, IC Award #2021-36 in which the Hotel was ordered to pay liquidated damages, penalties and interest on the amounts ordered to be paid in IC Award #2021-036.

NOW, THEREFORE, IT IS AGREED:

1. Hotel agrees to pay a total sum of Six Hundred Thousand Dollars (\$600,000) to bargaining unit employees, less statutory deductions, in accordance with the last column on the attached Exhibit A. Such payments shall be made by direct deposit and with actual checks mailed to employees who did not have direct deposit at the time of layoff no later than August 6, 2021.
2. Hotel agrees to pay, commencing on September 7, 2021, a weekly severance payment of Three Hundred Dollars (\$300.00) per week to each of the 252 employees listed on Exhibit A, less statutory deductions, until the earlier of the date the employee is recalled to work or the week of December 7, 2021. In the event an employee is recalled to work before the week of December 7, 2021, the employee shall be credited with Four Thousand Two Hundred Dollars (\$4,200) in a severance bank minus any weekly payments made since September 7, 2021.
3. The Hotel shall make no contributions to the HTC-HANYC Employee Benefits Fund on the amounts paid pursuant to this Agreement.
4. The Hotel shall be considered in default of this Agreement if it fails to make the payment provided for in paragraph 1 of this Agreement or any of the weekly severance payments provided for in paragraph 2 of this Agreement. In the event the Hotel fails to cure such default within fourteen (14) business days of receipt of written notice of the same (a “Default”), the Hotel shall immediately pay a total sum of Two Million and One Hundred Thousand Dollars (\$2,100,000) to bargaining unit employees, less the total amount of

payments made pursuant to this Agreement, in accordance with paragraphs 1 and 2 of this Agreement (the "Default Damages"). Such default notice shall be sent to the Hotel's attorneys, Pryor Cashman LLP, Attn: Josh Zuckerberg, Esq. 7 Times Square (Times Square Tower), New York, New York 10036-6569 via e-mail (JZuckerberg@pryorcashman.com)

5. The Union agrees and acknowledges that payments provided for in paragraphs 1 and 2 of this Agreement are in full and final satisfaction of the Grievance and IC Awards #2021-22 and #2021-36 (collectively "Awards"), and in the event of a Default, acknowledges that the Default Damages are in full and final satisfaction of any said Default, and waives all other remedies, damages, interest, penalties, costs and fees, and any demand for a "me-too" agreement or lender assumption as a condition of satisfying and settling the Awards. The Union does not waive any of its rights or remedies other than those arising from the Awards, including, but not limited to, any rights relating to the lender pursuant to the IWA and Wagner award.
6. The Hotel agrees to pay any remaining accrued but unused PTO upon the request of an employee.
7. This Agreement shall be subject to ratification by the Union.
8. This Agreement may be entered into by counter-parts with each copy deemed an original.
9. Any and all disputes between the parties or regarding the interpretation or application of this Agreement, including any claimed Default, shall be resolved by the Office of the Impartial Chairperson.

For the Union by: <hr/> Rich Maroko President Dated: _____	For the Hotel by: LEXINGTON AVENUE HOTEL, L.P., a Delaware limited partnership By LEXINGTON HOTEL OWNERS GP LLC, a Delaware limited liability company, its general partner By  Name: Bret Matteson Title: Authorized Signatory Dated: July 29, 2021
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