



EMPLOYEE HANDBOOK

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ACKNOWLEDGMENT OF RECEIPT OF EMPLOYEE HANDBOOK

(Employer’s Copy)

The Employee Handbook contains important information about Republica Richmond, Ltd. doing business as DIABLO LOCO (hereinafter referred to as “Diablo Loco” or the “Company”), and I understand that I should consult the Human Resources Manager (“HR”) for Diablo Loco at hr@diablolocotexas.com regarding any questions not answered in the handbook. ***I HAVE ENTERED INTO MY EMPLOYMENT RELATIONSHIP WITH DIABLO LOCO VOLUNTARILY, AND UNDERSTAND THAT THERE IS NO SPECIFIED LENGTH OF EMPLOYMENT. ACCORDINGLY, I UNDERSTAND AND ACKNOWLEDGE THAT EITHER DIABLO LOCO OR I CAN TERMINATE THE RELATIONSHIP AT WILL, AT ANY TIME, WITH OR WITHOUT CAUSE, AND WITH OR WITHOUT ADVANCE NOTICE.***

I understand and agree that no person other than the owners of Diablo Loco may enter into an employment agreement for any specified period of time, or make any agreement contrary to Diablo Loco’s stated employment-at-will policy. I further understand that this Employee Handbook does not alter the employment-at-will relationship between myself and Diablo Loco. Since the information, policies, and benefits described herein are subject to change at any time, I acknowledge that revisions to the handbook may occur, except to Diablo Loco's policy of employment-at-will. All such changes will generally be communicated through official notices, and I understand that revised information may supersede, modify, or eliminate existing policies. Only the owners of Diablo Loco have the ability to adopt any revisions to the policies in this handbook.

Furthermore, I understand that this handbook is neither a contract of employment nor a legally-binding agreement. I have had an opportunity to read the handbook, and I understand that I may ask my supervisor or any employee of the Human Resources Department any questions I might have concerning the handbook. I accept the terms of the handbook. I also understand that it is my responsibility to comply with the policies contained in this handbook, and any revisions made to it. I further agree that if I remain with Diablo Loco following any modifications to the handbook, I thereby accept and agree to such changes.

I have received a copy of Diablo Loco’s Employee Handbook on the date listed below. I understand that I am expected to read the entire handbook. Additionally, I will sign the two copies of this Acknowledgment of Receipt, retain one copy for myself, and return one copy to Diablo Loco’s representative listed below on the date specified. I understand that this form will be retained in my personnel file.

Signature of Employee

Signature of Company Representative

Employee's Name (Printed)

Title of Company Representative

Date: _____

Date: _____

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ABOUT THE HANDBOOK

This handbook is intended to serve as a guide during your employment with Diablo Loco. There are several things that are important to keep in mind. This handbook contains general information and guidelines; it is not intended to be the definitive reference for Diablo Loco's policies and practices. Some of the subjects described here are covered in detail in official policy documents. You should refer to those documents located on our website or contact the Human Resources Department for specific information, as this handbook provides only a summary. The policies and benefits described in this handbook may be modified from time to time. Modifications will be posted as they occur.

No portion of this handbook should be disclosed to anyone other than employees and associates of Diablo Loco, whose knowledge of the information is required in the normal course of business. If you have any questions regarding the information contained in this handbook, contact the Human Resources Department.

Neither this handbook nor any other Company document confers any contractual right, either express or implied, to remain employed by Diablo Loco. Nor does it guarantee any fixed terms and conditions of your employment. Your employment is not for any specific time and may be terminated at will, with or without cause and without prior notice by Diablo Loco, or you may resign for any reason at any time. No supervisor or other representative of Diablo Loco (except the Chief Executive Officer) has the authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above.

None of Diablo Loco's personnel documents and benefit plans, including this Employee Handbook, constitutes, or is intended to constitute, an express or implied contract guaranteeing continued employment for any employee.

The policies set forth in this Employee Handbook apply to all employees, from the CEO to the newest employee.

WELCOME TO OUR COMPANY!

You have been carefully selected for the position that is now yours. Usually eight to ten people are interviewed to find the one person who meets our qualifications, so, it is to your credit that you have been chosen. Our club wishes to foster in each person the desire to cooperate and perform their job function according to acceptable standards.

Only well informed, confident people succeed with our company. This Employee Handbook, department training handbooks, and all of our training programs are designed to help you become more knowledgeable, aware and efficient, as well as a more valuable employee of Diablo Loco.

Our Company responsibly develops and operates high volume and innovative, beverage, entertainment and food concepts. By providing a high energy social environment, quality products and dynamic service, we appeal to a broad customer base.

The key ingredient that makes our Company successful is our people. All staff members are auditioned for displayed enthusiasm, and a generally positive and outgoing personality, all of which are pre-requisites before hiring. As you see, our rules establish guidelines for good conduct, efficiency and safety. They are summarized in a minimum of rules. We believe they are reasonable and they apply to *everyone*.

Our guests are the most important people in our business. They come to us with their needs and desires, and it is our job to satisfy them. Our guests are the lifeblood of our business. Without them we would have to close our doors. Our success or failure is determined the moment an employee transacts with our guests.

The atmosphere, the food, the music, and our sales volume become unimportant if they do not satisfy the needs of our guests. We can only measure our success by the number of totally satisfied guests.

We pursue excellence and 100% guest satisfaction. If it is not excellent, it will not be profitable, and it certainly will not be fun. Our guests simply won't return.

Every number of our team is vital to ensure 100% guest satisfaction. Jobs are interrelated by design so that if one fails to recognize an unfulfilled need, there are others to serve as checkpoints.

A few words need to be said about our philosophy of business. This business was designed to serve discerning guests. The key word is *guest*. We want to make a guest feel at ease, and see that his/her wants were anticipated before they are even expressed verbally. We ask that our employees become our guest's personal host/hostess.

There are six important ingredients for a successful nightclub. They are:

1. Outstanding food and drinks served in a safe and responsible manner.

2. Great musical entertainment.
3. A beautiful facility with sensitive sound and light levels and residentially comfortable.
4. An immaculately clean establishment.
5. Service beyond the expected.
6. Dedicated and professional employees.

The last ingredient—dedicated and professional employees—is the most important ingredient. Without you, the rest would be for nothing. A tremendous responsibility is entrusted to you to maintain high standards of service and product. We want everyone to be proud that they work here.

Our Company is a relatively young company and is rapidly expanding. We are looking for employees that desire to give service and want to take the responsibility to grow with Diablo Loco. Every employee is important in this Company, and we are looking for ones that show the proper attitude on customer service. It is our policy to fill job vacancies and higher-rated jobs by the promotion of qualified employees within our Company whenever reasonable.

You are a very elite group of individuals working here. We are very selective in choosing persons to join our staff and you may rest assured that you will enjoy working here.

MANAGEMENT STRUCTURE

Our management staff is highly trained and prepared in all areas of the unit. Managers are here to assist and enforce policies and to aid in problems that arise. They are glad to lend an ear to any criticism, complaint and are frequently walking the floor for any assistance you may need. When in doubt – find a manager. That’s what they are here for! Help and cooperation must come from all employees to make this a smooth operation. No employment situation is perfect, but we do feel that by working together, we can all enjoy our jobs. Team building and team effort are basic features of our management philosophy and we continually strive to stay on target with that philosophy.

HUMAN RESOURCES

Any references in this Employee Handbook to “Human Resources” or the “Human Resources Manager” shall mean the “Diablo Loco’s Human Resources Manager. The contact information for Diablo Loco’s Human Resources Manager is Hr@diablolocotexas.com.

CHAPTER 1 - GENERAL RULES AND REGULATIONS

SERVICE

It is our opportunity and responsibility to make sure our guests have fun and remain in a clean and professional environment. We want our guests to keep coming back. It is important that all employees understand that without guests, there is no club-so, they come first before our own needs are fulfilled.

ENVIRONMENT

Friendliness and cleanliness is what will keep our guests coming back and makes new guests want to visit. A cleaner club means better guest attitude. Pleasant, friendly employees also contribute to better guest attitudes.

SAFETY

We want our clubs to be safe for the employees and guests. Accidents are serious business. All employees must follow every safety precaution and avoid taking unnecessary risks in the work place. All unsafe habits, hazardous conditions and injuries must be reported to the immediate supervisor. A First Aid kit is available on the premises. For any injury immediately contact a manager.

TARDINESS

Every job has a very definite place in the successful operation of the unit. If for any reason an employee is going to be late for his/her shift, please call the unit as soon as possible and speak with the manager on duty. In speaking with another employee such as the doorman, the message may not get relayed. Failure to report for a scheduled shift or continued tardiness will result in termination from employment. A late sheet will be available. The employee is to sign in when arriving with an explanation as to why he/she is late. Three (3) tardies within a one month period will result in disciplinary action, up to and including termination from employment.

ILLNESS

If unable to work due to illness, the employee must call in at least 4 hours prior to their scheduled shift start time. **NO CALL! NO SHOW!! NO EMPLOYMENT!!!** A doctor's note is required before returning to work. Failure to comply with these requirements will subject the employee to disciplinary action, up to and including termination. If you fail to report for work without any notification to your supervisor, we will consider that you have abandoned and voluntarily terminated your employment.

.ON CALL

If an employee is scheduled "on call" the employee must call in at 2:00 o'clock p.m. "On call" status is to be considered a shift. Take into consideration that you more likely will have to work that evening. A second call is to be made by the "on call" employee at 6:00 o'clock p.m., due to the fact that emergencies do arise. Failure to call in at specified times (2:00 o'clock p.m. and 6:00

o'clock p.m.), will result in termination. When calling in, you must leave a phone number and the time of call on the recorder. If they haven't called you by 6:30 o'clock p.m.—you're off.

MEETINGS

Periodic meetings for all employees will be held when the manager deems necessary. Attendance will be mandatory for appropriate personnel. This time will be spent informing employees of any changes in policies, upcoming activities and problems incurred during business hours.

PHONE CALLS

Employees are prohibited from possessing cellular phones while on duty. Employees are not permitted to receive personal phone calls except in an emergency and the manager is to be the conduit for emergency call and contacts. Relatives of employees should be told that unless an emergency exists, an employee will not be called to the phone. In case of an emergency, the person answering the phone must be told. Cellular phones may be used by employees only when off duty, unless an urgent situation exists.

LANGUAGE

Abusive language, actions, or attitude towards a guest to other guests or to an employee should be reported immediately to a manager in order to avoid any conflicts that may occur.

LOST AND FOUND

Any article found belonging to a guest or employee should be turned in to a manager immediately.

EMPLOYEE INFORMATION

It is the employee's responsibility to keep the bookkeeper informed of changes in residence, telephone number, etc., at all times.

SCHEDULE REQUESTS

Any time you need a specific day of the week off you must email both your immediate supervisor and general manager your request. If you do not have email, you may submit your request in writing and present a copy to both your supervisor and the general manager. Work schedules are currently made a week in advance and posted on Monday (for the following work week). **Requests must be submitted two weeks in advance of the requested day off.**

At this time no schedule changes will be made between employees nor by the managers unless an emergency situation should occur. Remember, this is a request, not a demand and will be considered as such and approved if at all possible.

LOVED ONES

An employee's "loved one" (boyfriend, girlfriend, spouse, etc.) will not be allowed in the club while the employee is on the clock. The rule is solely for protection of your job performance. If you were a police officer, secretary or garbage collector, your "loved one" would not be allowed on that job either.

EMPLOYEE AS A CUSTOMER

Employees will be allowed to patronize the club. While in the club you will behave as a representative of Diablo Loco. You will be expected to act like a model guest and will be treated as such. Do not serve yourself. No off-duty employee may be in the club in uniform. You will leave through the front door at last call. Off-duty employees are not allowed in work areas, behind bars, break areas, or offices.

VIDEO SURVEILLANCE

Employees understand and acknowledge that they may be subject to video surveillance while on the premises and that such video surveillance may be turned over to the proper authorities if criminal activity is observed.

SPOTTERS

It is our company policy to use professional spotters in all our properties to obtain information helpful in maintaining a consistently high level of quality. Any employee who undermines our efforts by disclosing the identity of a spotter to other employees will be terminated.

BULLETIN BOARD

An employee board is in the break area. IMPORTANT NOTICE SHEETS will often be posted on the employee bulletin board by members of management. Always check these notices each time you come to work and you will be held responsible for all information posted.

SAFE SERVICE OF ALCOHOL

It is absolutely against company policy to serve alcohol to anyone under the age of 21 or anyone that appears to have to be intoxicated. Any patron that appears to be under the age of 30 must have their ID checked prior to service. If there is any question as to the validity of the ID, get verification from a manager. In the event that you observe a patron to be exhibiting signs of intoxication, under no circumstances serve them alcohol. Immediately identify the patron to management.

POSSIBLE SIGNS OF INTOXICATION

Coordination

- Stands with feet wide apart for balance
- Leans against counter, wall or other support
- Fumbles with wallet or money
- Slurs or trips over words when ordering
- Clumsy actions (i.e., drops or picks up change in a clumsy way)

Inattention

- Forgets to take the change after purchase
- Lights the wrong end of cigarette
- Difficulty remembering names/details

Reduced Judgement/Inhibition

- Becomes overly excited
- Giggles/laughs for no apparent reason
- Speaks loudly/profanely
- Throws objects

Mannerisms/Appearance

- Untidy/disheveled clothing
- Smells of stale alcohol
- Disoriented
- Frequently rubs hands thought face and hair
- Sometimes has involuntary eye movement

Reflexes

- Slow, deliberate movements of hands, arms, and body
- Slow or no reaction
- Slow or no response to questions

Vision

- Closes or covers one eye to remove double-vision
- Red/watery eyes
- Droopy eyelids/tired appearance
- Squints continuously

Taken from the TABC Guide for Manufacturers, Wholesalers, Distributors & Retailers of Alcoholic Beverages in Texas
September 2013 Edition

ALCOHOL AWARENESS PROGRAM

It is our Company's policy that all employees must participate in a state certified seller-training program for alcohol awareness prior to the employee's first shift of his/her first day of employment. Failure of any employee to become certified through a program recognized by the state will result in removal from the work schedule until seller-training is achieved or subject the employee to immediate termination.

SAFE RIDE HOME PROGRAM

We at DIABLO LOCO are committed to assisting all of our patrons in getting home safely. In the event any patron feels that they may have had too much to drink we will pay for a cab ride home for them anywhere in Harris County. It is extremely important that all of our staff are aware of this program and can explain it to our patrons when needed.

CHAPTER 2 – GENERAL POLICIES

Our commitment to equality

We are committed to a work environment in which all individuals are treated with respect and dignity. You have the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices.

Equal employment opportunity – Diablo Loco is an equal opportunity employer. In accordance with applicable law, we prohibit discrimination based on race, color, religion, creed, gender, pregnancy or related medical conditions, sexual orientation, age (40 and over), national origin or ancestry, physical or mental disability, genetic information or any other consideration protected by federal, state or local laws. Our commitment to equal opportunity employment applies to all persons involved in our operations and prohibits unlawful discrimination by any employee, including supervisors and coworkers.

If you believe you have been subjected to any form of discrimination, or if you are aware of an incident of discrimination involving another individual, please provide a written or verbal report to your supervisor, another member of management, and Human Resources. The report should be specific and should include the names of the individuals involved, the names of any witnesses and any documentary evidence (e-mails, notes, etc.). Diablo Loco will conduct a thorough and objective investigation and attempt to resolve the situation. The investigation will be completed and a determination made and communicated to you as soon as practical. Diablo Loco will endeavor to protect the privacy and confidentiality of all parties involved to the extent possible consistent with a thorough investigation.

If Diablo Loco determines that this policy has been violated, disciplinary action, up to and including immediate discharge, will be taken. Disciplinary action may be taken when an investigation reveals conduct on the part of an employee that does not rise to the level of unlawful discrimination, but is nevertheless inappropriate. Appropriate action may also be taken to deter future discrimination or misconduct.

This policy applies to current employees and applicants during all phases of employment including hiring, promotion, demotion, on-going employment, compensation and other terms of employment.

Religious Accommodation

We will attempt to make reasonable accommodations for employee observance of religious holidays and sincerely held religious beliefs unless doing so would cause an undue hardship on Diablo Loco's operations. If you desire a religious accommodation, you are required to make the request in writing to your supervisor and Human Resources as far in advance as possible.

Anti-harassment policy

We are committed to providing a workplace free of harassment of any kind, whether from other employees or associates such as vendors, visitors, clients or contractors. This policy applies to all

employees of Diablo Loco while they are on Diablo Loco premises and property. This policy also applies to employees when they are participating in a work-related activity off of Company premises and property.

For purposes of this policy, harassment may include, but is not limited to:

- Epithets, slurs, stereotyping and threatening intimidating or hostile acts that relate to race, sex, age, color, religion, national origin, disability or citizenship status; and
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of race, sex, age, color, religion, national origin, disability or citizenship status.

Sexual harassment – We are committed to providing a workplace free of sexual harassment.

Sexually harassing conduct may include, but is not limited to:

- Unsolicited and unwelcome comments or conduct of a sexual nature that are demeaning to women or men as a group (for example, offensive or vulgar jokes, name-calling, comments about one's body or sex life, stereotyping based on a person's sex, touching, leering, ogling, patting, pinching, indecent exposure, physical gestures or displaying sexually explicit photographs or objects that might interfere with a reasonable person's work);
- Unsolicited and unwelcome demands or requests for sexual favors or social or sexual encounters;
- An explicit or implicit promise of preferential treatment with regard to a person's employment in exchange for sexual favors or sexual activity; and
- The use of an employee's or applicant's submission to or rejection of sexual conduct as the basis for making, influencing or affecting an employment decision that has an impact upon the terms and conditions of the individual's employment (for example, hiring, firing, promotion, demotion, compensation, benefits or working conditions).

If you believe you or another employee is being harassed, we encourage you to immediately report your concerns to your supervisor, who will in turn contact Human Resources. If, for any reason, you do not feel comfortable reporting your concerns to your supervisor, you may report them directly to Human Resources. No action will be taken against you for reporting behavior believed to violate this policy.

Managers and supervisors who are aware of any potential violation of this policy must report it to their supervisor, or to the Human Resources Department. Failure of managers and supervisors to report potential violations will result in appropriate discipline, up to and including discharge. Diablo Loco treats alleged violations of this policy seriously, and to the extent possible, confidentially. Violations of this policy will not be tolerated and will result in appropriate disciplinary action, up to and including discharge.

Americans with Disabilities Act (ADA)

Diablo Loco is committed to complying with the Americans with Disabilities Act (ADA) and will not discriminate against any qualified employee or applicant because of a qualified disability, as long as the essential functions of the job can be performed. If you believe that you have a qualified disability, we encourage you to contact Human Resources. Human Resources will work with you and your department management to determine if a reasonable accommodation is possible. If you have questions regarding this policy or believe that you have been discriminated against based on a disability, you should notify the Human Resources Department. Any inquiries or complaints will be treated as confidential to the extent permissible by law.

Accommodating Physical/Mental Impairments

For employees who have difficulty performing essential job functions because of physical or mental impairments, Diablo Loco will attempt to make reasonable accommodations as long as the requested accommodation does not cause Diablo Loco or employees undue hardship. If an employee requires such accommodations, contact Human Resources so that we can determine how to accommodate your needs and engage in an interactive process regarding any requested accommodations. During this process, Diablo Loco will make every effort to protect the confidentiality of your medical information and any other personal information that you provide.

Protection Against Retaliation

Retaliation is prohibited against any person by another employee or by Diablo Loco for using this complaint procedure, reporting harassment, or for filing, testifying, assisting or participating in any manner in any investigation, proceeding or hearing conducted by a governmental enforcement agency. Prohibited retaliation includes, but is not limited to, termination, demotion, suspension, failure to hire or consider for hire, failure to give equal consideration in making employment decisions, failure to make employment recommendations impartially, adversely affecting working conditions or otherwise denying any employment benefit.

Please report any retaliation to your supervisor and Human Resources to report such incidents. Any report of retaliatory conduct will be investigated in a thorough and objective manner. If a report of retaliation is substantiated, appropriate disciplinary action, up to and including discharge, will be taken.

COMPLAINT PROCEDURE

Reporting an Incident of Harassment, Discrimination or Retaliation

Diablo Loco strongly urges the reporting of all incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe they have experienced conduct that they believe is contrary to Diablo Loco's policy or who have concerns about such matters should file their complaints with their immediate supervisor, Department Head, or the Director of Human Resources before the conduct becomes severe or pervasive. Individuals should not feel obligated to file their complaints with their immediate supervisor first before bringing the matter to the attention of one of the other Company designated representatives identified above.

IMPORTANT NOTICE TO ALL EMPLOYEES:

Employees who have experienced conduct they believe is contrary to this policy have an obligation to take advantage of this complaint procedure. An employee's failure to fulfill this obligation could affect his or her rights in pursuing legal action. Also, please note, federal, state and local discrimination laws establish specific time frames for initiating a legal proceeding pursuant to those laws.

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. Therefore, while no fixed reporting period has been established, Diablo Loco strongly urges the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. Diablo Loco will make every effort to stop alleged harassment before it becomes severe or pervasive, but can only do so with the cooperation of its staff/employees.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

The Investigation

Any reported allegations of harassment, discrimination or retaliation will be investigated promptly, thoroughly and impartially. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

Responsive Action

Misconduct constituting harassment, discrimination or retaliation will be dealt with promptly and appropriately. Responsive action may include, for example, training, referral to counseling, monitoring of the offender and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reduction of wages, demotion, reassignment, temporary suspension without pay or termination, as Diablo Loco believes appropriate under the circumstances.

If an employee making a complaint does not agree with its resolution, the employee may appeal to Diablo Loco's CEO.

Individuals who have questions or concerns about these policies should talk with the Director of Human Resources.

Finally, these policies should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected class, from participating in business or

work-related social activities or discussions in order to avoid allegations of harassment. The law and the policies of Diablo Loco prohibit disparate treatment on the basis of sex or any other protected class, with regard to terms, conditions, privileges and perquisites of employment. The prohibitions against harassment, discrimination and retaliation are intended to complement and further these policies, not to form the basis of an exception to them.

Family and Medical Leave of Absence (FMLA) Policy

Coverage. This policy is in force so long as Diablo Loco has 50 or more employees employed for each working day during each of 20 or more calendar weeks during the calendar year. In the event that Diablo Loco does not have the requisite number of employees for FMLA qualification, then no such leave will be afforded such an employee.

Eligibility. To be eligible for leave under this policy, an employee must meet all of the following: (1) the employee must have worked for Diablo Loco for at least 12 months (52 weeks), which need not be 12 consecutive months; and (2) an employee must have worked for Diablo Loco for at least 1,250 hours during the 12 months immediately preceding the date the requested leave of absence would begin; and (3) the employee must work at a worksite where Diablo Loco employs 50 or more employees or must work within 75 road miles from such worksite. We count towards both the 1,250-hour and 12-months-of-service requirements the time employees are on an approved military leave of absence or are otherwise serving in the military. We do not count any hours during any other period of leave of absence towards the second eligibility requirement.

Types of Leave. All leaves covered by this policy can collectively be called “FMLA leave.” Eligible employees may take a leave of absence covered by this policy during the FMLA year (defined below) for any of these reasons:

- For the birth of the employee’s healthy child, or the placement by a State of a child for adoption or foster care with the employee, including child care after birth or placement for adoption or foster care. Leave to care for a child after birth or after adoption or placement for foster care must be taken within one year after the child’s birth or placement. This type of leave is called “family leave.”
- To care for the employee’s spouse, child or parent with a *serious health condition*. The term “parent” includes the biological parent of an employee or an individual who stands or stood *in loco parentis* to the employee when the employee was under 18 or incapable of self-care because of mental or physical disability, but does not otherwise include a “parent-in-law” or a grand-parent. The term “child” includes a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* towards the child, but does not include any individual age 18 or over, unless the person is incapable of self-care because of mental or physical disability. The term “spouse” includes an employee’s husband or wife, as defined by applicable State law, including a “common law” spouse who the employee has previously held out or represented to be the employee’s spouse. This type of leave is called “caregiver medical leave.”

- For the employee’s own *serious health condition* (including pregnancy, childbirth and related conditions). This type of leave is called “medical leave.”
- For a “qualifying exigency” arising out of the employee’s spouse, child, or parent being on current active duty with the United States Armed Forces, the United States Reserves, or the National Guard, or having been notified of an impending call or order to active duty in the United States Armed Forces, the United States Reserves, or the National Guard in support of a contingency operation. This type of leave is called “servicemember family leave.”
- To care for the employee’s spouse, child, parent, or “next of kin” (if the employee is the nearest blood relative) who is a “recovering service member.” A “recovering service member” is a member of the Armed Forces, the United States Reserves, or the National Guard who suffered a serious injury or illness while on active-duty and in the line of duty that may render the person unable to perform the duties of the person’s office, grade, rank or rating and who is undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. This type of leave is called “servicemember caregiver leave.”

Serious Health Condition. A “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves: (1) inpatient care (*e.g.*, an overnight stay in a hospital), including any period of incapacity or any subsequent treatment in connection with the inpatient care; or (2) “continuing treatment” by a health care provider and a period of incapacity of more than three consecutive calendar days; or (3) “continuing treatment” by a health care provider and any period of incapacity caused by pregnancy, childbirth and related conditions; or (4) “continuing treatment” by a health care provider and any period of incapacity caused by a chronic or permanent long-term condition; or (5) any period of absence to receive or recover from multiple treatments by or under orders or referral from a health care provider for restorative surgery after an injury or for a condition so serious that, in the absence of medical intervention or treatment, would likely result in a period of incapacity of more than three consecutive calendar days. “Incapacity” means an inability to perform regular daily activities or essential job duties due to the condition, treatment, or recovery. A serious health condition may include occupational or on-the-job-related injuries and illnesses that might also qualify for workers’ compensation insurance coverage.

FMLA Year. In determining the amount of leave available to an employee, we use a “rolling” 12-month period measured backward from the date an employee uses leave covered by this policy. The method essentially takes a snapshot of the twelve-month period which changes daily. Each time an employee takes FMLA leave, the remaining leave entitlement is the balance of 12 (or 26) weeks not used during the immediately preceding twelve months. This rolling twelve-month period is referred to as the “FMLA year.”

Maximum Length of Leave. No employee may take more than 12 weeks total of “family leave,” “caregiver medical leave,” “medical leave” or “servicemember family leave” during the FMLA year. If both a husband and wife are *eligible employees*, they may take only a combined *total* of 12 weeks for “family leave” during the FMLA year. No employee may take more than 26 weeks of “service member caregiver leave” during the FMLA year. If an employee requests both “servicemember family leave” and “service member caregiver leave,” the employee may take only

a combined *total* of 26 weeks of leave for these two reasons during the FMLA year. If both a husband and wife are *eligible employees*, they may take only a combined *total* of 26 weeks of “service member caregiver leave” during the FMLA year.

Procedure for Requesting Leave. Except where leave is unforeseeable or giving notice is impracticable, employees must request FMLA leave by submitting a completed *Request for Leave* form to Human Resources at least thirty (30) days before the date the employee wants the leave to begin. Failure to give thirty (30) days’ advance notice of a foreseeable absence may result in the employee having to wait to begin the leave until thirty days after notice is received. If advance notice is not possible, the employee must provide as much notice as is practicable under the circumstances, which in most cases should be within two business days after the employee becomes aware of a need for a FMLA leave. As part of the notice, we require a statement of the employee’s intended return-to-work date. An employee’s request for “service member family leave” must be supported by a certification that the service member is on active duty or has been called to active duty, unless it is impossible or impracticable to obtain such certification within a reasonable period following the request or need for leave.

Designation by Company. If we determine that an employee’s absence is covered by this policy, including an absence that could qualify for another type of leave described in this *Handbook*, we may designate the absence as FMLA leave covered by this policy and count the absence toward the employee’s 12 weeks (or 26 weeks) of FMLA leave.

Medical Certification & Recertification of a Serious Health Condition. If an employee requests “caregiver leave,” “medical leave,” or “servicemember caregiver leave”, we usually will require a medical certification of the employee’s or family member’s health condition and the probable length of time treatment will be required. If the leave is requested to care for a qualifying family member with a serious health condition, we usually will require an additional certification regarding the necessity for the employee to provide care to the family member. We also may require recertification on a reasonable basis during the leave. Certifications must be provided on the *Certification of Health Care Provider* form. Failure to provide requested certifications may result in delay or denial of the requested FMLA leave and potential treatment of the absence as unexcused, which may lead to discipline, up to and including discharge.

Second/Third Opinion on Certification. To verify any certification given by a health care provider, we may require the employee to obtain a second medical opinion from another health care provider we choose at our expense. If the second opinion differs from the certification provided by the employee’s health care provider, we may require, at our expense, the opinion of a third healthcare provider selected jointly. The third opinion will be final and binding.

Use of Available Paid Leave. Unless the employee’s absence is related to an on-the-job injury covered by workers compensation insurance for which the employee receives workers’ compensation benefit payments, during a FMLA leave covered by this policy, an employee must use available unused paid sick leave, paid vacation, in that order, to the extent the employee is provided such benefits. If an eligible employee is also receiving payments for short term or long term disability benefits during a leave covered by this policy, we will require the employee to use available paid leave to make up the difference between the employee’s usual pay and the disability

benefits payments. After the employee exhausts all available paid leave, the remainder of the leave, if any, will be unpaid. The maximum periods of leave available under this policy may not be extended by adding paid leave to the FMLA leave period.

Form of Leave (Consecutive, Intermittent, or Reduced Work Schedule/Duties). Leave under this policy is generally to be taken in a single consecutive absence up to the 12-week or 26-week maximum. But under some circumstances, employees may take leave under this policy “intermittently,” which means taking leave in short blocks of time (of no less than one quarter hour increments) while continuing to work. Under other circumstances, employees may take “leave” under this policy through a reduction of the employee’s normal weekly or daily work schedule or by assignment to a different job with duties the employee can perform despite the serious health condition while retaining equivalent pay and benefits as the employee’s usual job. Intermittent or reduced-schedule medical leave may be granted, if necessary, for a “caregiver leave,” “medical leave,” “service member family leave,” or “servicemember caregiver leave.” “Family leave” must be taken in consecutive workweeks, unless approved in advance by the Human Resources. Regardless of the form of leave, in all cases, the total FMLA leave during the FMLA year will not exceed the maximum length allowed by this policy.

Scheduling Medical Treatments. Employees should consult with the employee’s or family member’s treating physician to schedule any necessary medical treatment to avoid unnecessary disruption of our operations (for example, scheduling periodic medical treatment for a serious health condition at or near the end of the workday).

No Outside Employment During Leave. Employees may not accept employment with another employer and may not actively engage in self-employment while on any FMLA leave of absence covered by this policy. If the employee does so, Diablo Loco will consider the employee to have voluntarily quit.

Reporting During Leave. While on an approved FMLA leave, employees may be required to report semimonthly or weekly to Human Resources regarding the employee’s status and intent to return to work.

Employment Benefits During Leave. During an approved FMLA leave, an employee’s health insurance, if any, will continue just as if the employee had not taken leave. We will continue to pay any portion of the premium that we would pay if the employee was working. The employee must make arrangements to pay on time any portion of the premium the employee would pay if working. If an employee fails to pay on time any portion of the premium the employee is required to pay, the insurance coverage may terminate. Other benefits do not continue or accrue during FMLA leave. Employees may continue other benefits, if any, as permitted by the particular benefit plan by making arrangements in advance to make any required contributions or premium payments.

Return-to-Work Certification/Post-Leave Accommodation. When employee seeks to return to work following an approved medical leave (for the employee’s own serious health condition), the employee must provide a medical certification stating whether the employee is able to perform all essential job duties or if there are any limitations on the employee’s ability to perform essential

job duties. Failure to provide the return-to-work certification may result in delay of the employee's return to work until the certification is provided, or possible disciplinary action. If an employee continues to have physical or mental impairments at the conclusion of a medical leave taken under this policy, then consistent with our *Accommodation of Religion and Physical/Mental Impairments Policy*, we will engage in an interactive process with the employee to whether an employee is able to return to work with or without reasonable accommodation. If Diablo Loco offers an employee the opportunity to return to work with a reasonable accommodation and the employee fails to do so, the failure to return to work will be treated as a voluntary quit.

Employment Following Leave. When an employee returns to work as scheduled following FMLA leave, the employee in most circumstances will be assigned to his or her former job or to an equivalent job with equivalent pay, benefits, seniority, and working conditions. Under limited circumstances, Diablo Loco may be entitled to replace rather than reinstate certain highly paid "key" employees after or during a FMLA leave. If an employee questions whether he or she is considered a "key" employee, the employee should contact Human Resources.

Failure to Return From Leave. We will consider an employee to have voluntarily quit if the employee does not return to work on or before the third scheduled work day after an approved FMLA leave expires. If an employee fails to return to work following FMLA leave, the employee may be required to reimburse us for any insurance premiums we paid during the leave, *unless* the failure to return to work is due to circumstances beyond the employee's control, such as the continuation of a serious health condition or a new serious health condition arising.

Military Leave

If you are a past or present member of the uniformed service, have applied for membership in the uniformed service, or are obligated to serve in the uniformed service, then Diablo Loco will not deny you initial employment, reemployment, retention in employment, promotion, or any benefit of employment because of this status.

You have the right to be reemployed by Diablo Loco if you leave your job to perform military service provided that:

1. you ensure that Diablo Loco receives advance written or verbal notice of your service;
2. you have five years or less of cumulative service in the military while with Diablo Loco;
3. you return to work or apply for reemployment in a timely manner after conclusion of your military service; and
4. you have not been separated from military service with a disqualifying discharge or under other than honorable conditions.

If you meet these eligibility requirements, you will be restored to your prior position with Diablo Loco (or, in some cases, a comparable job) and will be eligible for the benefits you would have attained if you had not been absent due to military service.

If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.

Even if you do not elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

Diablo Loco will not retaliate against anyone assisting in the enforcement of rights created by the Uniformed Services Employment and Reemployment Rights Act (USERRA), including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

Immigration Compliance

We are committed to employing only United States citizens and aliens who are authorized to work in the United States and who comply with applicable immigration and employment law. As a condition of employment, every individual must provide satisfactory evidence of his or her identity and legal authority to work in the United States. The most common forms of identification are a driver's license and social security card; however, other official forms of identification can be used.

CHAPTER 3 - EMPLOYMENT

Employment at will

Your employment at Diablo Loco is based on your personal choice to accept a job with Diablo Loco. Your employment is "at will" and may be ended, with or without cause, with or without prior notice, at any time by you or by Diablo Loco.

Hiring

To be considered for employment with Diablo Loco, a job applicant must fully and truthfully complete an application on the premises at a Company office. Diablo Loco does not consider a resume from a person seeking work unless accompanied by a completed job application.

The General Manager will maintain blank application forms and is responsible for providing each applicant with a blank form, for insuring that any applicant does not take application forms away from the office, and for receiving completed application forms.

No employee is authorized to enter into any employment contracts. All employees who come into contact with applicants must avoid statements or promises to any job applicant concerning future job security or a specific term of employment.

Criminal Background Checks

All new employees will undergo criminal background checks. Any employees who are currently with Diablo Loco that did not undergo a criminal background check when initially employed may be asked to undergo a criminal background check as well. Your employment may be terminated if something comes up on your record, depending on the nature of the offense, and the particular

position that you hold. Any refusal to comply with a criminal background check will be grounds for termination.

Initial Employment Period/Probationary Period

Your first 30 days of continuous employment will no doubt be a learning experience. Every new employee goes through an initial period of adjustment in order to learn about Diablo Loco and about his or her job. During this time, you will have an opportunity to find out if you are suited to, and like your new position.

Additionally, the initial employment period gives your supervisor a reasonable period of time to evaluate your performance. The initial employment period is thirty days.

During this time, you will be provided with training and guidance from your supervisor. You may be discharged at any time during this period if your supervisor concludes that you are not progressing or performing satisfactorily. Under appropriate circumstances, the initial employment period may be extended, further, any significant absence will automatically extend the initial employment period by the length of absence.

At the end of the initial employment period, you and your supervisor may discuss your performance. Provided your job performance is "satisfactory" at the end of the initial employment period, you will continue in our employment as an at-will employee. Completion of the initial employment period does not guarantee continued employment and does not change the at-will nature of the employment relationship with Diablo Loco.

Access to Personnel Files

Employees may inspect their own personnel file in the presence of a representative of Diablo Loco. Please contact Human Resources to schedule a time. Employees will not be allowed to view investigation records or any letters of reference. You will be provided access to personnel records in accordance with all applicable state laws.

Only authorized managers and management personnel have access to your personnel file. However, we will cooperate with – and provide access to your personnel file to – law enforcement officials or local, state, or federal agencies in accordance with applicable law.

Dishonesty

Dishonesty includes, but is not limited to (i) providing false information to Diablo Loco; (ii) falsifying any company records; (iii) theft or unauthorized possession of company property or merchandise, customer property or a fellow employee's property, or unauthorized consuming or dispensing alcohol, and (iv) failure to report known or suspected theft or falsification. Employees must have permission before removing any company property from the workplace. If an employee takes merchandise from Company premises for the employee's own personal use, the employee must have an invoice showing the employee purchased the merchandise from Diablo Loco.

Theft

Theft includes, but is not limited to, stealing alcohol, food, Company equipment and supplies, and promotional items. If an employee is found to have stolen any items not belonging to the employee, the employee is subject to immediate termination.

Insubordination

We expect employees to perform job assignments promptly and to carry out all instructions from supervisors and manager. Rude comments or behavior directed at a supervisor or manager is grounds for discipline, including discharge. Refusing or failing to carry out instructions, including an unreasonable refusal to work overtime, is a ground for discipline, including discharge. Any verbal abuse of a supervisor or manager, including profanity or name calling, is a ground for discipline, including discharge. Failure or refusal to cooperate with investigations of misconduct or violation of Company policy is a ground for discipline, including discharge. Insubordination also includes failure or refusal to sign written acknowledgments of Diablo Loco's employment actions (such as a written warning or performance evaluation).

We understand that a refusal or failure to carry out instructions may result from a misunderstanding of the instructions or a fear of unsafe work. Employees are encouraged to ask for clarification of instructions if not fully understood. And if an employee believes in good faith that performing as instructed would put the employee or others in imminent danger of bodily harm, or would cause the employee to do something that is illegal, unethical or a violation of company policy, the employee should respectfully inform the supervisor about this belief and request to speak to a manager or the supervisor's supervisor.

CHAPTER 4 - COMPENSATION

Hourly and salaried employees are paid every week. As a condition of employment, if termination occurs during a pay period, the final paycheck will be issued at the regular time paychecks are distributed unless special arrangements are made. Pay periods begin on a Monday and end Sunday. Paychecks are distributed after 6:00 p.m. on Friday.

Before you are scheduled to work any shifts at Diablo Loco location, there are certain documents that must be filled out or obtained. They are:

- ____ Employment Application
- ____ Form W4 (Income Tax Withholding)
- ____ Form I9 (Immigration Form)
- ____ A Xerox copy of your driver's license
- ____ Certificate of Completion of Alcohol Awareness Class *

*NOTE: Arrangements for this class will be made at the time of hire if the applicant is not already certified by the State. This class is mandatory in most states. Failure to comply with this Company policy will result in removal from work schedule until certified by the State or termination will result.

EMPLOYEE TIP REPORTING AND TIP ALLOCATION

The law requires that all tipped employees report all tip income. The Internal Revenue Service requires that you report and claim all tips received to your employer for withholding tax. The IRS has established laws, which govern the reporting of gratuities. Questions concerning this procedure should be directed to Human Resources. Additionally, the IRS feels strongly that reporting of tip income is an area of abuse and, as a result, the rules have been created which explicitly identify the type of records tipped employees must maintain.

You must maintain some type of log, with your name and address indicated, which states daily entries for the amount of cash tips and charge tips earned. The date of the entry and the work date must appear on the log.

Company policy requires that all tipped employees report tips nightly on their time card. If you fail to do so, you will receive a written warning. If you continue to forget to write your tips on your time card, further disciplinary action may occur, up to and including termination.

Employee Requirements:

1. Keep a log with your name and address on it that states daily entries for the amount of cash and charge tips earned on each date worked.

EXAMPLE: *Daily Tip Log* - John Smith, 117 Sycathis, Podunk, Texas 75050

<u>DAY</u>	<u>DATE</u>	<u>CASH TIPS</u>	<u>CHARGE TIPS</u>	<u>TOTAL TIPS</u>
Wednesday	12/21/11	\$75.00	\$25.00	\$100.00

2. Declare all tips earned as income. This is done on the time card by filling in the amount of tips earned, next to amount of hours worked that day.
3. At the end of your scheduled work week, add all tips earned and circle the total amount at the bottom of your time card.

Any tipped employees not completing the tip declaration on their time card will not be paid for the hours worked on that time card until the tip declaration has been completed. **NO TIP DECLARATION – NO PAYCHECK! Under no circumstance is a manager allowed to complete a tip declaration for an employee.**

ALL EMPLOYEES ARE REQUIRED BY FEDERAL LAW TO REPORT TIP INCOME!

WHAT WE MUST DO

1. Add the amount of declared tips to the employee hourly wage and then compute and withhold income and social security taxes based upon that total.

2. Report all tips declared by employee on his/her W-2 at year's end.
3. At year's end, the club must make sure that eight percent (8%) of each unit's total sales have been reported by employees as tipped income. If declared tips fall short of this figure, the Club must by law, allocate, the short fall based upon the individual hours worked by the tipped employees. This allocation is reported on the individual's W-2 at year end. If tip income is inaccurately reported, you could easily wind up owing a considerable sum of money at tax time.

Time Records

Claiming time that you have not worked, committing fraud when submitting time you have not worked, and falsification of time worked is prohibited. Violation of this policy may subject an employee to disciplinary action, up to and including immediate termination.

Getting paid for overtime

You are eligible for overtime pay only if your job is classified as non-exempt. If you are a non-exempt employee, you will receive overtime pay for any hours worked in excess of 40 hours during a week. Only hours actually worked will be counted for purposes of overtime calculations. Vacation, sick time and holidays will not count for overtime purposes. Overtime is paid at a rate equal to 1.5 times your regular hourly rate.

Your supervisor must approve all overtime in advance. Overtime worked without the advance approval of your supervisor will be paid, but may result in corrective action.

Wage overpayment / underpayment policy

Diablo Loco takes all reasonable steps to ensure that you receive the correct amount of pay in each paycheck and that you are paid promptly on scheduled paydays.

If there is an error in the amount of pay you receive, you should promptly bring the discrepancy to the attention of Human Resources or your supervisor so that corrections can be made as quickly as possible. If you have been underpaid, Diablo Loco will pay you the difference as soon as possible. If you have been paid in excess of what you earned, you will need to return the overpayment to Diablo Loco as soon as possible. No employee is entitled to retain any pay in excess of the amount he or she has earned according to the agreed-upon rate of pay. If a wage overpayment occurs, the overpayment will be regarded as an advance of future wages payable and will be deducted in whole or in part from the next available paycheck(s) until the overpaid amount has been fully repaid. You will be expected to sign a Wage Deduction Authorization Agreement authorizing such a deduction.

We ask that you realize that pay errors are not intentional and be understanding if such an event occurs.

CHAPTER 5 – ON THE JOB

Appearance and Conduct

Diablo Loco expects employees to maintain a neat, well groomed appearance at all times. You are expected to wear your uniform at all times. Be considerate of Diablo Loco's image as well as your image with customers and your co-workers.

Avoiding Conflicts of Interest

A conflict of interest exists if circumstances would lead a reasonable person to question whether your motivations are aligned with Diablo Loco's best interests. For example, if you have a financial or other personal interest that might interfere with your objectivity in performing your job duties, you may have a conflict of interest. Diablo Loco expects all employees to avoid conflicts of interest that could adversely influence their judgment, objectivity or loyalty to Diablo Loco when performing job duties. If you are unsure about whether a situation presents a conflict of interest, you are expected to disclose the situation with a manager and Human Resources and request feedback.

Safety

Drug and Alcohol Policy

Possession, use, or attempt to sell or distribute a controlled substance on a mixed beverage license premise violates state and federal laws for which DIABLO LOCO may be held accountable as well as the individual committing the violation.

Diablo Loco explicitly prohibits:

- The use, manufacture, possession, solicitation for, or sale of, narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on Company premises, or while performing an assignment.
- Being impaired or under the influence of legal or illegal drugs or alcohol away from Diablo Loco or customer premises, if such impairment or influence adversely affects the employee's work performance, the safety of the employee or of others, or puts Diablo Loco's reputation at risk.
- Possession, use, solicitation for, or sale of legal or illegal drugs or alcohol away from Diablo Loco or customer premises, if such activity or involvement adversely affects the employee's work performance, the safety of the employee or of others, or puts Diablo Loco's reputation at risk.
- *The presence of any detectable amount of prohibited substances in the employee's system while at work, while on the premises of Diablo Loco or its customers, or while on company business. "Prohibited substances" include illegal drugs, alcohol or prescription drugs not taken in accordance with a prescription given to the employee.*

Diablo Loco will conduct drug and/or alcohol testing under any of the following circumstances:

- **FOR-CAUSE TESTING:** Diablo Loco may ask you to submit to a drug and/or alcohol test at any time it feels that you may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances: evidence of drugs or alcohol on or about your person or in your vicinity, unusual conduct on your part that suggests impairment or influence of drugs or alcohol, negative performance patterns, or excessive and unexplained absenteeism or tardiness.
- **POST-ACCIDENT TESTING:** Any employee involved in an on-the-job accident or injury under circumstances that suggest possible use or influence of drugs or alcohol in the accident or injury event may be asked to submit to a drug and/or alcohol test. “Involved in an on-the-job accident or injury” means not only the one who was or could have been injured, but also any employee who potentially contributed to the accident or injury event in any way. Employee(s) involved in a work-related accident and/or injury are required to submit to a drug and/or alcohol test within 24 hours after the work-related accident and/or injury and failure to do so may result in termination from employment.

The types of samples submitted for testing that may be administered under each of the above categories consist of either breath, urine, blood, and/or hair follicle.

Employee(s) who violate this drug and alcohol policy or who refuse to submit to testing under this policy, are subject to immediate termination and are not eligible for re-hire with Diablo Loco at any time in the future.

If you are tested for drugs or alcohol outside of the employment context and the results indicate a violation of this policy, you may be subject to appropriate disciplinary action, up to and possibly including discharge from employment. In such a case, you will be given an opportunity to explain the circumstances prior to any final employment action becoming effective.

Accidents and Emergencies

Maintaining a safe work environment requires the continuous cooperation of all employees. Diablo Loco requires you to communicate with fellow employees and your supervisor regarding safety issues. Any safety concerns should be brought to the attention of your supervisor and management.

If you are injured on the job, Diablo Loco provides coverage and protection in accordance with the Worker’s Compensation Law. You should report on-the-job injuries immediately to your supervisor and the Human Resources Department for help in completing the appropriate paperwork. If you do not report the accident, you may not be eligible for Worker’s Compensation.

Any employee involved in an accident or injury while in the course of employment with Diablo Loco (regardless of whether the accident or injury occurs on Diablo Loco premises), must report the accident/injury to Human Resources within 24 hours of the occurrence of the accident and/or injury.

Violence

Diablo Loco strongly believes that all employees should be treated with dignity and respect. Diablo Loco does not tolerate violence at work, including fighting, horseplay, or conduct that may be dangerous to others. If you witness such conduct or hear someone threatening violence, you must immediately report it to your supervisor and the Human Resources Department. If you believe that somebody is hurt or in danger of being hurt, you should also call 911.

If you have a dispute or difference with another person while at work that you believe could escalate into a potentially violent situation, you must immediately bring it to the attention of your supervisor and the Human Resources Department before the situation escalates into violence.

Diablo Loco will promptly respond to any incident or suggestion of violence. Violation of this policy will result in disciplinary action, up to and including immediate discharge.

Weapons

To ensure that Diablo Loco maintains a workplace safe and free of violence for all employees, weapons of any kind are strictly prohibited on or near company grounds. All employees, including temporary and contract employees, vendors, visitors and customers are subject to this provision.

Diablo Loco reserves the right at any time and at its discretion to search any company property, including desks, for the purpose of determining whether weapons have been brought onto its property or premises in violation of this policy. Employees who fail or refuse to promptly permit a search or who are found in violation of this policy will be subject to immediate termination.

Relationships

Employment of Relatives

Management and supervisors are prohibited from hiring any of their respective immediate family members. Immediate family includes your spouse, your child, your parent, your spouse's parent, your sister, brother, grandparent or domestic partner of either sex. This includes any step relations.

If you develop a "significant other" relationship with another employee, or if another employee becomes your immediate family member, we will try to re-assign job duties to minimize problems of supervision, safety, security or morale. If this is not feasible, you will be asked to decide which one of you will resign. If you cannot reach agreement, we will decide which of you will remain employed with Diablo Loco.

Romantic or Sexual Relationships

We strongly discourage romantic or sexual relationships and any conduct that may reasonably be expected to lead to the formation of a "romantic" or sexual relationship between managers/supervisors and any employees over whom the managers/supervisors have decision making or supervisory authority.

By its discouragement of romantic and sexual relationships, Diablo Loco does not intend to inhibit the social interaction (such as lunches or dinners or attendance at entertainment events) that are or should be an important part or extension of the working environment.

If a romantic or sexual relationship between a manager/supervisor and an employee should develop, it will be the responsibility and mandatory obligation of the manager/supervisor to promptly disclose the existence of the relationship to the **employee's** Department Head, as well as Human Resources. The employee may make the disclosure as well, but the burden of doing so will be upon the manager/supervisor.

Upon being informed or learning of the existence of such a relationship, Diablo Loco may take all steps that it deems appropriate. At a minimum, the manager/supervisor must withdraw from participation in activities or decisions that may reward or disadvantage any employee with whom the supervisor has or has had such a relationship.

In addition, any person who believes that he or she has been adversely affected by such a relationship, notwithstanding its disclosure, is encouraged to make his or her views about the matter known to the Human Resources Director in a prompt manner.

This policy shall apply without regard to gender and without regard to the sexual orientation of the participants in a relationship of the kind described.

Diablo Loco absolutely prohibits any sexual conduct, even allegedly consensual, involving any employees at the workplace or on Company property (e.g., even in a personal vehicle if parked in our parking lot). Such sexual conduct is grounds for discipline, up to and including immediate discharge.

Open Door Policy

Diablo Loco promotes an atmosphere where employees can talk freely with members of the management staff. You are encouraged to openly discuss with your supervisor any problems so appropriate action may be taken. If your supervisor cannot be of assistance, Human Resources is available for consultation and guidance. Diablo Loco is interested in all of our employees' success and happiness with us. We, therefore, welcome the opportunity to help you whenever feasible. While we provide you with this opportunity to communicate your views, please understand that not every complaint can be resolved to your satisfaction. Even so, we believe that open communication is essential to a successful work environment and all employees should feel free to raise issues of concern without fear of reprisal.

Getting Issues Resolved

To foster sound employer-employee relations, we offer a procedure for expressing general employment-related concerns or questions (e.g., interacting with team members, workload issues, tardiness, etc.).

To address a general concern or question, you should take the following steps:

1. Address your concern with the individual, if you are comfortable doing so;
or,
2. Discuss the situation with your supervisor, if you are comfortable doing so.

If the situation is not resolved after discussion with your immediate supervisor, barring extenuating circumstances, discuss it with the next level supervisor, then to the General Manager, and then to Human Resources. Please respect the chain of command, as they will work with you to facilitate a resolution.

Unless the grievance involves a complaint of harassment, workplace violence or discrimination, employees should always attempt to resolve grievances through the informal procedure set forth above.

Reporting Violations

All employees are required to report suspected violations of Company policy or any situation that does not appear to be in Diablo Loco's best interests. Employees must report suspected violations, even if it appears that a manager or supervisor is violating or has violated Company policy. Employees must promptly report suspected violations of Company policy to the General Manager. If the report involves a manager or supervisor, promptly report the misconduct to the General Manager or Human Resources. Reporting violations of Company policy will not adversely affect any employee's employment. On the other hand, failure to report or retaliation against an employee who reports are grounds for discipline, including discharge.

Investigations

We must be able to investigate suspected unauthorized conduct. Employees are required to cooperate and to assist management during investigations. To the extent practicable, investigations will be confidential with due regard for the sensitive nature of such complaints. Employees may be required to provide and sign written statements and to submit to reasonable searches of clothing, purses, lunch boxes or other containers, desks, toolboxes and personal vehicles. An employee's refusal to cooperate in an investigation, including a refusal to provide a written statement or submit to a search if requested to do so, is grounds for discipline, including discharge.

Corrective Action

We expect each employee to accept responsibility for his or her own behavior, to follow our policies, procedures and rules, and to perform his or her job to the best of the employee's abilities. If an employee fails to meet our expectations, we generally take corrective action based upon the nature of the violation, the individual circumstances, and an employee's previous disciplinary and performance history. We consider an unsuccessful attempt by an employee to violate a work rule

or Company policy to be as serious and grounds for discipline as an actual violation of a work rule or company policy.

Corrective action may begin or continue with a verbal or written warning or notice. If requested, an employee must sign all written warnings or notices. The signature does not mean agreement with the discipline but merely is to acknowledge the written warning or notice. Failure or refusal to sign when requested is insubordination and grounds for additional discipline, up to and including discharge.

Corrective action may begin or continue with an unpaid suspension from work. The length of the suspension will vary depending upon the severity of the offense or performance shortcoming and the employee's prior disciplinary or performance record.

Corrective action may begin or continue with a discharge from employment. Employees who fail to improve their conduct or performance after progressive discipline will be discharged. But we reserve the right to discharge an employee without first giving a verbal or written warning or a suspension, if we determine the circumstances justify immediate discharge. An employee might also be discharged at any point during or immediately after the initial introductory period for unsatisfactory job performance, without previous warning.

Depending on the nature of the complaint, employees may use our “open door/employee grievance” policy or EEO policy to complain about corrective action.

Employer Information and Property

The protection of Diablo Loco’s business information, property and all other company assets are vital to the interests and success of Diablo Loco. No Company related information or property (except in the ordinary course of performing duties on behalf of Diablo Loco) may be removed from Diablo Loco’s premises. In addition, when you leave Diablo Loco, you must return all Company related information and property that you have in your possession, including documents, files, records, manuals, information stored on a personal computer or on a computer disk, company credit cards, cell phones, supplies, and equipment or office supplies. Violation of this policy is a serious offense and will result in appropriate disciplinary action, up to and including discharge. Appropriate legal action may be taken after an employee is terminated.

E-Mail

All e-mails to and from Company issued e-mail accounts are the property of Diablo Loco and are subject to monitoring. You should always exercise good judgment when using e-mail. There should be no expectation of privacy by any employee, contractor, vendor or intern.

All Company policies and procedures apply to your use of e-mail, especially, but not exclusively, relating to: intellectual property, confidentiality, company information dissemination, standards of conduct, misuse of company resources, anti-harassment, and information and data security. Employees may not use Company e-mail for jokes, chain letters, religious material, sexually

explicit images, ethnic slurs, inappropriate comments about race, color or religion, off-color jokes, or anything else that may be construed as harassing or disrespectful of others.

If you receive unsolicited or unwanted e-mail, report it to the IT Department.

Internet Policy

Certain employees may be provided with access to the Internet to assist them in performing their jobs. The Internet can be a valuable source of information and research. Use of the Internet, however, must be tempered with common sense and good judgment. Limited personal use of Internet resources is a special exception to the general prohibition against the personal use of computer equipment and software.

All company policies and procedures apply to your conduct on the Internet, especially, but not exclusively, relating to: intellectual property, confidentiality, company information dissemination, standards of conduct, misuse of company resources, anti-harassment, and information and data security.

You may not use the Internet to look at sexual images or other material that could reasonably offend someone based on race, gender, religion, national origin, disability, age, color, veteran status, pregnancy, political beliefs, or other characteristic protected by law. The following activities are specifically prohibited:

1. using the Internet for personal gain
2. using the Internet to "hack" into any site or business
3. obtaining or using someone else's password without authorization
4. violating copyright law
5. failing to adhere to license agreements
6. listening to Internet radio
7. sending or posting messages that slander or defame another
8. downloading files with any harmful material therein
9. using the Internet for political purposes
10. sending anonymous e-mail messages
11. posting or transmitting messages that may be construed as representing Diablo Loco
12. jeopardizing the security of Diablo Loco's systems
13. signing up for newsletters or communications not directly related to the performance of your job
14. sending or posting messages that disparage another organization's products or services

If you abuse your right to use the Internet, it will be taken away from you. In addition, you may be subject to disciplinary action, including possible termination and civil and criminal liability.

Diablo Loco reserves the right to monitor your internet usage at any time, so you should not expect that your internet usage is private.

Social Media Policy

- *Definition of Social Media* - For the purposes of this policy, social media should be understood to include any website or forum that allows for open communication on the internet including, but not limited to:
 - Social and professional networking sites (e.g., LinkedIn, Facebook, Tumblr);
 - Micro-blogging sites (e.g., Twitter);
 - Blogs (including company and personal blogs) and other online journals and diaries;
 - Bulletin boards and chat rooms;
 - Online encyclopedias (e.g., Wikipedia);
 - Video and photo-sharing websites (e.g., YouTube, Flickr); and
 - Employee review sites (Glassdoor, vault).

Social media activity not only includes adding posts/content, but also includes permitting or failing to remove posts/content by others when the employee has control over the forum, such as a personal page or blog.

- *Application* - This policy applies to all employees and to social media activity that relates to Diablo Loco's business, employees, customers, vendors or competitors or that identifies an employee's affiliation with Diablo Loco (other than as an incidental mention of place of employment in personal social media activity unrelated to Diablo Loco).
- *Scope* - This policy applies to social media activity when on or off duty, while using Diablo Loco's or personal electronic resources, and whether or not the employee posts anonymously or using a pseudonym.
- *Use at Work or on Employer Equipment* - Employees should limit their use of social media during working hours or on equipment provided by Diablo Loco unless such use is work-related or authorized by a supervisor or other authorized personnel of Diablo Loco. Employees should not use company-provided email addresses to register on social networks, blogs or other websites for personal use. Employees should note that this provision is not meant to prohibit employees from engaging in protected concerted activity under Section 7 of the National Labor Relations Act (NLRA).
- *Application of Other Policies* - Diablo Loco's policies regarding discrimination, harassment, retaliation and protection of Diablo Loco's confidential information apply to social media use.
- *Personal Opinions* - Employees should express only personal opinions online and should never represent themselves as a spokesperson for Diablo Loco unless given explicit permission or approval to do so. An employee who chooses to post online content relating to Diablo Loco should make it clear that he or she is not speaking on behalf of Diablo Loco.

Endorsements - Weekly promotion of our Company on social media is mandatory. When endorsing Diablo Loco in social media be sure to disclose your affiliation with Diablo Loco (*i.e.*, wait staff, bartender, door man/woman). For assistance on how to word your promotion or endorsement, please see your Company manager.

- *Confidential Information* - Employees should aim to protect Diablo Loco's trade secrets and private, confidential and proprietary information. Trade secrets are defined as any confidential business information which provides Diablo Loco a competitive edge. Confidential and proprietary information, sometimes referred to as trade secrets is defined as information a company wishes to keep confidential. Proprietary information can include secret formulas, processes, and methods used in the conduct of Diablo Loco's business. Employees should make sure that online postings do not violate any nondisclosure or confidentiality obligations or disclose **Diablo Loco's** trade secrets and confidential and proprietary information. Such prohibitions do not apply to employee information, including contact information, or information regarding terms and conditions of employment, including wages, hours, benefits, working conditions and other information protected by Section 7 of the NLRA.
- *Intellectual Property Laws* - Employees should respect and comply with all copyright, patent, trademark and intellectual property laws and to avoid violating the intellectual property rights of Diablo Loco or others. Employees are prohibited from using Diablo Loco's logos for any business/commercial venture without obtaining prior approval.
- *Privacy Settings* - Employees should use privacy settings to restrict access by others to overly personal content posted on social media websites.
- *Demonstrate Respect* – It is permissible for employees to express themselves on social media providing they are not conducting or condoning illegal activities or activities that go against our core values. Dishonorable content such as racial, ethnic, sexual, religious, and physical disability slurs are not tolerated. Employees should not post content that: (a) is threatening, abusive, offensive or knowingly false; (b) disparages the employer's products or services; or (c) depicts the employee engaging in conduct that violates company policy or that is unlawful. Such prohibitions do not apply to employees' Section 7 right to complain about and discuss wages, hours and working conditions. Negative remarks directed towards this Company, other affiliated companies, other employees, managers, owners and customers is strictly prohibited.
- *Personal Information* - Employees should safeguard sensitive personal information and avoid posting their own or others' personal information that may be used to commit identity theft, such as credit card numbers, driver's license numbers and Social Security Numbers.
- *Business-Related Social Media Accounts* - All business-related social media accounts and related postings maintained by employees for marketing and/or networking purposes remain the property of Diablo Loco at all times. All information, including the account, login and password, should be provided to Diablo Loco at the end of the employee's employment. No employee has the right to use the account after termination of employment, and only Diablo Loco is permitted to change account names and settings.
- *Retaliation* - Diablo Loco prohibits taking adverse action (e.g., discipline, transfer, termination) against any employee for reporting a possible violation of this social media policy or cooperating in any investigation with respect to a potential social media policy violation. Any employee who retaliates against another employee in violation of this policy will be subject to disciplinary action, up to and including termination.
- *Media Inquiries* - Any media inquiry for comment on Diablo Loco's behalf must be directed to HR at hr@diablolocotexas.com.

- *Internal Contact* - Any concerns about social media content posted by others related to Diablo Loco must be directed to HR at hr@diablolocotexas.com.
- *Connecting with Management via Social Media* - Employees and supervisors/managers are cautioned against "friending," following or otherwise connecting with each other on personal social media accounts as access may reveal personal and private issues.
- *References* - Employees must direct all requests for recommendations or references received through social media to HR at hr@diablolocotexas.com.
- *Work-Related Concerns* - For the most efficient resolution, employees are asked to directly address any work-related concerns with their supervisor rather than through social media. This policy is not intended to prohibit employees from using social media or otherwise violate Section 7 rights.
- *Monitoring and Enforcement* - Where applicable law permits, Diablo Loco reserves the right to monitor employees' use of any social media and to take appropriate action with respect to inappropriate or unlawful postings. The need to monitor may arise in cases where Diablo Loco has specific information about work-related misconduct or criminal activities or the unauthorized transfer of the employer's confidential and proprietary information and trade secrets or Diablo Loco needs to comply with applicable federal, state or regulatory requirements. Diablo Loco will monitor social media to the fullest extent permitted by law and will take disciplinary action, up to and including termination, against those who violate the policy. In monitoring social media, Diablo Loco will not in any way interfere with any employee rights under Section 7 of the NLRA.
- *NLRA Activity* - When applicable, protected concerted activity covered by the NLRA or a collective bargaining agreement is not prohibited by the policies, rules, mandates and /or prohibitions set forth in this Handbook. Diablo Loco will not enforce the social media policy or any other rule, mandate or prohibition in a manner that would interfere with employees' rights under the NLRA.

Personnel Records

To keep necessary company records up to date, it is extremely important that you notify the General Manager for any changes in:

- Name and/or marital status
- Address and/or telephone number
- # of eligible dependents
- W-4 deductions
- Person to contact in case of emergency
- I-9 status

No Solicitation or Distribution

To help maintain a pleasant, businesslike workplace, and to prevent unnecessary interruptions or inconvenience, we have a no solicitation or distribution rule. Non-employees are not permitted to solicit or to distribute literature of any kind in our offices or our worksites. Working time is for work and should be spent performing job assignments. Employees must not solicit co-employees

or distribute literature of any kind during working time. Employees may not solicit or distribute literature to another employee who is on his or her working time. Working time does not include time such as the unpaid meal break. To help ensure a clean and safe workplace, employees may not distribute literature of any kind in any work area (even during non-working time). Work areas include all areas where work is usually performed; examples of non-work areas are the break rooms and parking lots.

Unauthorized Recording of Conversations

To foster an environment of open communications as well as to protect confidential information, employees are prohibited from recording (by tape recorder or other device) any conversations with managers, supervisors, co-workers, or customers unless (i) the other party to the conversation gives advance written consent to the recording or (ii) the recording is previously approved by management. Violation of this policy is grounds for discipline, including discharge.

CHAPTER 6 – LEAVING DIABLO LOCO

Immediate Dismissal/Misconduct

Should it occur that an employee violates a policy of the house or any other established rule or procedure (depending on the seriousness and frequency of the events) and it becomes necessary to take corrective or disciplinary action, this action will be in the form of a written warning. Three written warnings in a six-month period will be considered grounds for termination.

However, in some cases at the discretion of our Company, we reserve the right to use immediate termination.

Warnings may also be issued as a result of deficiencies in performance. Any suspension or written warnings should be considered a “final notice” to correct the given situation.

Violations of House Policy which will result in immediate termination include the following:

1. Conviction of a felony.
2. Falsification of company records.
3. Larceny or unauthorized possession of, or the use of, property belonging to any co-worker, visitor, or customer of Diablo Loco.
4. Possession of dangerous weapons on the premises or violating Diablo Loco’s Weapons Policy.
5. Assault or serious breach of acceptable behavior.
6. Knowingly serving alcohol to a minor.
7. Knowingly serving alcohol to a person that appears to be intoxicated.
8. Providing or issuing wristband(s) to patrons who are not qualified, permitted, or entitled to have such wristband(s).

The above list is intended to be representative of the types of activities that may result in disciplinary action. It is not exhaustive, is not intended to be comprehensive and does not change the employment-at-will relationship between you and Diablo Loco.

Violations of House Policy which may result in immediate termination include, but are not limited to the following:

1. Stealing or destroying Company property.
2. Failure to report to management knowledge of theft or destruction of Company property including food, liquor, supplies, and salvage.
3. Release of confidential information regarding the internal operations of this Company.
4. Falsification of employee application.
5. Incorrect reporting of actual hours worked. If you do not clock in or out, only 4 hours will be paid.
6. Deliberately punching another person's timecard.
7. Dispensing aspirin or other over the counter medication to guests.
8. Threatening, intimidating, coercing, or interfering with guests or co-workers on Company property.
9. Failing to come to scheduled meetings.
10. Chewing gum or any unprofessional conduct while on the floor.
11. Leaving your station dirty.
12. Not being in complete and proper uniform while on the floor.
13. Smoking or drinking anything on the floor.
14. Failure to follow Company instructions, verbal or written.
15. Playing any games (pool, video, pinball) while on the clock, before going on duty, and after clocking out.
16. Arguing at any time with a customer, fellow employee or manager.
17. Going behind the bar unless authorized. (This includes waitresses, professional security, door/floor personnel and off-duty personnel and off-duty bartenders or other employees).
18. Lewd, immoral or indecent conduct.
19. Breach of trust or dishonesty.
20. Willful violation of an established policy or rule.
21. Insubordination.
22. Violation of the Anti-Harassment and/or Equal Employment Opportunity Policies.
23. Time clock violations.
24. Undue and unauthorized absence from duty during regularly scheduled work hours.
25. Excessive absenteeism or lateness.
26. Failure to call or directly contact your supervisor when you will be late or absent from work.
27. Leaving the work premises without authorization during work hours.
28. Deliberate non-performance of work.
29. Unauthorized possession, use or copying of any records that are the property of Diablo Loco.
30. Marring, defacing or other willful destruction of any supplies, equipment or property of Diablo Loco.
31. Violation of the Alcohol or Drug Policy.

32. Violation of Diablo Loco's Conflict of Interest/Outside Employment Policy and/or Confidentiality Policy.

The above list is intended to be representative of the types of activities that may result in disciplinary action. It is not exhaustive, is not intended to be comprehensive and does not change the employment-at-will relationship between you and Diablo Loco.

Termination of Employment

Diablo Loco recognizes the following types of terminations:

Resignation. If an employee decides to resign, we request at least two weeks written notice. The notice should include the reason for leaving, and the date the employee will leave work. The advance notice gives Diablo Loco the opportunity to find a replacement. Employees who properly give notice of resignation are generally eligible for rehire if they maintained a satisfactory performance and attendance record.

Voluntary Quit. An employee who quits *without* proper notice is classified as a voluntary quit. This is a poor practice. Absences on three consecutive days without notice will be considered a voluntary quit. Violation of Diablo Loco's leave policies is also considered a voluntary quit. An employee who quits without proper notice generally will not be considered for re-employment and forfeits unused vacation pay.

Reduction-in-Force/Layoff. Employees may be terminated ("laid off"), either individually or as part of a reduction-in-force, for purely economic or financial reasons, including lack of work, shortage of funds, abolition of positions, programs or services, or other material changes in jobs or Diablo Loco's organization. We have discretion to authorize or deny payment of unused annual leave to laid off employees, depending on the financial and economic conditions surrounding the reduction-in-force or layoff. A laid off employee is generally eligible for rehire if he or she has maintained a satisfactory performance and attendance record. For a period of one year after the layoff, Diablo Loco will attempt to give preference to laid off employees when filling job vacancies, provided the employee remains qualified for the job and maintained a satisfactory performance and attendance record.

Administrative Termination. An employee who is unable to return from work within the time frames outlined in our Leaves of Absence Policies generally will be administratively terminated from employment. Administratively terminated employees are eligible for payment of unused annual leave. Administratively terminated employees are also generally eligible for rehire if they otherwise maintained a satisfactory performance and attendance record.

Discharge. Discharge includes involuntary termination of employment by Diablo Loco for any reason. Although employees are subject to discharge at any time and for any reason, with or without prior notice, discharge generally involves termination for unsatisfactory job performance or disciplinary reasons. Employees forfeit unused vacation pay if discharged for unsatisfactory job performance or disciplinary reasons. Employees may use our open door/employee grievance policy to raise disagreement or dissatisfaction with a discharge decision.

Discipline other than immediate termination

All employees are expected to meet Diablo Loco's standards of work performance. Work performance encompasses many factors, including attendance, punctuality, personal conduct, job proficiency and general compliance with Diablo Loco's policies, procedures and values.

If you do not meet these standards, Diablo Loco may, under appropriate circumstances, take corrective action, other than immediate dismissal.

The intent of corrective action is to formally document problems while providing you with a reasonable time within which to improve performance. The process is designed to encourage development by providing you with guidance in areas that need improvement such as poor work performance, attendance problems, personal conduct, and general compliance with Diablo Loco policies, procedures and values and/or other disciplinary problems.

Written warnings

Write-ups will be done on-site. Your supervisor should discuss the problem and present a written warning to you in the presence of the General Manager or acting manager. This should clearly identify the problem and outline a course of corrective action within a specific time frame. You should clearly understand both the corrective action and the consequence (i.e., termination) if the problem is not corrected or reoccurs. You should acknowledge receipt of the warning and include any additional comments of your own before signing it. A record of the discussion and the employee's comments will be placed in your file.

Employees who have had formal written warnings are not eligible for salary increases, bonus awards, promotions or transfers during the warning period.

Post Resignation/Termination Procedures

Upon termination of employment, the terminated employee is required to return the following:

- Company Security Card
- Office keys
- Company-issued credit cards
- Company manuals
- Any additional Company-owned or issued property
- Food Handler permits (for employees who will be handling food)
- Security Training Certificate (Company approved program)

Final Paycheck

Employees leaving Diablo Loco must return office keys, corporate credit cards, uniforms, etc., before their final paycheck can be issued. This final paycheck will be mailed during the next normal pay period. If there are unpaid obligations to Diablo Loco, the final paycheck will reflect the appropriate deductions.

Reference Checks

All inquiries regarding a current or former Company employee must be referred to the Human Resources Department. In response to an outside request for information regarding a current or former Company employee, the Human Resources Department will furnish or verify only an employee's name, dates of employment, job title and department. No other data or information regarding any current or former Company employee, or his/her employment with Diablo Loco will be furnished unless the employee authorizes Diablo Loco to furnish this information in writing that also releases Diablo Loco from liability in connection with the furnishing of this information or if Diablo Loco is required by law to furnish any information.

