



# ABC MODEL EMPLOYEE HANDBOOK

**\*\*\*\*DISCLAIMER\*\*\*\***

This handbook was last updated in 2018. In short, this Model Employee Handbook should merely be a starting point. It should NOT be copied and distributed with your company's name on it, but rather be subjected to careful legal review by experienced labor and employment law counsel. Additionally, because the laws governing employee handbooks are constantly changing, employers should have their handbooks checked for legal compliance every year.





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# MODEL EMPLOYEE HANDBOOK

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Prepared for members of  
ASSOCIATED BUILDERS AND CONTRACTORS, INC.

BY

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# ABOUT THIS MODEL EMPLOYEE HANDBOOK

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This Model Employee Handbook is a collection of common workplace policies for the merit shop construction industry. No single set of handbook policies can fit the needs of every company in every state. There are wide variations in state employment laws, and companies of different sizes and specialties may have very different needs. In particular, unionized companies need to be sure that any handbook provisions are consistent with their collective bargaining agreements; this Model Employee Handbook does not attempt to address the special needs of unionized workplace policies.

Any employer that is adopting or revising an employee handbook should be aware that many of the employment policies set forth in this Model Employee Handbook are governed by state laws, federal laws, and rulings by state and federal administrative agencies such as the National Labor Relations Board (NLRB), Equal Employment Opportunity Commission (EEOC) and Department of Labor (DOL).

In the limited space of this Model Employee Handbook, it is not practicable to explain all of the many laws and agency rules that govern each of these workplace policies. However, footnotes will alert employers to some policies that have been the subject of legal challenges. Note that these footnotes are intended for the use of management decision-makers only; they are not intended to be part of the policies disseminated to employees in the actual handbook.

As a result of these many applicable laws, it has become necessary to include a variety of disclaimers in employee handbooks. As a result, handbooks may be less user-friendly than in the past, but experience has shown that disclaimers and protections of management rights are needed to defend against legal challenges in the workplace.

In short, this Model Employee Handbook should merely be a starting point. It should NOT be copied and distributed with your company's name on it, but rather be subjected to careful legal review by experienced labor and employment law counsel.

Additionally, because the laws governing employee handbooks are constantly changing, employers should have their handbooks checked for legal compliance every year.

*Note: This Model Employee Handbook is not intended to apply to any particular employer or to provide legal advice or opinion. Such advice may only be given when related to specific handbooks and specific fact situations. In no circumstances should any employee handbook be adopted and issued to employees before the final draft has been approved by Littler Mendelson attorneys or other experienced labor counsel.*

**[Company Name]**

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# Employee Handbook

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(Issued \_\_\_\_\_ 2018)



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# WELCOME NEW EMPLOYEE

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**[Optional: Company may add a welcoming statement for new employees. The following is a sample.]**

Congratulations and welcome to **[Company Name]**. One of the keys to our success is hiring good employees. We have hired you because we believe you have the skills and the potential to help **[Company Name]** succeed. We expect employees to perform the tasks assigned to them to the best of their abilities. We believe that hard work and commitment will not only benefit the Company, but also give you and all employees a sense of pride and accomplishment.

We are glad to have you as a member of the **[Company Name]** team. We hope that your employment proves mutually satisfying and that you will make an important contribution to our future. Every employee has an important role in our operations and we value the abilities, experience and background that you bring with you. It is our employees who provide the services that our customers rely on and who enable us to grow and create new opportunities in the years to come.

Our management team intends to provide you with all of the support and the resources you will need to perform your job effectively. If you ever need assistance or guidance, please do not hesitate to ask any members of the management team.

Once again, welcome to **[Company Name]**; we are glad to have you with us.



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# INTRODUCTION

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## INTRODUCTORY STATEMENT

Outstanding people are the key to our success. Our strength and future growth depend on the contributions made by you and each person within our organization. We are proud to have you as part of our team. To ensure continued success, we feel it is important that all employees understand our policies and procedures. This Employee Handbook will familiarize you with the various aspects of working with us. We encourage you to use it as a valuable resource for understanding the Company.

## DESCRIPTION OF EMPLOYEE HANDBOOK<sup>1</sup>

This Employee Handbook contains information about the employment policies and practices of **[Company Name]**. We expect each employee to read this Employee Handbook carefully, as it is a valuable reference for understanding your job and the Company. This Employee Handbook supersedes all previously issued Employee Handbooks and inconsistent verbal or written policy statements. No manager or supervisor has the authority to enter into a contract of employment express or implied that changes or alters the at-will employment relationship. Only the **[insert appropriate management representative, such as President of the Company]** has the authority to enter into an employment agreement that alters the at-will employment relationship and any such agreement must be in writing signed by the **[insert appropriate management representative, such as President of the Company]**. The Company reserves the right to revise, delete and add to the provisions of this Employee Handbook; however, all such revisions, deletions or additions must be in writing. No oral statements or representations can change the provisions of this Employee Handbook.<sup>2</sup>

Furthermore, neither this Employee Handbook nor any of the Company's benefit plans constitute, or is intended to constitute, an express or implied contract guaranteeing continued employment for any employee. Benefit plans—if offered to you by the Company, if premiums and contributions are paid, and if participation and other requirements are met—are defined in legal documents such as insurance contracts and summary plan descriptions. If you are offered benefits, and if a question arises about the nature and extent of plan benefits or if there is a conflict in language, the formal language of the plan documents govern, not the informal wording of this Employee Handbook. Plan documents, if applicable, are available for your inspection.

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- 1 Note to management: This section contains important disclaimers that are strongly recommended to help protect your Company from litigation arising out of your handbook. However, whether these disclaimers are effective in an individual case depends on state laws and court decisions. Some states require disclaimers of contractual intent to be in bold face type and prominently displayed near the beginning of the handbook.
  - 2 Note to management: Some court decisions have restricted the right of employers to amend or delete handbook provisions. Although the disclaimer contained here should protect most employers, your Company may want to consider providing some new benefit to employees when the handbook is significantly changed, so that binding consideration for the change can be shown to exist.

Not all of our policies and procedures are set forth in this Employee Handbook. We have summarized only some of the more important ones. If you have any questions or concerns about this Employee Handbook or any other policy or procedure, please ask your supervisor or another member of the management team.

Nothing in this Employee Handbook or in any other document or policy will be interpreted or applied in such a way as to violate any local, state or federal law, including but not limited to the National Labor Relations Act.

**Optional:** This Employee Handbook may apply to employees in multiple states. If you work in a state with greater or different rights, the Company will comply with all requirements. Please contact the Human Resources Department for more information.

## EMPLOYMENT AT WILL

Employment with the Company is at-will. This means that employment may be terminated for any or no reason, with or without cause or notice, at any time by you or by the Company. Nothing in this Employee Handbook or any oral statement shall limit the right to terminate at will. This employment policy is the sole and entire agreement between you and the Company as to the duration of employment and the circumstances under which employment may be terminated. Only, the **[President of the Company or the President's authorized representative]** has the authority to enter into an agreement that alters the at-will relationship, and any such agreement must be in writing signed by the **[President of the Company or the President's authorized representative]**.<sup>3</sup>

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<sup>3</sup> Note to management: The National Labor Relations Board has prohibited employers from stating or implying that at-will policies can “never” be changed or requiring employees to acknowledge that they are “forever” bound by handbook provisions on maintaining at-will status.

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# EQUAL EMPLOYMENT OPPORTUNITY

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## EQUAL EMPLOYMENT OPPORTUNITY<sup>4</sup>

The Company is an equal opportunity employer. In accordance with applicable law, we prohibit discrimination against any applicant or employee based on the following legally protected characteristics: race, color, religion, creed, sex, pregnancy or related medical conditions, age, national origin or ancestry, physical or mental disability, protected veteran status, genetic information, union affiliation, 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.<sup>5</sup>

In accordance with applicable law, the Company will extend all legal rights and responsibilities to same sex spouses on the same basis as it extends those rights and responsibilities to opposite sex spouses.

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, or **[insert appropriate contact information, such as a name, phone number and/or email address]**. The report should be specific and should include the names of the individuals involved, the names of any witnesses and any documentary evidence (emails, notes, etc.). The Company will conduct a thorough and objective investigation in a timely fashion and attempt to resolve the situation. The investigation will be completed and a determination will be made and communicated to you as soon as practical. The Company will try to protect the privacy and confidentiality of all parties involved to the extent possible, consistent with a thorough investigation and employee rights.

If the Company 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 also may be taken to deter future discrimination or misconduct.

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<sup>4</sup> Note to management: This policy refers to categories of employees protected under a variety of federal and state laws. Most jurisdictions prohibit additional types of discrimination, and some do not yet require same sex policies, so be sure to check state and local laws. A statement that you will not discriminate based on union affiliation also may help protect the Company in some instances against unfair labor practice charges at the National Labor Relations Board.

<sup>5</sup> Note to management: Government contractors and recipients of government financial assistance also are required to establish detailed Affirmative Action Plans, including statements of affirmative action in their employee handbooks under applicable laws administered by the Office of Federal Contract Compliance Programs (OFCCP) within the U.S. Department of Labor. Government contractors also should be aware of the OFCCP's final rule on Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors (RIN – 1250-AA07), which prohibits federal contractors and subcontractors from discriminating against employees or applicants on the basis of sexual orientation and gender identity. Under the final rule, contractors must include an updated equal opportunity clause in new or modified contracts. Covered contractors should comply with all such regulations, which can be found at [www.dol.gov/ofccp/](http://www.dol.gov/ofccp/). Finally, OFCCP's 2015 rule on pay transparency requires covered government contractors to include a prescribed "pay transparency nondiscrimination provision" in any employee handbooks, as set forth at [www.dol.gov/ofccp/PayTransparency.html](http://www.dol.gov/ofccp/PayTransparency.html).

## DISABILITY ACCOMMODATION

To comply with applicable laws ensuring equal employment opportunities to individuals with disabilities, the Company will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee unless undue hardship and/or a direct threat to the health and/or safety of the individual or others would result. Any applicant or employee who requires an accommodation in order to perform the essential functions of his or her job should contact Human Resources and request such an accommodation. The individual with the disability should specify in writing what barriers or limitations make it difficult for him or her to perform the job. The Company will conduct an investigation regarding these barriers or limitations and then will identify possible accommodations, if any, that will help eliminate the barrier(s) or limitation(s). If the accommodation is reasonable and will not impose an undue hardship on the Company and/or a direct threat to the health and/or safety of the individual or others, the Company will make the accommodation. The Company also may propose an alternative accommodation. The individual is required to fully cooperate with the Company in seeking and evaluating alternatives and accommodations. The Company may require medical verification of both the disability and the need for accommodation.

The Company also will consider requests for reasonable accommodations for medical conditions related to pregnancy and childbirth when supported by medical documentation.

Employees who wish to request an unpaid leave of absence or who wish to extend a current leave of absence because of a qualifying disability should speak to the Human Resources Department regarding a proposed accommodation.

## RELIGIOUS ACCOMMODATION

We will attempt to make reasonable accommodations for employee observance of religious holidays and sincerely held religious beliefs, including time off for religious holidays and accommodations related to dress and grooming practices, unless doing so would cause an undue hardship on Company operations. If you desire a religious accommodation, you are required to make the request in writing to your supervisor as far in advance as possible.

## HARASSMENT<sup>6</sup>

We are committed to providing a work environment free of harassment. As a result, we maintain a strict policy prohibiting sexual harassment and harassment against applicants and employees because of the following legally protected characteristics: race, color, religion, creed, sex, pregnancy or related medical conditions, age, national origin or ancestry, physical or mental disability, union affiliation, genetic information, protected veteran status, or any other consideration protected by federal, state or local laws. All such harassment is prohibited. Our anti-harassment policy applies to all persons involved in our operations and prohibits harassment by any employee of the Company, including shareholders, managers and coworkers.

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<sup>6</sup> Note to management: See footnote 5 for additional requirements for government contractors.

## SEXUAL HARASSMENT DEFINED<sup>7</sup>

Sexual harassment includes unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

- submission to such conduct is made a term or condition of employment;
- submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or
- such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment includes various forms of offensive behavior. The following is a partial list:

- Unwanted sexual advances.
- Offering employment benefits in exchange for sexual favors.
- Making or threatening reprisals after a negative response to sexual advances.
- Visual conduct: leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, posters, websites, emails or text messages.
- Verbal conduct: making or using derogatory comments, epithets, slurs, sexually explicit jokes, comments about an employee's body or dress.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.
- Physical conduct: touching, assault, impeding or blocking movements.
- Retaliation for making harassment reports or threatening to report harassment.

This policy also protects employees from harassment by vendors or clients. If harassment occurs on the job by someone not employed by the Company, the procedures in this policy should be followed. This policy applies to males who sexually harass females or other males, and for females who sexually harass males or other females.

## OTHER TYPES OF HARASSMENT

Prohibited harassment on the basis of the following legally protected characteristics: race, color, religion, creed, pregnancy or related medical conditions, age, national origin or ancestry, physical or mental disability, union affiliation, genetic information, protected veteran status, or any other consideration protected by federal, state or local laws includes behavior similar to sexual harassment, such as:

- Verbal conduct including threats, epithets, derogatory comments or slurs.
- Visual conduct including derogatory posters, photography, cartoons, drawings or gestures.
- Physical conduct including assault, unwanted touching or blocking normal movement.
- Retaliation for making harassment reports or threatening to report harassment.

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<sup>7</sup> Note to management: In response to the #metoo movement, a number of states have enacted new laws governing sexual harassment that should be reviewed to determine whether any handbook policy statement is compliant.

## COMPLAINT PROCEDURE

Any employee who believes he or she has been harassed or discriminated against by a coworker, supervisor, agent, client, vendor or customer of the Company, or who is aware of the harassment or discrimination of others, should immediately provide a written or verbal report to his or her supervisor, any other member of management, or **[insert appropriate contact information, such as a name, phone number and/or email address]** to report such incidents. The Company will try to protect the privacy and confidentiality of all parties involved to the extent possible, consistent with a thorough investigation and employee rights.

After a report is received, management will undertake a thorough and objective investigation. The investigation will be completed and a determination will be made and communicated to you as soon as practical. **[Company Name]** expects all employees to fully cooperate with any investigation conducted by the Company.

If we determine that this policy has been violated, remedial action will be taken, commensurate with the severity of the offense. Appropriate action also will be taken to deter any future harassment or discrimination. If a complaint of harassment or discrimination is substantiated, appropriate disciplinary action, up to and including discharge, will be taken.

## PROTECTION AGAINST RETALIATION

Retaliation is prohibited against any person by another employee or by the Company 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 or **[insert appropriate contact information, such as a name, phone number and/or email address]**. 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.

## A FEW WORDS ABOUT UNIONS<sup>8</sup>

There is always a chance that a labor organizer will try to persuade some of our employees to sign union authorization cards. Although you have the legal right to join a labor union, you also have the legal right NOT to join a labor union. We do not discriminate against any of our employees or applicants based on support or lack of support for unions. However, we prefer to work with our employees informally, personally and directly rather than through union outsiders. We are proud that our employees have chosen to make us a union-free employer.

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<sup>8</sup> Note to management: So long as you do not threaten employees with reprisals if they unionize, or promise improved benefits if they refrain from unionizing, it is perfectly legal to tell your employees that you do not believe they need a union, and explain why. However, it is important that your handbook not require employees to adhere to your nonunion policy as a condition of employment, as the National Labor Relations Board has held that such a requirement can be found to be an unfair labor practice. It is also important that you disavow any intent to discriminate against union supporters and that your statement on unions be free of anti-union “animus.”



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# EMPLOYMENT PRACTICES AND PROCEDURES

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## INTRODUCTORY PERIOD<sup>9</sup>

Your first 90 days of continuous employment will no doubt be a learning experience. You will learn your job duties and responsibilities, get acquainted with your supervisor(s) and fellow employees, and familiarize yourself with the Company in general. We refer to this initial period of employment as your introductory period. Any significant absence will automatically extend the introductory period by the length of the absence.

While we understand that you will be learning a lot about your new job, you are still expected to perform satisfactorily and your performance will be reviewed closely. Either you or the Company may end the employment relationship at-will at any time during or after the introductory period. Completion of the introductory period does not guarantee continued employment and does not change the at-will nature of the employment relationship.

## 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. [If applicable: Our Company is enrolled in the U.S. government's E-Verify program. Under that program, we electronically verify the employment authorization of all our employees in the following categories: government contracts, new hires, etc., as applicable. Additional information about the E-Verify program can be obtained at [www.uscis.gov](http://www.uscis.gov)].

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<sup>9</sup> Note to management: Introductory/probationary period clauses must be carefully worded to avoid suggesting that an employee becomes protected against discharge once he or she completes the trial period. We also advise including some flexibility about the length of the probationary period.

## JOB DUTIES

Because flexibility is necessary, your job responsibilities may change at any time during your employment.

As part of your job, you are expected to perform all duties and assignments with the Company's legitimate business interests in mind. You also are expected not to take any actions that would directly conflict with the Company's legitimate business interests.

In addition to your regularly assigned job responsibilities and duties, from time to time you may be asked to work on special projects or to assist with other work important to the operation of the Company. Your cooperation and assistance in performing additional work is expected.

## VOLUNTARY OPEN DOOR POLICY

We recognize that employees will have suggestions for improving the workplace, as well as complaints about the workplace. The most satisfactory solution to a job-related problem or concern is usually reached through a prompt discussion with your supervisor. Please feel free to contact your supervisor with any suggestions and/or complaints. If you do not feel comfortable contacting your supervisor or are not satisfied with your supervisor's response, please contact another appropriate member of management.

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.

## ACCESS TO PERSONNEL FILES<sup>10</sup>

Employees may inspect their own personnel file in the presence of a representative of the Company [if required by applicable state law]. Please contact **[insert appropriate person, such as your supervisor]** to schedule a time. Employees will not be allowed to view investigation records or any letters of reference.

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

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<sup>10</sup> Note to management: Some states require employees to be given access to their personnel files; many other states do not. Companies should check their local laws on this issue. Employers that are not required to do so by law may voluntarily choose to permit such access under limited conditions.

## PERFORMANCE REVIEWS

Performance evaluations are generally scheduled once a year or upon change in assignments. However, supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day to day basis.

During formal performance reviews, supervisors and employees discuss a variety of topics, including but not limited to, attendance, quality of work, quantity of work, teamwork skills, etc. Additionally, employees and supervisors review job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals.

We reserve the right to make any personnel changes (including termination) before or after performance evaluations.

## PERSONAL APPEARANCE<sup>11</sup>

The image we project to our customers is reflected in the appearance of our employees. Simply stated, employees should look neat, clean and well groomed, and should be appropriately dressed for the business environment. Obviously, there are differences in what our employees wear in the field and in the office, but all employees are expected to use good judgment in their appearance and grooming, keeping in mind the nature of the work, their own safety and the safety of coworkers, and their need to interact with the public.

Optional: Below are a few guidelines for professional appearance:

- Clothing should not constitute a safety hazard.
- All employees must follow OSHA regulations and Company safety guidelines by wearing the proper safety equipment at all times while doing the work for which the equipment is furnished. Field employees should wear steel-toed shoes, hardhats and gloves wherever required.
- All employees should practice common-sense rules of neatness, good taste and comfort.
- If jeans are appropriate for the position, the jeans must be in good condition.
- Tank tops, T-shirts, jogging suits, tennis shoes, flip-flops, slippers, sandals, garments that are unnecessarily revealing, sweat pants and other similar apparel are generally not permitted.
- Personal appearance should include good personal hygiene, clean-shaven or trimmed and well-groomed facial hair, and well-groomed hair.
- Jewelry may be restricted based on the position.

We encourage employees to seek the advice of their supervisor if they have questions regarding appropriate dress or appearance at work. Employees who report to work improperly dressed or groomed may be instructed by their supervisor to return home to change. The time that nonexempt employees are absent for this purpose will be unpaid unless state law requires otherwise.

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<sup>11</sup> Note to management: Applicable federal and local civil rights laws and governmental rulings may restrict dress codes in your jurisdiction, and should be reviewed with counsel. One common factor is the extent to which each employee faces exposure to business visitors, customers or the "public" and possible discrimination in the impact of dress or appearance requirements.

## OUTSIDE EMPLOYMENT

Under certain circumstances, if an employee's personal conduct begins to adversely affect his or her performance on the job, or begins to make it impossible for him or her to carry out any one or all of his or her job duties while at work, appropriate disciplinary action up to and including discharge may be appropriate. Therefore, the following types of outside employment are prohibited:

- Employment that conflicts with your work schedule, duties and responsibilities or creates an actual conflict of interest.
- Employment that impairs or has a detrimental effect on your work performance with the Company.
- Employment that requires you to conduct work or related activities on Company property, during **[Company Name]** working hours or using **[Company Name]** facilities and/or equipment.
- Employment that directly or indirectly competes with the business or the interests of the Company.

For the purposes of this policy, self-employment is considered outside employment.

We will not assume any responsibility for your outside employment. Specifically, we will not provide workers' compensation coverage or any other benefit for injuries occurring from or arising out of outside employment. Authorization to engage in such outside employment can be revoked at any time.

## REFERENCES

All requests for references must be directed to the **[insert title of appropriate Company representative]**. No other manager or supervisor is authorized to release references for current or former employees. Our policy regarding references for former employees is to disclose only the dates of employment and the title of the last position held. If you authorize disclosure in writing, we also will provide a prospective employer with information on the amount of the salary or wage you last earned.

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# EMPLOYEE CONDUCT

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## ATTENDANCE AND PUNCTUALITY

As an employee, you are expected to exhibit regular attendance and punctuality. Any tardiness or absence causes problems for your fellow employees and your supervisor. When you are absent, your workload must be performed by others, just as you must assume the workload of others who are absent. In order to limit problems caused by absence or tardiness, we have adopted the following policy that applies to absences not previously approved by the Company.

If you are unable to report for work on any particular day, you must call your supervisor at least \_\_\_\_ hours before your start time, or as soon as practical thereafter, before the time you are scheduled to begin working that day. If you call in less than \_\_\_\_ hours before your scheduled time to begin work, you will be considered tardy for that day. Absent extenuating circumstances, you must call in on any day you are scheduled to work and will not report to work.

Excessive absenteeism or tardiness may result in disciplinary action up to and including termination of employment, unless the absence or tardiness is legally protected. Each situation of absenteeism or tardiness will be evaluated on a case-by-case basis. Even one unexcused absence or tardiness may be considered excessive, depending on the circumstances.

If you fail to report for work without any notification to your supervisor and your absence continues for a period of \_\_\_\_ days, we will consider that you have abandoned and voluntarily terminated your employment.

## STANDARDS OF CONDUCT<sup>12</sup>

In order to assure orderly operations and provide the best possible work environment, we expect employees to follow rules of conduct that will protect the interests and safety of personnel. It is not possible to list all the forms of behavior that are considered unacceptable in the workplace, but the following are examples of infractions of rules of conduct that may result in disciplinary action, including suspension, demotion or termination of employment.

- Falsification of employment records, employment information or other records.
- Recording the work time of another employee, allowing any other employee to record your work time, or allowing falsification of any time card, whether your own or another employee's.
- Theft or the deliberate or careless damage of any Company property or the property of any employee or client.
- Unauthorized use of Company equipment, time, materials or facilities.

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<sup>12</sup> Note to management: Policies regarding employee conduct toward the Company and supervisors are under constant scrutiny by the National Labor Relations Board to ensure that employee rights to engage in "protected, concerted" activity are not interfered with. Employers should review all such policies carefully in light of the latest legal developments.

- Possessing, distributing, selling, transferring, or using—or being under the influence of—alcohol or illegal drugs in the workplace.
- Provoking a physical fight or physical fighting during working hours or on premises owned or occupied by the Company.
- Carrying firearms, weapons or dangerous substances at any time on premises owned or occupied by the Company, unless state law specifically gives the employee the right to bring a firearm on the employer's premises and maintain the firearm as required by state law in the employee's locked vehicle. At no time are employees permitted to remove the firearm from their vehicle or carry it on their person or into a building.
- Engaging in criminal conduct whether or not related to job performance.
- Failure or refusal to obey the orders or instructions of any supervisor or member of management regarding job duties.
- Using abusive or threatening language that interferes with the job performance of fellow employees or customers.
- Unreported absence of \_\_\_\_ consecutive scheduled workdays.
- Failure to obtain permission to leave work for any legally unprotected reason during normal working hours.
- Failure to observe working schedules, including rest and lunch periods.
- Abusing paid sick leave, including failure to provide a doctor's note when required to do so.
- Making or accepting personal telephone calls of more than a few minutes in duration during working time.
- Working overtime without authorization or refusing to work assigned overtime.
- Violating any safety, health or security policy, rule or procedure of the Company.
- Committing a fraudulent act or a breach of trust in any circumstances.

Although employment may be terminated at-will by either the employee or the Company at any time, without following any formal system of discipline or warning, we may exercise discretion to utilize forms of discipline that are less severe than termination. Examples of less severe forms of discipline include verbal warnings, written warnings, demotions and suspensions. While one or more of these forms of discipline may be taken, no formal order or procedures are necessary.

This statement of prohibited conduct does not alter or limit the policy of employment at-will. Either you or the Company may terminate the employment relationship at any time for any reason, with or without cause, and with or without notice.

## BUSINESS ETHICS

### IN GENERAL

The successful business operation and reputation of **[Company Name]** is built on the principles of fair dealing and ethical conduct of our employees. Our reputation for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, as well as scrupulous regard for the highest standards of conduct and personal integrity.

We will comply with all applicable laws and regulations and expect all directors, officers and employees to conduct business in accordance with the letter, spirit and intent of all relevant laws and to refrain from any illegal, dishonest or unethical conduct.

In general, the use of good judgment, based on high ethical principles, will guide you with respect to lines of acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed with your supervisor.

Compliance with this policy of business ethics and conduct is the responsibility of every employee. Disregarding or failing to comply with this standard of business ethics and conduct may lead to disciplinary action, up to and including termination of employment.

Retaliation against any employee who raises any questions, concerns or complaints concerning the honesty and integrity of our operations is strictly prohibited. Similarly, retaliation is prohibited against any employee who provides accurate information to any law enforcement agency about the commission of any federal or state offense. Any employee who feels that he or she has been retaliated against or threatened with retaliation for these reasons should report the matter immediately to **[insert title of appropriate upper-level management representative]**.

## CONFLICTS OF INTEREST

It is important that employees be free from any financial interests or other relationships that might conflict with the best interests of **[Company Name]**. Accordingly, each employee shall avoid any investment or other interest in another business that would conflict with the proper performance of his or her duties or responsibilities for **[Company Name]**, or that might interfere with his or her independence of judgment with respect to transactions between **[Company Name]** and such other business.

If an employee finds that he or she has, or is considering the assumption of, a financial interest or outside relationship that might involve a conflict of interest, or if the employee is in doubt as to the proper application of this policy, he or she should promptly make all the facts known to **[insert title of appropriate management representative]** and refrain from any exercise of responsibility in any manner that might reasonably be considered to be affected by any adverse interest.

### OPTIONAL AND IF APPLICABLE:

#### PROTECTION OF CONFIDENTIAL OR PROPRIETARY INFORMATION<sup>13</sup>

**[Company Name]**'s confidential and proprietary information is vital to the current operations and future success of the Company. Each employee shall use all reasonable care to protect or otherwise prevent the unauthorized disclosure of such information. In no event shall confidential information be disclosed or revealed within or outside **[Company Name]** without proper authorization or purpose. If an employee is uncertain whether certain information should be treated as confidential, the employee should presume that such information is confidential and not disclose it without proper authorization.

By way of example, confidential or proprietary information will include information regarding **[Company Name]**'s business methods, business plans, databases, systems, technology, intellectual property, know-how, marketing plans, business development, operations, products, services, research, development, inventions, financial statements, financial projections, financing methods, pricing strategies, customer sources, employee health/medical records, system designs, customer lists and methods of competing.

<sup>13</sup> Note to management: Based on a number of National Labor Relations Board decisions, employers must be careful not to prohibit employees from disclosing information relating to wages, hours and other terms and conditions of employment. The law of confidentiality is still being developed and should be monitored closely.

## **FALSIFICATION OF DOCUMENTS**

We rely on the accuracy of information provided on or in employment records, Company and client-related documents, and documents required to be completed or submitted under applicable law. Accordingly, the falsification or omission of requested information on any document may result in disqualification from further consideration for employment or, if hired, termination from employment. Falsification of records is prohibited and will not be tolerated.

## **DRUG AND ALCOHOL USE**

### **DRUG USE/DISTRIBUTION/POSSESSION/IMPAIRMENT**

All employees are prohibited from manufacturing, cultivating, distributing, dispensing, possessing or using illegal drugs at all times. Included within this prohibition are lawful controlled substances that have been illegally or improperly obtained. This policy does not prohibit the possession and proper use of lawfully prescribed drugs taken in accordance with the prescription.

Employees also are prohibited from having any such illegal or unauthorized controlled substances in their system while at work.<sup>14</sup>

### **ALCOHOL USE/DISTRIBUTION/POSSESSION/IMPAIRMENT**

All employees are prohibited from distributing, dispensing, possessing or using any beverage or medicine containing alcohol while at work or on duty and from coming onto Company premises, reporting to work, or working with alcohol in their system. Furthermore, lawful off-duty alcohol use, while generally not prohibited by this policy, must not interfere with an employee's job performance.

### **PRESCRIPTION DRUGS**

The proper use of medication prescribed by your physician is not prohibited; however, we do prohibit the misuse of prescribed medication. Employees' drug use may affect their job performance (e.g., by causing dizziness or drowsiness). It is the employee's responsibility to determine from his or her physician whether a prescribed drug may impair safe job performance and to notify a supervisor of any job restrictions that should be observed as a result.

### **COUNSELING AND REHABILITATION**

Employees who voluntarily seek help for substance abuse (self-referral) by contacting the Company will be given an opportunity to pursue counseling and rehabilitation. We will give these employees information about

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<sup>14</sup> Note to management: If the Company does business in one of the increasing number of states or local jurisdictions that has declared marijuana use to be lawful under state laws (though such use remains unlawful under federal law), the Company should specify how it will treat marijuana use under this policy. To date, all states that have legalized marijuana use continue to allow employers to prohibit employees from using, distributing or being under the influence of marijuana while on Company business or property, but some states have imposed restrictions on employers' ability to test for and discipline employees for legalized marijuana use, so management should closely monitor this issue in order to remain in compliance with both state and federal laws.



counseling and rehabilitation services. An employee who is receiving counseling and/or treatment for substance abuse may use available vacation, sick leave, or, if eligible, family and medical leave. Health insurance often covers the costs of such services, but costs not covered must be paid by the employee. The employee cannot return to work until released by a treatment provider to do so, and he or she receives a negative result on a return-to-work drug and/or alcohol test (as appropriate for that individual). In addition, the employee may be asked to submit to follow-up testing for a period following the return to work.

An employee's decision to seek help voluntarily will not be used as a basis for disciplinary action, although the individual may be transferred, given work restrictions, or placed on leave, as appropriate. A request for help is considered voluntary only if it is made before the employee is asked to submit to a drug or alcohol test or is discovered to have otherwise violated this policy.

## **DRUG AND ALCOHOL TESTING<sup>15</sup>**

Drug tests will be conducted in the following circumstances: [Optional:]

**Application for Employment.** All job applicants extended a conditional offer of employment must take and pass a drug test before beginning work. A refusal to submit to a drug test or a positive confirmed drug test will result in a withdrawal of the offer of employment.

**Reasonable Suspicion.** Employees may be required to submit to drug/alcohol screening whenever the Company has a reasonable suspicion that they are under the influence of drugs or alcohol while working. Reasonable suspicion may arise from, among other factors, supervisory observation, coworker reports or complaints, performance decline, attendance or behavioral changes, results of drug searches or other detection methods, the employee's appearance or an odor of drugs or alcohol. Observations leading to reasonable suspicion determinations will be reasonably contemporaneous with the request for a test.

Employees asked to take a reasonable suspicion drug and/or alcohol test will be transported to the collection site for testing and then transported home pending receipt of test results. Employees will be placed on administrative leave without pay pending the results of the test. If the test results are negative, the employee will be compensated for any wages lost due to the leave, unless a suspension without pay is justified under another policy.

**Post-Accident.<sup>16</sup>** Employees whose acts appear to have caused or contributed to a serious accident where there is a reasonable possibility that drug use was a contributing factor may be required to submit to post-accident testing as part of the investigation. Serious accidents include those that have caused an injury severe enough to warrant immediate offsite medical attention, or have caused significant property damage. Only workers whose actions may have caused or contributed to the accident will be tested.

As with reasonable suspicion testing, employees asked to take a post-accident test will be transported to the collection site for testing and then transported home pending receipt of test results. Employees will be placed

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<sup>15</sup> Note to management: Employers may choose among a number of different options for drug and alcohol testing. The most common forms of testing are: pre-hire, post-accident, reasonable suspicion and random. All of these forms are generally permitted for employees in the construction industry, but employers should be on the lookout for variations in state laws, particularly with regard to testing protocols. Some federal agencies also impose specific testing requirements on certain types of employees as well, such as Department of Transportation requirements for testing certain covered drivers. Thus, the sample policy included here should not be adopted without careful consideration of other options and any applicable requirements of state and federal laws. However, we generally recommend adoption of lawful and appropriate drug and alcohol testing programs in order to maintain the safest possible construction workplace.

<sup>16</sup> Note to management: Under a 2016 OSHA final rule, certain post-accident drug-testing policies may be considered retaliatory. Employers should be aware of the rule's anti-retaliation provisions, which can be found at <https://www.osha.gov/recordkeeping/finalrule/>.

on administrative leave without pay pending the results of the test. If the test results are negative, the employee will be compensated for any wages lost due to the leave, unless the suspension without pay is justified under another policy.

**Random.** Employees in safety-sensitive positions may be tested on an unannounced random basis. Employees will be selected for testing by a computerized random number program matched to employee numbers. Once selected for testing, an employee may not be excused from the testing process. Individuals subject to random testing will be notified at the time of hire or when the policy becomes applicable to them.

## **DISCIPLINE**

Violations of this policy or any of its provisions will result in discipline up to and including termination of employment.

## **TESTING PROCEDURES<sup>17</sup>**

### **Consent**

No alcohol or drug test will be administered, or sample collected, without the written consent of the person being tested. However, a person's refusal to submit to a proper test will be viewed as insubordination and will subject the person to disciplinary action, up to and including termination. A refusal to test includes any behavior designed to obstruct the testing process, including efforts to substitute, adulterate or dilute specimens, as well as any failure to appear for testing within a reasonable time and failure to cooperate with collection staff.

The Company will pay the costs of all drug and/or alcohol tests it requires of employees and applicants.

### **Collection and Testing Methods**

All drug tests will be performed by a laboratory certified by the U.S. Department of Health and Human Services to perform federal workplace testing. Breath and/or saliva tests may be used to detect the presence of alcohol. Alcohol tests typically will be conducted and, if positive, confirmed immediately at the collection site. An alcohol test will be considered positive if it shows the presence of .02 percent or more alcohol in an individual's system. Tests will seek only information about the presence of drugs and alcohol in an individual's specimen, and will not test for any medical condition.

### **Notification**

Any individual who tests positive for drugs will be contacted by a Medical Review Officer (MRO)—a health care professional with an expertise in toxicology—before the result is reported, and given an opportunity to provide any legitimate reasons that would explain the positive drug test. If the individual provides an explanation acceptable to the MRO that the positive drug test result is due to factors other than the consumption of illegal drugs, the MRO will order the positive test result to be disregarded and will report the test as negative to the Company. Otherwise, the MRO will verify the test as positive and report the result.

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<sup>17</sup> Note to management: Some states and federal agencies have enacted specific requirements that affect testing protocols. This sample policy is of general use only and should not be relied upon without checking applicable testing laws in the jurisdictions where the Company operates.

Upon request, individuals will receive a copy of their positive or non-negative test results. An individual who tests positive for drugs may request, within three days of being notified of the positive result, that his or her sample be sent to an independent certified laboratory for a second confirmatory test, at his or her own expense, although we may suspend, transfer, or take other appropriate action pending the results of any such re-test.

### Confidentiality

All records relating to positive test results, drug and alcohol treatment, and employee medical information shall be kept confidential and disseminated to and within the Company only on a need-to-know basis. Such records will be kept in secure files separate from personnel files. Test results will not be released outside the Company without the written consent of the tested individual, or as otherwise may be required by law or legal process.

## SOCIAL MEDIA<sup>18</sup>

We recognize that employees may engage in the use of social media while off duty and sometimes in the performance of work-related duties. For the purposes of this policy, use of social media, includes blogging or posting information on one's own, or on someone else's, blog or Internet journal/diary, Twitter accounts, Facebook, LinkedIn, personal websites, or any other form of posting information on the Internet, social networking or affinity website, on a bulletin board or in a chat room.

Employees who engage in social media usage should be mindful that their postings, even if done off premises and while off duty, could have an adverse effect on the Company's legitimate business interests. For example, the information posted could be the Company's trade secret or confidential business information. In addition, some readers may view you as a de facto spokesperson for the Company.

Depending on the circumstances, your Internet postings may be subject to policies in this handbook, including but not limited to "Unlawful Harassment," "Standards of Conduct" and "Use of Electronic Resources." If your use of social media includes any information related to the Company, please do the following:

- Make it clear to your readers that the views expressed are yours alone and that they do not reflect the views of the Company. For example, state that "The views expressed in this blog (or blog posting) are my own. They have not been reviewed or approved by **[the Company]**."
- Do not defame or otherwise discredit the products or services of the Company or of the Company's partners, affiliates, customers, vendors or competitors.
- Do not engage in unlawful harassment as defined in the policy set forth elsewhere in this handbook.
- Do not use the Company's logo, trademark or proprietary graphics for commercial or competitive purposes. Employees may not make images of confidential information or processes, or use photographs for commercial or competitive purposes.

If you need clarification of any aspect of this policy, contact your supervisor. Failure to comply with this policy may lead to discipline up to and including termination and, if appropriate, we will pursue all available legal remedies.

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<sup>18</sup> Note to management: Social media policies are under constant scrutiny by the National Labor Relations Board to ensure that employee rights to engage in "protected, concerted" activity are not interfered with. Employers should review all such policies carefully in light of the latest legal developments.

## RELATIVES AND INTIMATE RELATIONSHIPS AT WORK

We will not take any adverse employment action against any employee for engaging in relationships either familial or otherwise during nonworking time away from Company premises. However, we will consider such relationships if they affect your job performance, occur during working time or on Company premises, or pose the danger of conflict of interest.

A familial or intimate relationship among employees can create an actual or at least potential or perceived conflict of interest in the employment setting, especially where one relative, spouse, partner, etc. supervises another relative, spouse, partner, etc. To avoid this problem, we may refuse to hire or place a relative or other intimately associated individual in a position where the potential for favoritism or conflict exists.

In other cases where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, the parties may be separated by reassignment or terminated from employment at the discretion of the Company. If two employees marry, become related or enter into an intimate relationship, they may not remain in a reporting relationship or in positions where one individual may affect the compensation or other terms or conditions of employment of the other individual. We will attempt to identify other available positions, and the employees will have 30 days to decide which individual will remain in his or her current position. If no alternate position is available, the employees will have 30 days to decide which employee will remain with the Company. If this decision is not made in the time allowed, we will make the decision.

For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

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# FACILITIES

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## SOLICITATION AND DISTRIBUTION OF LITERATURE<sup>19</sup>

We have established rules applicable to all employees and nonemployees that govern solicitation, distribution of written material and access to Company property. Strict compliance with these rules is required.

- No employee shall solicit or promote support for any cause or organization during his or her working time or during the working time of the employee or employees at whom such activity is directed.
- No employee shall distribute or circulate any written or printed material in work areas at any time, or during his or her working time or during the working time of the employee or employees at whom such activity is directed.
- Under no circumstances will nonemployees be permitted to solicit or to distribute written material for any purpose on Company property.

As used in this policy, "working time" includes all time for which an employee is paid and/or is scheduled to be performing services for the Company; it does not include break periods, meal periods, or periods in which an employee is not performing and is not scheduled to be performing services or work for the Company.

This policy applies equally to use of the Company's electronic equipment.<sup>20</sup>

## BULLETIN BOARDS

Bulletin boards are reserved for the exclusive use of the Company for posting work-related notices or notices that must be posted pursuant to local, state and federal law. From time to time, special notices and information for employees will be posted by the Company on the bulletin boards. Please check the boards regularly for these notices. Employee postings are not permitted.

## USE OF EQUIPMENT AND VEHICLES

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using Company property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards and guidelines.

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<sup>19</sup> Note to management: The standard for legal enforcement of no-solicitation rules can and does change frequently, depending on the varying labor views of newly appointed members of the National Labor Relations Board. It is particularly important to enforce such policies in a non-discriminatory manner. The Board is currently reconsidering its standards for prohibiting access by outside union agents into private workplaces. This area of the law should be closely monitored.

<sup>20</sup> Note to management: The National Labor Relations Board has declared that employers cannot prohibit employees from using corporate email systems to engage in union organizing or other forms of group discussions of terms and conditions of employment. Legal developments in this area should be closely monitored.

Please notify the supervisor if any equipment, machines, tools or vehicles appear to be damaged, defective or in need of repair. Prompt reporting of damages, defects and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. Your supervisor can answer any questions about your responsibility for maintenance and care of equipment or vehicles used on the job.

The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, as well as excessive or avoidable traffic and parking violations, can result in disciplinary action, including discharge.

Optional: Employees who have been assigned Company-owned vehicles may use these vehicles for personal use, providing that all gasoline and oil consumed for personal use is paid for by the employee.

## USE OF ELECTRONIC RESOURCES

[Use of this policy and all or some of its subparts depends on the nature of the workplace and access to and the provision of computers and other electronic devices.]

This policy describes our general guidelines regarding the use of the Company's electronic resources, including electronic mail, voicemail, Internet access and computer systems.

Employees should use the Company's electronic resources with the understanding that these resources are provided for the benefit of the Company's business. Accordingly, employees should use these electronic resources to further **[Company Name]**'s ability to conduct its business and in a manner that is consistent with performance of their duties and responsibilities. While non-business use of the Company's electronic resources is permitted to the extent required by applicable law, employees should never use the Company's electronic resources for personal use in a manner that interferes with the activities of employees during working time or with any responsibilities to customers.<sup>21</sup> Additionally, all employees are responsible for ensuring that they use the Company's electronic resources in an effective, ethical and lawful manner, and that such use does not involve excessive use of bandwidth that might disrupt server performance or otherwise interfere with the efficient functioning of the Company's electronic systems.

Sending, saving, accessing or viewing offensive material violating our unlawful harassment policy is prohibited. Messages stored and/or transmitted by the Company's electronic resources, including the computer, voicemail, email or the telephone system, must not contain content that may reasonably be considered offensive to any employee. Offensive material includes, but is not limited to, sexual comments, jokes or images, racial slurs, gender specific comments, or any comments, jokes or images that would offend someone on the basis of his or her race, color, sex, age, national origin or ancestry, disability, or any other category protected by federal, state or local law. Likewise, any use of the Internet, email, or any other electronic resource to harass or discriminate is unlawful and strictly prohibited by the Company. Violators may be subject to discipline, up to and including discharge.

Unless otherwise noted, all software on the Internet should be considered copyrighted work. Therefore, employees are prohibited from downloading software and/or modifying any such files without permission from the copyright holder.

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<sup>21</sup> Note to management: The National Labor Relations Board has declared that employers cannot prohibit their employees from using corporate email systems to engage in union organizing or other forms of group discussions of terms and conditions of employment. That ruling is currently being challenged in the courts. Legal developments in this area should be closely monitored.

## **NO SOLICITATION**

The Company's electronic resources shall not be used to solicit business opportunities for personal gain. The Company's no solicitation rule applies equally to electronic resources.

## **SOFTWARE CODE OF ETHICS**

Employees may not duplicate any licenses, software or related documentation for use either on the Company's premises or elsewhere unless the Company is expressly authorized to do so by agreement with the licensor. Unauthorized duplication of software may subject users and/or the Company to both civil and criminal penalties under the United States Copyright Act. Employees may not give software to any outsiders including contractors, customers or others. Employees may use software on local area networks or on multiple machines only in accordance with applicable license agreements. Employees may not download software from the Internet and install it on their PCs.

The Company reserves the right to audit any PC or laptop to determine what software is installed on the local drive(s).

Optional based on nature of the Company's business. Will not apply to all workplaces.

## **INSTALLATION OF SOFTWARE ON THE NETWORK**

The computer network is easily subject to failure if software is improperly installed or if viruses are introduced into the system. In order to protect the integrity of the network, users may not install any software on a PC or laptop, including games, screen savers or shareware. This policy also applies to any software downloaded from the Internet.

## **INSTALLATION OF COMPANY-OWNED SOFTWARE ON HOME PCS**

**[Company Name]** may provide certain applications to employees for business-related use on home PCs. These applications are licensed by the Company and can be used by the employee according to specific dual use licensing terms provided by each software manufacturer. These limitations and restrictions will be provided to the employee prior to the delivery of the software and the employee must agree to comply with the terms of these agreements while using these applications. If the employee is terminated, all Company-provided software must be removed from the employee's computer and all media returned to the Company.

## **COMPUTER AND SYSTEMS SECURITY**

All computers and the data stored on them are, and remain at all times, the property of **[Company Name]**. As such, all messages created, sent or retrieved over the Internet or the Company's electronic mail systems are the property of the Company, and should be considered Company information. The Company reserves the right to retrieve and read any message composed, sent or received using the Company's electronic resources, including all computer equipment and the electronic mail system.

## EMAIL CONTENT SCREENING

The Company maintains the right to screen all inbound and outbound email content. Email messages or attachments that contain offensive material may be quarantined and held from transmission or receipt until the sender or recipient can verify the message or attached document is work related.

Moreover, the Company may, at its discretion, review communications to and from a personal account, subject to state laws regarding attorney-client communications.

If you want to communicate with an attorney or send an otherwise confidential piece of communication that you do not want the Company to monitor, you should use your personal email address and your personal computer equipment. If you do use Company equipment, you consent to any monitoring by the Company and you understand that you do not have the right to privacy with respect to such communications.

## VIRUS PROTECTION

To prevent computer viruses from being transmitted through the system, employees are not authorized to download any software from the Internet onto their computer or any drive in that computer.

The Company maintains virus protection software on all network servers and filters all inbound and outbound email for virus attachments. Email containing a virus will be quarantined and both the sender and recipient will be informed. If the virus can be removed, the message will be forwarded to the recipient.

## USE OF TELEPHONES

While you are at work, you are expected to perform your job duties and responsibilities. Personal calls should be infrequent and of short duration.

The Company monitors all usage of its telephones. In the event it is necessary to make a personal long-distance call, you may be asked to reimburse the Company for the cost. Abuse of the long-distance telephone call policy may result in discipline, up to and including termination.

## USE OF CELL PHONES<sup>22</sup>

### **PROHIBIT ALL USE WHILE DRIVING [OPTIONAL: HANDS FREE ONLY IF PERMITTED BY STATE LAW]**

Employees whose job responsibilities include regular or occasional driving and who are issued a Company cell phone or use their personal mobile phone for business-related work are expected to put safety first. Therefore, personal and Company-supplied cellular telephones are not to be used while driving. If you receive a call on a mobile phone while driving, you must pull over safely, park and then either answer the telephone

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<sup>22</sup> Note to management: Recent court cases involving cell phone use during auto accidents have exposed employers to some risk of liability for employees' work-related use of phones while driving. A number of states have passed laws prohibiting such use of wireless phones. Employers are well advised to reduce their exposure by adopting one of the suggested policies that, in order of severity, either prohibit all cell phone use by drivers or limits such use due to safety concerns.



or return the call of the person who attempted to contact you or send text messages. Further, if you need to make a Company-related cell phone call, you must pull over safely, park and then place the call. Under no circumstances may you use the cell phone while driving. Moreover, you may not send or review text messages while driving. This policy is in effect for your safety and the safety of others, as well as the safety of the Company's property.

Employees who are charged with traffic violations, or cause accidents or injuries, resulting from their use of personal or Company-issued mobile devices while driving will be solely responsible for all liabilities, fines, etc., that result, to the extent permissible under the law.

Employees whose job responsibilities do not specifically include driving as an essential function, but who are issued a Company mobile phone for business use or who use their personal cell phone for business use, also are expected to abide by the provisions of this policy.

## OFF-DUTY USE OF FACILITIES

Off-duty employees are not permitted in work areas and they are prohibited from making use of Company facilities during non-working hours without prior approval from their supervisor. In addition, employees are prohibited from using Company property or Company equipment for personal use unless explicitly authorized by their supervisor.

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# TIME OFF AND OTHER LEAVE BENEFITS

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## VACATION<sup>23</sup>

Option 1: Separate vacation and sick leave policies

The Company provides paid vacation benefits to its regular full-time employees. Optional: Part-time and temporary employees do not accrue paid vacation.

Eligible employees accrue vacation as follows:

Length of Service Completed	Accrual Per Pay Period	Accrual	Maximum Accrual <sup>24</sup>

Vacation accrues as service is performed. Once the maximum accrual amount has been reached, no additional vacation will be earned until previously accrued vacation is used. You will not be given retroactive credit for any period of time in which you do not accrue vacation because you were at the maximum. At year end, unused vacation at or below the maximum accrual amount will carry over to the subsequent year.

Employees should request to schedule vacation time off as far in advance as possible. Vacations will be scheduled so as to provide adequate coverage of jobs and staff requirements. The Company will make the final determination in this regard.

Vacation pay is not counted for the purpose of calculating an employee's overtime hours of work or overtime premiums. Moreover, vacation does not accrue during unpaid leaves of absence or other periods of inactive service.

Upon termination of employment, employees will be paid for all vacation time that has accrued but remains unused through the last day of work. Vacation will be paid at the employee's regular rate of pay at the time of termination. **[Alternatively: Accrued but unused vacation benefits will not be paid upon termination of employment unless state law requires otherwise].**

If you work in a state with different or greater vacation rights, the Company will comply with all requirements.<sup>25</sup>

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<sup>23</sup> Note to management: Preparing vacation and sick leave policies that are nationally compliant requires consultation with an employment expert. Attorneys should be consulted in the development of such policies.

<sup>24</sup> Note to management: Certain states require a specific maximum accrual, including California (two times the annual accrual), Nebraska and Montana (one times the annual accrual).

<sup>25</sup> Note to management: State laws vary with regard to "use it or lose it" vacation policies. Employers should comply with local applicable law.

## SICK LEAVE BENEFITS

The Company offers paid sick leave to regular full-time employees at the rate of \_\_\_ day(s) per month, up to a maximum of \_\_\_ days per year<sup>26</sup>. Sick leave is to be used only when actually required to recover from illness or injury, or to attend medical and dental appointments. We will not tolerate abuse or misuse of your sick leave privilege.

An employee who is unable to report to work because of injury or illness must notify his or her supervisor prior to the scheduled starting time. For absences of more than three consecutive days due to illness or injury not connected with employment, a certification from a health care provider must be submitted. The certification must state that you are under the provider's care or treatment for the days in question and that it is the provider's recommendation that you remain away from work. A health care provider's certification also may be required in other circumstances. We reserve the right to require a release from the employee's health care provider before the employee returns to work.

Accrued sick leave does not carry over from year to year. Moreover, employees are not compensated for unused sick leave at the end of employment with the Company or at any other time.

If you work in a jurisdiction that has a mandatory sick leave law or a jurisdiction that defines how sick leave may be used or accrued, the Company will comply with all legal requirements, including providing greater or different benefits than those set forth herein. In such a situation, the leave you are entitled to may run concurrently with the leave provided under this policy, to the extent permissible under applicable law.

## PAID TIME OFF

### Option 2: Combined Paid Time Off (PTO) Policy<sup>27</sup>

The Company provides eligible employees with PTO from work. PTO may be taken for vacation, sick leave, medical appointments or any other purpose. Full-time employees accrue PTO in accordance with the schedule below. Optional: Part-time and temporary employees do not accrue PTO.

Length of Service	Yearly Accrual	Maximum Accrual

Once the maximum accrual amount has been reached, no additional PTO will be earned until previously accrued PTO is used. You will not be given retroactive credit for any period of time in which you do not accrue PTO because you were at the maximum. At year end, unused PTO at or below the maximum accrual amount will carry over to the subsequent year.

<sup>26</sup> Note to management: A growing number of jurisdictions now require employers to offer paid sick or "safe" leave under local laws. In addition, federal government contractors are required to provide up to 56 hours annually of paid sick leave pursuant to a 2016 executive order that remains in effect. Consult with local counsel to determine what rules apply in your area.

<sup>27</sup> Note to management: Adoption of a nationwide PTO policy may be problematic. Several jurisdictions with mandatory sick leave laws require specific policies. Additionally, some states require payout at termination and accrual of PTO time. An attorney should be consulted before preparing the following PTO policy.

If you want to use accrued PTO for a vacation, you should request the time off as far in advance as possible. PTO will be scheduled so as to provide adequate coverage of jobs and staff requirements. The Company will make the final determination in this regard.

If you want to use PTO for illness or injury, you must notify your supervisor prior to the scheduled starting time. For absences of more than three consecutive days due to illness or injury not connected with employment, a certification from a health care provider must be submitted. The certification must state that you are under the provider's care or treatment for the days in question and that it is the provider's recommendation that you remain off work. A health care provider's certification also may be required in other circumstances. We reserve the right to require a release from the employee's health care provider before the employee returns to work.

PTO is not counted for the purpose of calculating an employee's overtime hours of work or overtime premiums. Moreover, PTO does not accrue during unpaid leaves of absence or other periods of inactive service.

If you work in a jurisdiction that has a mandatory sick leave law or a jurisdiction that defines how sick leave may be used or accrued, the Company will comply with all legal requirements, including providing greater or different benefits than those set forth herein. In such a situation, the leave you are entitled to may run concurrently with the leave provided under this policy, to the extent permissible under applicable law.

## HOLIDAYS<sup>28</sup>

**[Company Name]** observes the following paid holidays: **[insert holidays such as New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, the day after Thanksgiving, and Christmas]**. If a holiday falls on a weekend day, we usually observe the holiday on the preceding Friday or the following Monday. Holiday observance will be announced in advance.

Temporary workers and new hires who have not completed 90 days of employment are not eligible for holiday pay. Holiday pay will be calculated based on your straight time pay rate (as of the date of the holiday) times the number of hours you would have otherwise worked on that day. Holiday pay is not counted for the purpose of calculating an employee's overtime hours of work or overtime premiums.

Optional: To be eligible for holiday pay, you must work the last scheduled day immediately preceding the holiday and the first scheduled day following the holiday.

## FAMILY AND MEDICAL LEAVE OF ABSENCE

The Company will grant family and medical leave in accordance with the requirements of applicable state and federal law in effect at the time the leave is granted. Although the federal and state laws sometimes

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<sup>28</sup> Note to management: Private sector employers are under no legal obligation to recognize specific holidays. Practices vary widely, both as to which holidays are recognized and as to how much employees will be paid. Special rules may apply under the Davis-Bacon Act and/or state prevailing wage laws. Under the federal Civil Rights Act, employers must make "reasonable accommodation" for the differing religious practices of employees if such accommodation does not result in undue hardship to the firm's business.

have different names, the Company refers to these types of leaves collectively as “FMLA leave.” In any case, employees will be eligible for the most generous benefits available under applicable law.<sup>29</sup>

## EMPLOYEE ELIGIBILITY

To be eligible for FMLA leave benefits, you must: (1) have worked for the Company for a total of at least 12 months; (2) have worked at least 1,250 hours during the previous 12 months as of the start of the leave; and (3) work at a location where at least 50 employees are employed by the Company within 75 miles, as of the date the leave is requested.

## REASONS FOR LEAVE

State and federal laws allow FMLA leave for various reasons. Because an employee’s rights and obligations may vary depending on the reason for the FMLA leave, it is important to identify the purpose or reason for the leave. FMLA leave may be used for one of the following reasons, in addition to any reason covered by an applicable state family/medical leave law:

- the birth, adoption, or foster care of an employee’s child within 12 months following birth or placement of the child (Bonding Leave);
- to care for an immediate family member (spouse, child or parent with a serious health condition) (Family Care Leave);
- an employee’s inability to work because of a serious health condition (Serious Health Condition Leave);
- a “qualifying exigency,” as defined under the FMLA, arising from a spouse’s, child’s or parent’s “covered active duty” (as defined below) as a member of the military reserves, National Guard or Armed Forces (Military Emergency Leave); or
- to care for a spouse, child, parent or next of kin (nearest blood relative) who is a “Covered Servicemember,” as defined below (Military Caregiver Leave).

### **Definitions:**

**“Child,”** for purposes of Bonding Leave and Family Care Leave, means a biological, adopted or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time that leave is to commence. **“Child,”** for purposes of Military Emergency Leave and Military Caregiver Leave, means a biological, adopted or foster child; stepchild; legal ward; or a child for whom the person stood in loco parentis, and who is of any age.

**“Parent,”** for purposes of this policy, means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the person. This term does not include parents “in law.” For Military Emergency Leave taken to provide care to a parent of a military member, the parent must be incapable of self-care, as defined by the FMLA.

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<sup>29</sup> Note to management: This sample policy generally conforms to federal FMLA requirements. Employers should check state and local FMLA laws before adopting any policy, because some state and local FMLA laws impose different requirements as to employee eligibility, notices, reinstatement rights, etc.

**“Covered Active Duty”** means (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation as defined by applicable law.

**“Covered Servicemember”** means (1) a member of the Armed Forces, including a member of a reserve component of the Armed Forces, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred or aggravated in the line of duty while on active duty that may render the individual medically unfit to perform his or her military duties, or (2) a person who, during the five years prior to the treatment necessitating the leave, served in the active military, Naval or Air Service, and who was discharged or released therefrom under conditions other than dishonorable (a “veteran” as defined by the Department of Veteran Affairs), and who has a qualifying injury or illness incurred or aggravated in the line of duty while on active duty that manifested itself before or after the member became a veteran. For purposes of determining the five-year period for covered veteran status, the period between Oct. 28, 2009, and March 8, 2013, is excluded.

**“Spouse”** means a husband or wife as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state. This definition includes an individual in a same-sex or common law marriage that either was entered into in a state that recognizes such marriages or if entered into outside of any state, is valid in the place where entered into and could have been entered into in at least one state.

## LENGTH OF LEAVE

The maximum amount of FMLA leave will be 12 workweeks in any 12-month period when the leave is taken for: (1) Bonding Leave; (2) Family Care Leave; (3) Serious Health Condition Leave; and/or (4) Military Emergency Leave. However, if both spouses work for the Company and are eligible for leave under this policy, the spouses will be limited to a total of 12 workweeks off between the two of them when the leave is for Bonding Leave or to care for a parent using Family Care Leave. A 12-month period begins on the date of your first use of FMLA leave. Successive 12-month periods commence on the date of your first use of such leave after the preceding 12-month period has ended.<sup>30</sup>

The maximum amount of FMLA leave for an employee seeking to take Military Caregiver Leave will be a combined leave total of 26 workweeks in a single 12-month period. A “single 12-month period” begins on the date of your first use of such leave and ends 12 months after that date.

If both spouses work for the Company and are eligible for leave under this policy, the spouses will be limited to a total of 26 workweeks off between the two when the leave is for Military Caregiver Leave only or is for a combination of Military Caregiver Leave, Military Emergency Leave, Bonding Leave and/or Family Care Leave taken to care for a parent.

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<sup>30</sup> Note to management: Employers may choose among four different 12-month calculation methods under the federal FMLA. The rolling 12-month period referenced in this sample policy is designed to prevent potential stacking at the end of one leave year and the beginning of the next leave year.

Under some circumstances, you may take FMLA leave intermittently—which means taking leave in blocks of time, or by reducing your normal weekly or daily work schedule. Leave taken intermittently may be taken in increments of no less than \_\_\_\_\_. Employees who take leave intermittently or on a reduced work schedule basis for planned medical treatment must make a reasonable effort to schedule the leave so as not to unduly disrupt the Company’s operations. Please contact the **[insert contact name/info]** prior to scheduling planned medical treatment. If Family and Medical leave is taken intermittently or on a reduced schedule basis due to foreseeable planned medical treatment, the Company may require you to transfer temporarily to an available alternative position with an equivalent pay rate and benefits, including a part-time position, to better accommodate recurring periods of leave.

As discussed more generally below, if your request for intermittent leave is approved, the Company may later require you to obtain recertification of your need for leave. For example, the Company may request recertification if it receives information that casts doubt on your report that an absence qualifies for FMLA leave.

## NOTICE AND CERTIFICATION

### Bonding, Family Care, Serious Health Condition and Military Caregiver Leave Requirements

Employees are required to provide:

1. when the need for the leave is foreseeable, 30 days advance notice or such notice as is both possible and practical if the leave must begin in less than 30 days (normally this would be the same day the employee becomes aware of the need for leave or the next business day);
2. when the need for leave is not foreseeable, notice within the time prescribed by the Company’s normal absence reporting policy, unless unusual circumstances prevent compliance, in which case notice is required as soon as is otherwise possible and practical;
3. when the leave relates to medical issues, a completed Certification of Health Care Provider form within 15 calendar days (for Military Caregiver Leave, an invitational travel order or invitational travel authorization may be submitted in lieu of a Certification of Health Care Provider form);
4. periodic recertification (upon request); and
5. periodic reports during the leave.

Certification forms are available from **[insert title of appropriate Company representative]**. At the Company’s expense, the Company also may require a second or third medical opinion regarding your own serious health condition or the serious health condition of your family member. In some cases, the Company may require a second or third opinion regarding the injury or illness of a “Covered Servicemember.” Employees are expected to cooperate with the Company in obtaining additional medical opinions.

When leave is for planned medical treatment, you must try to schedule treatment so as not to unduly disrupt the Company’s operation. Please contact **[insert title of appropriate Company representative]** prior to scheduling a planned medical treatment.

### Recertification After Grant of Leave

In addition to the requirements listed above, if your Family and Medical leave is certified, the Company may later require medical recertification in connection with an absence that you report as qualifying for Family and Medical leave. For example, the Company may request recertification if (1) the employee requests an extension of leave;

(2) the circumstances of the employee's condition as described by the previous certification change significantly (e.g., your absences deviate from the duration or frequency set forth in the previous certification, your condition becomes more severe than indicated in the original certification or you encounter complications); or (3) the Company receives information that casts doubt upon your stated reason for the absence. In addition, the Company may request recertification in connection with an absence after six months have passed since your original certification, regardless of the estimated duration of the serious health condition necessitating the need for leave. Any recertification requested by the Company shall be at the employee's expense.

### **Military Emergency Leave Requirements**

Employees are required to provide:

- as much advance notice as is reasonable and practicable under the circumstances;
- a copy of the covered military member's active duty orders when the employee requests leave and/or documentation (such as Rest and Recuperation leave orders) issued by the military setting forth the dates of the military member's leave; and
- a completed Certification of Qualifying Exigency form within 15 calendar days, unless unusual circumstances exist to justify providing the form at a later date. Certification forms are available from **[insert title of appropriate Company representative]**.

### **Failure to Provide Certification and to Return From Leave**

Absent unusual circumstances, failure to comply with these notice and certification requirements may result in a delay or denial of the leave. If you fail to return to work at your leave's expiration and have not obtained an extension of the leave, the Company may presume that you do not plan to return to work and may voluntarily terminate your employment.

### **COMPENSATION DURING LEAVE**

Generally, FMLA leave is unpaid. However, you may be eligible to receive benefits through state-sponsored or company-sponsored wage-replacement benefit programs. If you are eligible to receive these benefits, you may choose to supplement these benefits with the use of accrued vacation and sick leave, to the extent permitted by law and Company policy. All such payments will be integrated so that you will receive no more than your regular compensation during this period. If you are not eligible to receive any of these wage-replacement benefits, the Company may require you to use accrued vacation and sick leave to cover some or all of the FMLA leave. The use of paid benefits will not extend the length of a FMLA leave.

### **BENEFITS DURING LEAVE**

The Company will continue making contributions to your group health benefits during your leave on the same terms as if you had continued to work. This means that if you want your benefits coverage to continue during your leave, you must continue to make any premium payments that you are now required to make for yourself or your dependents. Employees taking Bonding Leave, Family Care Leave, Serious Health Condition Leave and Military Emergency Leave generally will be provided with group health benefits for a 12-workweek period. Employees taking Military Caregiver Leave may be eligible to receive group health benefits coverage for up to a



maximum of 26 workweeks. In some instances, the Company may recover premiums it paid to maintain health coverage if you fail to return to work following a FMLA Leave.

If you are on FMLA leave but are not entitled to continued paid group health insurance coverage, in some circumstances you may continue your coverage through the Company in conjunction with federal and/or state COBRA guidelines by making monthly payments to the Company for the amount of the relevant premium. Please contact **[insert title of appropriate Company representative]** for more information.

Your length of service as of the leave will remain intact, but accrued benefits such as vacation and sick leave will not accrue while on an unpaid FMLA leave.

## **JOB REINSTATEMENT**

Under most circumstances, you will be reinstated to the same position held at the time of the leave or to an equivalent position with equivalent pay, benefits, and other employment terms and conditions. However, you have no greater right to reinstatement than if you had been continuously employed rather than on leave. For example, if you would have been laid off had you not gone on leave, or if your position is eliminated during the leave, then you will not be entitled to reinstatement.

Prior to being allowed to return to work, an employee returning from a Serious Health Condition Leave must submit an acceptable release from a health care provider that certifies the employee can perform the essential functions of the job (as those essential functions relate to the employee's serious health condition). For an employee on intermittent FMLA leave, such a release may be required if reasonable safety concerns exist regarding the employee's ability to perform his or her duties, based on the serious health condition for which the employee took the intermittent leave.

"Key employees," as defined by law, may be subject to reinstatement limitations in some circumstances. If you are a "key employee," you will be notified of the possible limitations on reinstatement at the time you request a leave.

## **FRAUDULENT USE OF FMLA PROHIBITED**

An employee who fraudulently obtains Family and Medical leave from the Company is not protected by FMLA's job restoration or maintenance of health benefits provisions. In addition, the Company will take all available appropriate disciplinary action against any employee due to such fraud.

## **ADDITIONAL INFORMATION REGARDING FMLA**

A Notice to Employees of Rights under FMLA (WHD Publication 1420) is attached to this policy.<sup>31</sup>

## **STATE LAW**

A number of states have family leave statutes with leave benefits that exceed those available to you under the FMLA. Contact your supervisor or **[insert appropriate department or manager]** for additional information.

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<sup>31</sup> Note to management: Employers are responsible for attaching WHD Publication 1420.

## PERSONAL LEAVE

Requests for personal leaves of absence will be considered and evaluated on an individual basis. Unpaid leaves may be granted for up to 30 days for regular employees who have completed at least 90 days of services.

Approval or denial of such requests will be entirely at the discretion of the Company. In determining the feasibility of granting such requests, factors such as purpose of requested leave, availability of coverage for job responsibility during the requested leave, previous absences, length of employment, prior work records and performance, and similar considerations, will be considered. Such requests shall be submitted to **[insert appropriate management representative]**.

An employee's benefits will cease during a personal leave.

**[Company Name]** will attempt to return an employee to his or her former position or a comparable position upon return from personal leave, at our discretion. However, given changing business needs, no reinstatement can be guaranteed.

Employees on leave are asked to confirm their return date at least two weeks before they return to work. Any requests for additional leave must be made as soon as possible. Employees on leave who do not return as scheduled, and fail to request or cannot show good reason why an extension should be granted, will be considered to have voluntarily terminated as of the day the original leave expired.

## MILITARY LEAVE

Both state and federal law provide employees with the right to take leave in order to serve in the military. At the federal level, military leave rights are governed by the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA establishes a "floor" for employees' rights with respect to military leaves. States may provide an employee with greater or additional rights with respect to military leaves than those under USERRA.

### ELIGIBILITY FOR LEAVE

The Company provides unpaid military leaves of absence to employees who serve in the uniformed services as required by USERRA and applicable state laws. The uniformed services are defined as the Army, Navy, Marine Corps, Air Force, Coast Guard, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service and any other category of persons designated by the president of the United States in time of war or national emergency. The uniformed services also include participants in the National Disaster Medical System when activated to provide assistance in response to a public health emergency, to be present for a short period of time when there is a risk of a public health emergency, or when they are participants in authorized training.

Service consists of performing any of the following on a voluntary or involuntary basis: active duty, active duty for training, initial active duty, inactive duty training, full time National Guard duty, absence from work for an

examination to determine fitness for such duty and absence for performing funeral honors duty. Total military leave time may not exceed five years during employment, except in certain, defined circumstances.

## **NOTICE OF LEAVE**

Advance notice of leave is required, preferably in writing, unless notice is impossible or unreasonable, or notice is prohibited by military necessity (which is defined by the United States Department of Defense). When notice is required, employees must provide their supervisor with as much advance notice as possible of any anticipated leave of absence for military service. Accrued, unused vacation will be paid during military leave at the employee's request. After 30 days of continuous military leave, employees may elect to continue their health plan coverage at their own expense, for up to 24 months or during the remaining period of service, whichever is shorter.

## **REINSTATEMENT**

In order to be eligible for reinstatement, an employee must have provided advance notice of the need for military leave (where required) and have completed his or her service on a basis that is not dishonorable or otherwise prohibited under USERRA.

Employees whose military service is less than 31 days must report back to work at the beginning of the first full, regularly scheduled work day following completion of service, after allowing for a period of safe travel home and eight hours of rest.

Employees whose military service is more than 30 days, but less than 181 days, must apply for reemployment within 14 days after completing service.

Employees whose service is greater than 180 days must apply for reemployment within 90 days after completing service.

As with other leaves of absence, failure to return to work or to reapply within applicable time limits may result in loss of reemployment rights. Full details regarding reinstatement are available from Human Resources.

In general, an employee returning from military leave will be reemployed in the position and seniority level that the employee would have attained had there been no military leave of absence. If necessary, the Company will provide training to assist the employee in the transition back to the workforce.

Vacation benefits do not continue to accrue during a military leave of absence. An employee returning from military leave is entitled to any unused, accrued vacation benefits the employee had at the time the military leave began minus any vacation benefits the employee chose to use during the leave. Upon reinstatement, the employee will begin to accrue vacation benefits at the rate he or she would have attained if no military leave had been taken.

If the employee works in a state that provides rights greater than those provided under USERRA, the Company will adhere to those rights.

## OFF TO VOTE

We encourage all employees to fulfill their civic responsibilities and to vote in official public elections. Generally, your working hours are such that you will have ample time to cast your vote before or after your work shift. If you find yourself with insufficient time to vote, please discuss the matter with your supervisor. We will comply with all applicable state and municipal voting time laws.

## JURY AND WITNESS DUTY LEAVE<sup>32</sup>

We encourage employees to serve on jury or witness duty when called. You must notify your supervisor of the need for time off for jury or witness duty as soon as a notice or summons from the court or a subpoena is received. Time off for jury or witness duty will be unpaid except that exempt employees will not incur any reduction in pay for a partial week of absence due to jury or witness duty; however, the Company will comply with all state laws regarding pay for jury leave. Any mileage allowance, fee, etc., paid for jury or witness duty will be credited against any payments made by the Company.

Verification from the court clerk of having served may be required and you will be expected to report or return to work for the remainder of your work schedule on any day you are dismissed from jury or witness duty.

## BEREAVEMENT LEAVE

Employees may take up to three days paid time off to attend the funeral of an immediate family member and make any necessary arrangements associated with the immediate family member's death. The employee should notify his or her supervisor immediately.

Approval of bereavement leave will occur in the absence of unusual operating requirements. Any employee may, with a supervisor's approval, use available paid leave for additional time off as necessary.

"Immediate family" consists of the employee's spouse, domestic partner, child, sibling, parents, grandparents, grandchildren; or the child, sibling or parents of the employee's spouse or domestic partner.

## OTHER LEAVES OF ABSENCE<sup>33</sup>

**[Insert as appropriate]**

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<sup>32</sup> Note to management: Most states only require employers to allow unpaid leave without penalty for jury service. But some states require employers to grant paid time off for witness duty and should be consulted prior to implementing any witness duty policy.

<sup>33</sup> Note to management: Many states require that employers provide their employees with additional leaves of absence, such as pregnancy disability leave, bone marrow donation leave and school activities leave. Employers should consult with counsel knowledgeable about state and local requirements.

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# BENEFITS

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**[Company may wish to list in this section the benefits provided by or through each entity].**

## EMPLOYEE ASSISTANCE PROGRAM

We provide an Employee Assistant Program (EAP) at no cost to you and your family. It is available 24 hours a day, seven days a week. It is a confidential, safe and easy-to-use resource. EAP counselors will help you clarify your concerns, assess your situation and identify options to help you resolve problems. The number is **[insert EAP telephone number]**.

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# PAY PRACTICES

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## EMPLOYMENT CATEGORIES

### FULL-TIME EMPLOYEES

Full-time employees are those who are normally scheduled to work and who do work a schedule of **[insert number]** hours per week.

### PART-TIME EMPLOYEES

Part-time employees are those who are generally scheduled to (and do) work less than 30 hours per week. Part-time employees may be assigned a work schedule in advance or may work on an as-needed basis. If applicable: Part-time employees are eligible for some, but not all, employee benefits described in this handbook and are provided with benefits required by applicable law.

### TEMPORARY EMPLOYEES

Temporary employees are those who are employed for short-term assignments. Short-term assignments will generally be periods of **[insert number]** months or less. Temporary employees are not eligible for employee benefits, except as required by applicable law, and may be classified as exempt or nonexempt on the basis of job duties and compensation.

### EXEMPT EMPLOYEES

Exempt employees are those whose job assignments meet the federal and state requirements for overtime exemption. Exempt employees are compensated on a salary basis and are not eligible for overtime pay. Your supervisor will inform you if your status is exempt.

### NONEXEMPT EMPLOYEES

Nonexempt employees are eligible for overtime. Your supervisor will inform you if your status is exempt. Please refer to the overtime policy.

## GOVERNMENT JOBS<sup>34</sup>

(Optional for Prevailing Wage Construction Contracts)

You may be paid more than your regular rate when you work on certain government jobs, in accordance with applicable law. You should consider this additional benefit of working for our Company as temporary because your job assignment can be changed at any time or the government job may be completed.

## WORK SCHEDULES

The Company is normally open for business from Monday through Friday, \_\_ a.m. to \_\_ p.m. Your supervisor will assign your work schedule.

All employees are expected to be at their desk or designated work area at the start of their scheduled shift, ready to perform their work.

Your supervisor will schedule meal and rest periods as appropriate. We comply with all state laws in this regard.

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in total hours that may be scheduled each day and week.

## OVERTIME<sup>35</sup>

Nonexempt employees will be paid time and one-half compensation for all hours worked in excess of 40 in one workweek and as otherwise required by applicable state and federal law. When operating requirements or other needs cannot be met during regular working hours, you may be scheduled to work overtime. All overtime work must be authorized in advance by your supervisor. Working overtime without prior authorization may result in disciplinary action.

Exempt employees are expected to work as much of each workday as is necessary to complete their job responsibilities. No overtime or additional compensation is provided to exempt employees.

For overtime pay calculation purposes, the workday begins at 12:01 a.m. and ends at midnight. The workweek begins at 12:01 a.m. Sunday and ends at midnight the following Saturday.<sup>36</sup>

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<sup>34</sup> Note to management: The Davis-Bacon Act and other related federal and state prevailing wage laws require government contractors in the construction industry to pay the wage and fringe benefits rates found to be prevailing by the U.S. Department of Labor (under Davis-Bacon) or the state department of labor (for most state prevailing wage laws) in the local area where the job is to be performed.

<sup>35</sup> Note to management: The Fair Labor Standards Act (FLSA) requires that covered employers pay overtime at the rate of one and one-half times an employee's regular rate for all hours worked by a nonexempt employee over 40 hours within a workweek. Some employers voluntarily pay overtime over eight hours in one day, while others do so because they are required to under some state laws. Neither the FLSA or any other law restricts an employer's right to require overtime work as needed (so long as it does not jeopardize an employee's safety or health), nor is an employer required to guarantee any particular number of hours of work in a week.

<sup>36</sup> Note to management: The employer has discretion as to how it defines the workday and workweek.

## PAYROLL PROCEDURES

This policy describes some of the basic rules concerning our timekeeping and payroll procedures, as well as the steps employees should follow to ensure that they are paid properly for all time worked.

### REVIEW YOUR PAY STUB

We work hard to ensure that all employees are paid correctly, but mistakes can happen. When mistakes do occur and are called to our attention, we will promptly make any corrections necessary. Please review each paycheck and pay stub when you receive it to make sure your pay is correct. If you believe an error has occurred or if you have any questions about your paycheck or pay stub, please promptly report the matter to your supervisor.

### NONEXEMPT EMPLOYEES

If you are classified as a nonexempt employee, you must record the time you work each day. Your arrival, departure and meal break times must be recorded accurately. Nonexempt employees are prohibited from working “off the clock” (i.e., without reporting the time worked). When you receive your paycheck, please verify immediately that your working time was recorded accurately and that you were paid correctly for all hours worked.

When you work, you must report all the time you work. Nonexempt employees should not work any time that is not authorized by their supervisors. Do not start work early, finish work late, work during a meal break, or perform any other extra or overtime work unless you are directed to do so. If you have any questions about when or how many hours you are expected to work, contact your supervisor.

It is a violation of our policy for anyone to instruct or encourage another employee to work “off the clock,” to incorrectly report hours worked or to alter another employee’s time records. If anyone directs or encourages you to incorrectly report your hours worked, or to alter another employee’s time records, you should report the incident immediately to your supervisor.

### TRAVEL TIME

The Company typically does not pay for time commuting between an employee’s home and the first work site at the beginning of the day, and an employee’s last work site and home at the end of the day when the first and last work sites are within an employee’s normal commuting area. However, time traveling between job sites during the work day by nonexempt employees is compensable and must be reported as time worked.

Time spent commuting beyond the normal commuting area may be considered compensable work time to the extent required by applicable law. You should report any time spent commuting to or from job sites outside of the normal commuting area to your supervisor, management or human resources for a determination as to whether the additional time is considered compensable work time. Special rules apply to out of town overnight travel. Consult with your supervisor or human resources regarding your compensation if such travel is required.

The Company may permit or require you to take a Company vehicle home and use it during your commutes between your home and the first work site at the beginning of the day, and your last work site and your home



at the end of the day. If you are permitted or required to use a Company vehicle during your home to work and work to home commutes, you should not use the vehicle for personal reasons other than commuting except where you have received prior permission from your supervisor or management.

The fact that you drive a Company vehicle during your home to work and work to home commutes does not convert non-compensable normal commute time to compensable work time. Further, activities incidental to the use of a Company vehicle for commuting typically are not considered compensable work time. Examples of incidental activities include, but are not limited to, communications between you and the Company for purposes of receiving assignments, transportation of tools and supplies, routine vehicle safety inspections, fueling the vehicle, or other minor tasks typically do not change the non-compensable nature of the commuting time.

## EXEMPT EMPLOYEES

An exempt employee must be paid on a salary basis.<sup>37</sup> Being paid on a salary basis means an employee regularly receives a predetermined amount of compensation each pay period that cannot be reduced because of variations in the quality or quantity of the employee's work. In general, an exempt employee will receive his or her salary for any week in which the employee performs any work, regardless of the number of days or hours worked. However, an exempt employee will not be paid for days not worked in the following circumstances:

- when an exempt employee takes one or more full days off for personal reasons other than sickness or disability, the employee will not be paid for such day(s) of absence, but the employee may use available vacation time to make up for the reduction in salary;
- when an exempt employee takes one or more full days off from work due to sickness or disability, the employee will not be paid for such day(s) of absence, but the employee may use available sick time to make up for the reduction in salary;
- when an exempt employee works only part of the week during his or her first and last week with the Company, the employee will be paid only for the days actually worked; and
- when an exempt employee takes unpaid leave under the Family and Medical Leave Act and corresponding statutes, the Company will not pay for such days/hours of absence.

The Company may require an exempt employee to use available vacation or sick time, as a replacement for salary, when the employee takes less than a full day off from work.

An exempt employee's salary will not be reduced due to service as a juror, witness or in the military, or for lack of work.

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<sup>37</sup> Note to management: This sample policy complies with current regulations of the U.S. Department of Labor's Wage and Hour Division's "safe harbor" against claims of violations of the salary deduction rules of the department for exempt employees under the FLSA.

## **COMPANY POLICY**

It is Company policy to comply with the salary basis requirements of the Fair Labor Standards Act (FLSA) and applicable state law. Therefore, the Company prohibits any manager from making improper deductions from the salaries of exempt employees, except as permitted by law. The Company wants employees to be aware of this policy and that Company does not allow deductions that violate the FLSA or any applicable state law.

## **WHAT TO DO WHEN AN IMPROPER DEDUCTION OCCURS**

If an employee believes that an improper deduction has been made to his or her salary, the employee should immediately report this information to Human Resources, a supervisor or any other member of management. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be promptly reimbursed for any improper deduction made.

## **REPORTING ERRORS AND OBTAINING MORE INFORMATION**

If any employee, exempt or nonexempt, has questions about deductions from his or her pay, believes he or she has been subjected to improper deductions, or believes that the amount paid does not accurately reflect the employee's total hours worked or salary, the employee may provide a verbal or written report to Human Resources, a supervisor or any other member of management.

Every report will be fully investigated. The Company will provide the employee with any compensation to which the employee is entitled in a timely fashion. The Company complies with all applicable laws, including the FLSA. The Company will not allow any form of retaliation against individuals who make good faith reports of alleged violations of this policy, or who cooperate in an investigation by the Company, even if the reports do not reveal any errors or wrongdoing.

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# SAFETY AND SECURITY

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## SMOKE-FREE WORKPLACE<sup>38</sup>

### OPTION 1: NO SMOKING

The Company provides a work environment that is smoke-free. Smoking is strictly prohibited inside the building.

### OPTION 2: SMOKING IN DESIGNATED AREAS ONLY

Smoking is prohibited in all locations on Company property except in specifically designated areas. Employees found removing “no smoking” signs or smoking in prohibited areas will be subject to discipline, up to and including discharge from employment.

## SECURITY INSPECTIONS<sup>39</sup>

We wish to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives or other improper materials. To this end, the Company prohibits the control, possession, transfer, sale or use of such materials on its premises to the extent permitted by applicable law. We require the cooperation of all employees in administering this policy.

Desks, lockers and other storage devices are provided for the convenience of employees but remain the sole property of the Company. Accordingly, they, as well as any articles found within them, can be inspected by any agent or representative of the Company at any time, either with or without prior notice.

In order to ensure the safety and security of employees and customers, and to protect our legitimate business interests, we reserve the right to question and inspect or search any employee or other individual entering or leaving Company premises or jobsites. The inspection or search may include any packages or items that the individual may be carrying, including briefcases, handbags, knapsacks, shopping bags, etc. These items are

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38 Note to management: Employers should check state and local smoking ordinances prior to implementing a smoking policy. Although some employers have implemented complete workplace smoking bans, others have sought to accommodate the concerns of both smokers and non-smokers. Employers also should be aware of court decisions concerning the rights of employees to a safe and healthy workplace and the possible disability discrimination claims of those employees whose health is particularly affected by cigarette smoke.

39 Note to management: Security checks are a sensitive legal issue. The U.S. Constitution protects public sector government workers from “unreasonable” searches and seizures. If an employer in the private sector detains an employee to investigate whether the employee was concealing drugs or contraband or stealing the employer’s property, the employee may have a cause of action for “defamation” or “false imprisonment.” Moreover, variations of the right of privacy have been identified by the courts for “intrusion upon seclusion” and “unreasonable publicity to another’s private life.” In most states, putting employees on notice of the possibility of reasonably conducted security checks helps to defend the employer against claims of lack of notice and invasion of privacy.

subject to inspection and search at any time, with or without prior notice. We also may require employees while on the job or on the Company's premises to agree to reasonable inspection of their personal property and/or persons. The individual may be requested to self-inspect his or her personal property or person by displaying the contents of any packages and/or turning out his or her pockets, etc., in the presence of a Company representative, typically a management employee of the same gender. We will not tolerate any employee's refusal to submit to a search.

## HOUSEKEEPING

All employees are expected to keep their work areas clean and organized. Common areas such as lunch rooms, locker rooms and restrooms should be kept clean. Please clean up after meals and dispose of trash properly.

## HAZARDOUS AND TOXIC MATERIALS

If your job requires that you use hazardous and/or toxic materials, you are expected to comply with all laws, rules and regulations concerning their safe handling and disposal. If you have any questions about the materials you work with or the proper safety procedures to follow, please discuss them with your supervisor before handling the materials.

## WORK-RELATED INJURIES

We provide a comprehensive workers' compensation insurance program at no cost to employees. This program covers most injuries or illnesses sustained in the course of employment that require medical, surgical or hospital treatment.

An employee who sustains a work-related injury or illness should inform his or her supervisor immediately, no matter how minor it may appear to be. This will enable an eligible employee to qualify for coverage.

## WORKPLACE VIOLENCE

We recognize that violence in the workplace is a growing problem nationwide necessitating a firm, considered response by employers. The costs of workplace violence are great, both in human and financial terms. It is our goal to have a workplace free from acts or threats of violence and to effectively respond in the event that such acts or threats of violence do occur.

Workplace violence is any intentional conduct that is sufficiently severe, offensive or intimidating to cause an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends and/or

property such that employment conditions are altered or a hostile, abusive or intimidating work environment is created for one or several employees. Examples of workplace violence include, but are not limited to:

- threats or acts of violence occurring on **[Company Name]** premises, regardless of the relationship between the parties involved in the incident;
- threats or acts of violence occurring off **[Company Name]** premises involving someone who is acting in the capacity of a representative of the Company;
- threats or acts of violence occurring off **[Company Name]** premises involving an employee if the threats or acts affect the business interests of the Company;
- all threats or acts of violence occurring off **[Company Name]** premises of which an employee is a victim if we determine that the incident may lead to an incident of violence on Company premises; and
- threats or acts resulting in the conviction of an employee or agent of **[Company Name]**, or of an individual performing services for the Company on a contract or temporary basis, under any criminal code provision relating to violence or threats of violence that adversely affects the legitimate business interests of the Company.

Examples of conduct that may be considered threats or acts of violence under this policy include, but are not limited to:

- threatening physical or aggressive contact directed toward another individual;
- threatening an individual or his/her family, friends, associates or property with harm;
- the intentional destruction or threat of destruction of **[Company Name]** or another's property;
- harassing or threatening phone calls;
- surveillance;
- stalking;
- veiled threats of physical harm or similar intimidation; and
- communicating an endorsement of the inappropriate use of firearms or weapons.

Workplace violence does not refer to occasional comments of a socially acceptable nature. Such comments may include references to legitimate sporting activities, popular entertainment or current events; rather, it refers to behavior that is personally offensive, threatening or intimidating.

The prohibition against threats and acts as described above applies to all persons involved in the operation of the Company, including, but not limited to, **[Company Name]**, contract and temporary employees and nonemployees on **[Company Name]** property.

**Important Note:** No provision of this policy statement or any other provision in this policy shall alter the at-will nature of employment with **[Company Name]**. We will make the sole determination of whether, and to what extent, threats or acts of violence will be acted upon by the Company. In making this determination, we may undertake a case-by-case analysis in order to ascertain whether there is a reasonable basis to believe that workplace violence has occurred.

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# TERMINATION OF EMPLOYMENT

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## RESIGNATION

If you decide to leave your employment, you are asked to give at least two weeks written notice. This will give the Company the opportunity to make the necessary adjustments in its operation. Upon termination, an employee must return to the Company all keys, uniforms or other company-issued property.

## REDUCTIONS IN FORCE

While the Company hopes to continue growing and providing employment opportunities, changes in business conditions, consumer demand and other factors can create a need to restructure or reduce the number of people employed.

If it becomes necessary to restructure our operations or reduce the number of employees, we will attempt to provide advance notice, if possible, so as to minimize the impact on those affected. We will attempt to inform affected employees of the nature of the layoff and the foreseeable duration of the layoff, whether short term or indefinite, if possible.

In determining which employees will be subject to layoff, we may take into account, among other things, operational requirements, length of service, and the skill, productivity, ability and past performance of those involved. Ultimately, we have the sole discretion to determine which employees will be selected for layoff.

Nothing in this policy creates, or is intended to create, a contract between the Company and employees.

## RETURN OF PROPERTY

Employees are required to return all Company property that is in their possession or control in the event of termination of employment, resignation or layoff, or immediately upon request. Where permitted by applicable laws, the Company may withhold from the employee's check or final paycheck the cost of any items that are not returned when required.<sup>40</sup> No information belonging to the Company can be copied for the employee's use. We also may take any action deemed appropriate to recover or protect Company property.

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<sup>40</sup> Note to management: Many state laws restrict the ability of employers to withhold any amounts from employees' final paychecks as "setoffs" against unreturned property or amounts owed by the employees, unless voluntarily authorized in writing by the employees. Such laws should be checked before adopting a policy on this issue.

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# ACKNOWLEDGMENT<sup>41</sup>

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This is to acknowledge that I have received and read a copy of the **[Company Name]**'s Employee Handbook. I understand that the Employee Handbook sets forth the terms and conditions of my employment with **[Company Name]**, as well as the duties, responsibilities and obligations of employment with the Company. I agree to abide by and be bound by the rules, policies and standards set forth in the Employee Handbook.

Unless I have a signed agreement to the contrary, I understand that my employment with **[Company Name]** is at-will, meaning that it is not for a specified period of time and that the employment relationship may be terminated at any time for any reason, with or without cause or notice, by me or **[Company Name]**. I acknowledge that nothing in this Employee Handbook or any oral statements or representations regarding my employment can alter the foregoing. Only, the **[President of the Company]**, or the President's authorized representative has the authority to enter into an agreement that alters the at-will relationship and then only in writing signed by the **[President of the Company or the President's authorized representative]**.

I also acknowledge that, except for the policy of at-will employment, **[Company Name]** reserves the right to revise, delete and add to the provisions of the Employee Handbook. All such revisions, deletions or additions must be in writing. No oral statements or representations can change the provisions of the Employee Handbook. Furthermore, the Company's policy of at-will employment can only be changed as stated in the prior paragraph.

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Employee Signature

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Print Name

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Date

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<sup>41</sup> Note to management: The National Labor Relations Board has in the past examined employee acknowledgment forms to be sure that employees are not required to state that they are bound by any "union free" policy in the handbook, nor that they are bound to accept the employer's definition of at-will status on a permanent basis. Legal developments in this area of labor law should be closely monitored.



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