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CLIENTS AND FRIENDS OF THE FIRM:

Below is a model policy to be in place by April 1. We hope to get further guidance this Wednesday for the US Department of Labor. If you have more than 500 employees on April 1 you are not subject to this law. If you have less than 50 employees you can apply to be exempt from the law if compliance would threaten the viability of your business. Health Care Providers as defined in the FMLA can be excluded but if you do you should state that in your policy. Let us know if you have any questions. The definition of “health care provider” is provided below in *italics* for those of you that this definition is applicable.

During these uncertain times we are trying to schedule weekly webinars to update our clients and friends. Stay tuned for more information.

Temporary Emergency Family and Medical Leave Policy

From April 1, 2020 to December 31, 2020, the Company provides the following additional leave benefit under the federal Family and Medical Leave Act to any employee who has been employed for at least 30 calendar days. If eligible, you may take unpaid/paid leave if you are unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider is unavailable, because of an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

The first ten days of leave under this policy is unpaid leave; however, you may elect to substitute any accrued vacation, personal, or medical or sick leave. Subsequent days of leave under this policy will be compensated at no less than two-thirds of your regular rate of pay. In no event shall the amount paid be more than \$200 per day and \$10,000 in the aggregate.

You shall provide the Company with notice of necessity for leave under this Policy as is practicable.

If you have any questions regarding the FMLA policy amendment, please contact the Human Resources Manager.

The Act defines child care provider as a provider who receives compensation for providing child care services on a regular basis, including an eligible child care provider (as defined in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n)).

The term school means an elementary school or secondary school as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

Temporary Emergency Paid Leave Due to COVID-19-Related Reasons

From April 1, 2020 to December 31, 2020, the Company will provide emergency paid sick time to eligible employees due to the outbreak of COVID-19 in the United States.

You are eligible for paid sick time under this policy if you is unable to work (or telework) due to a need for leave for any of the following reasons (“Qualifying Reasons”):

- (1) You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- (2) You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- (3) You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- (4) You are caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2);
- (5) You are caring for a son or daughter because the school or place of care of the son or daughter has been closed, or the child care provider of your son or daughter is unavailable, due to COVID-19 precautions;
- (6) You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Duration of Paid Sick Time:

- Full time eligible employees are entitled to 80 hours of paid sick time.
- Part-time eligible employees are entitled to the number of hours that such employee works on average over a 2-week period.

You may choose to first exhaust paid sick time under this policy before using other types of paid leave provided by the Company. Once you no longer have any Qualifying Reason, paid sick time terminates at the beginning your next scheduled workshift.

Paid sick time under this policy shall not carry over from one year to the next.

Compensation:

During paid sick time you will be paid not less than the minimum wage rate in effect in Hawaii or your regular rate of pay, whichever is greater (“Full Rate”).

If you use paid sick time for Qualifying Reason (4), (5), or (6), the required compensation is two-thirds of Full Rate.

In no event shall paid sick time exceed \$511 per day and \$5,110 in the aggregate for Qualifying Reason (1), (2), or (3), or \$200 per day and \$2,000 in the aggregate for Qualifying Reason (4), (5), or (6).

Reasonable Notice:

After the first workday (or portion thereof) that you receive emergency paid sick time under this policy you may be required to follow reasonable notice procedures in order to continue receiving such paid sick time.

Retaliation:

We will not require as a condition of providing paid sick time that you search for or find a replacement employee to cover the hours during which the employee is using the paid sick time.

We will not discharge, discipline, or in any other manner discriminate against any employee who takes paid sick time and has filed any complaint or instituted any proceeding based on violations of this policy.

If you have any questions about paid sick time under this policy, please contact the Human Resources Manager.

The Act defines “health care provider” as:

A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

Any other person determined by the Secretary to be capable of providing health care services.

Others “capable of providing health care services” include only:

Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

Nurse practitioners, nurse midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

Any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions.