

# **COLLECTIVE BARGAINING AGREEMENT**

**Between**

**MORRISSEY HOSPITALITY COMPANIES, INC.,  
AS OWNERS' REPRESENTATIVE OF  
PAZZALUNA**

**And**

**UNITE HERE LOCAL 17 AFL-CIO**

**April 1, 2015 through March 31, 2018**

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THIS AGREEMENT made and entered into by and between Morrissey Hospitality Companies, Inc., as Owners' Representative of Pazzaluna hereinafter, referred to as "Employer", "Company", or "Management" and UNITE HERE Local 17 AFL-CIO hereinafter referred to as the "Union".

## **WITNESSETH**

WHEREAS, the parties hereto, through the process of collective bargaining, have agreed as to wages, hours of employment, and certain other conditions of employment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained to be duly kept and performed, the parties hereto do hereby mutually agree as follows:

## **ARTICLE 1** **PURPOSE AND RECOGNITION**

Section 1.01 Purpose. The purpose of this Agreement shall be to achieve mutual understanding, harmony and cooperation among the Union, the Employer and its Employees; to provide sound working conditions for the Employees; to secure a prompt and fair disposition of grievances; to eliminate all interruptions of work and the interference with the efficient operation of the Employer's Restaurant; to obtain maximum efficiency in the Restaurant; to assure excellent customer relations and service; and to set forth the Agreement covering rates of pay, hours of work and conditions of employment to be observed by the Parties during the life of this Agreement.

Section 1.02 The Employer recognizes the Union as the sole and exclusive bargaining agent for regular full-time and part-time Employees who are employed by the Employer as bartenders, food and beverage servers, dishwashers, hosts/hostesses, food runners and bus help, specifically EXCLUDING all /doormen, valet, secretaries, bookkeepers, clerical personnel, security, supervisors, managerial personnel, and all other Employees.

Section 1.03 Respect and Dignity. Local 17 and the Employer recognize that workers in the hospitality industry are professional employees deserving of the highest regard. The Union, the Employer, the non-union and union employees will work together to honor the principles of respect and dignity. The Parties and non-union and union employees agree that the continued success and operation of this establishment is dependent upon their mutual respect for one another's work.

## **ARTICLE 2** **COMPLETE AGREEMENT**

Section 2.01 Complete Agreement. The express provisions of this Agreement constitute the complete collective bargaining contract which shall prevail between the Employer and the Union with respect to wages, hours of work, and other conditions of employment. This Agreement can

be added to, detracted from, altered, amended or modified only by a written document signed on behalf of the Parties by their duly authorized agents and representatives.

Section 2.02 No Vested Interest Acquired by Employees. Employees shall acquire no vested interest in the rights or benefits granted herein which are not subject to being changed, revised or divested, in accordance with this Agreement or any subsequent revisions or terminations. All rights or benefits which Employees acquire under the terms of this Agreement shall extend only for the duration of this Agreement and shall then terminate, unless expressly renewed or extended for an additional term by written agreement or by application of the automatic renewal clause of this Agreement.

### **ARTICLE 3** **UNION RIGHTS**

Section 3.1 Union Recognition and No Individual Agreements. The Employer recognizes the Union as the duly certified bargaining agent of those Employees covered by this Agreement. The Employer agrees not to enter into any agreements or contracts with its Employees, individually or collectively, which conflict with the terms and provisions of this Agreement, except as expressly agreed to in the form of a written addendum for the Restaurant.

Section 3.2 Union Shop. It shall be a condition of employment for all Employees covered by this Agreement that all Employees who are members of the Union on the effective date of this Agreement shall remain members of the Union or pay fees in lieu thereof. Furthermore, any of these Employees who are not members of the Union on the effective date of this Agreement shall, on or after the thirty-first (31<sup>st</sup>) day of the effective date of this Agreement, become and remain members of the Union or pay fees in lieu thereof. It shall also be a condition of employment that all Employees covered by this Agreement and hired on or after its effective date shall, on or after the thirty-first (31<sup>st</sup>) day of their employment, become and remain members of the Union or pay fees in lieu thereof.

#### Section 3.3 Checkoff

- (a) The Employer shall checkoff uniform monthly Union dues and initiation fees and/or other required fees in a manner according to procedures agreed upon between the representatives of both Parties, upon receipt of the written authorization form to deduct union dues or fees signed by the Employee. Deductions for checkoff shall be submitted to the Union by the tenth (10<sup>th</sup>) of each month, but in no event, later than the fifteenth (15<sup>th</sup>) of the month. New enrollment forms will be sent to the Union with the monthly billings.
- (b) In the event the Employer is delinquent (i.e., the 15<sup>th</sup> of each month following the month for which the dues were withheld) in submitting the deductions to the Union, the Union shall not be obligated to invoke or exhaust the Grievance or Arbitration Procedures set forth in this Agreement prior to initiating action for legal or equitable relief. In addition to the principal amount owed, the Employer shall be liable for eight percent (8%) interest per annum, on a pro-rata basis, on the delinquency and reasonable attorney fees and costs

incurred in the collection of the delinquency, provided the Union gives the Employer at least fourteen (14) calendar days' written notice of default before the Employer would incur any of the additional liabilities.

Section 3.4 Union Posting. The Employer agrees to provide space for the posting of all Union communications in a conspicuous area frequented by Employees.

Section 3.5 Union Stewards. The Employer recognizes the right of the Union to conduct an election or select from among the Employees who are members of the Union, a Chief Steward/Steward(s) to handle such Union business at the Restaurant as may from time to time be delegated to him/her by the Union. The name of such Chief Steward/Steward(s) shall be reported to the Employer. The Union shall designate the areas for which the Chief Steward/Steward(s) is responsible. Union Chief Steward/Steward(s) employed by the Employer shall be required to fulfill their obligations to the Employer and to perform their job duties as any other Employee covered by the Agreement and shall not interrupt Employees while working. Union Stewards shall conduct business on unpaid time unless required by the Employer to attend a meeting.

Section 3.6 Union Visitation. Union representatives and officers shall be privileged to visit the premises of the Employer, generally non-working areas, at all reasonable hours for the transaction of official Union business. Union officers and Business Agents shall first notify the designated management representative of their presence upon the premises and shall not interrupt Employees while working.

Section 3.7 Mailbox. A suitable locked mailbox will be provided by the Union as a receptacle for messages to the Chief Steward/Steward(s), at a location to be designated by the Employer.

Section 3.8 Union Buttons. All Employees shall be permitted to wear an official union button and/or official steward button, provided that neither button shall be larger than the current one-inch union button.

#### **ARTICLE 4** **MANAGEMENT RIGHTS**

The Employer and the Union specifically agree that management shall have the right to direct the work force and to determine the policies and methods of operating its establishment, except as expressly limited by the specific provisions of this Agreement and long-standing custom and past practice, occurring as of or after the date of this Agreement. Such management rights and responsibilities shall include, but not be limited to, the following: the right to select the Employees it will hire; the right to establish or revise work schedules; to assign and direct work; to determine the quality and quantity of work; to determine the size and composition of its working force; to determine the number and type of equipment, material, products and supplies to be used or operated; to make, enforce and alter reasonable rules, policies and regulations and to require Employees to observe these Employer rules, including rules and procedures relating to drug and alcohol testing; to discipline or discharge Employees

for just cause; to maintain efficiency of Employees; to determine assignments of work; to discontinue all or any part of its business operations; to expand, reduce, alter, combine, or transfer, assign, or cease any job, department or operation for business purposes; to introduce new, different, or improved methods and procedures in its operations, and to otherwise generally manage the establishment, except as expressly restricted by the provisions of this Agreement.

## **ARTICLE 5**

### **NO STRIKE OR LOCKOUT**

Section 5.1 No Strike. During the term of this Agreement and any extension thereof the Union agrees on behalf of itself and each of its members that there shall be no authorized strike of any kind and there shall be no sympathy strike, boycott, picketing, work stoppage, slowdown or any other type of organized interference, coercive or otherwise, with the Employer's business.

Section 5.2 No Lockout. During the term of this Agreement and any extension thereof there shall be no lockout by the Employer.

Section 5.3 Jurisdictional Dispute. It is agreed that any jurisdictional dispute between any union or unions involved with this Agreement shall not result in or interfere with the business of the Employer in any manner.

## **ARTICLE 6**

### **PRODUCTIVITY AND COOPERATION**

Section 6.1 Union and Management Cooperation. The Union and the Employer agree to work together to enhance the Employer's business and to improve conditions under which employees work. The employees are expected to honor the principle of 'a fair day's pay'. The continued success and operation of the Employer's business is recognized as dependent upon delivery of excellent services to Employer's guest. The Union agrees to cooperate with the Employer in maintaining and improving safe and sanitary conditions and practices; and in maintaining, safeguarding and conserving the equipment, supplies, materials, vehicles, machinery, buildings and other property used by employees in connection with their work assignments. The Union agrees to take an active role in assisting the Employer's efforts to require compliance by all employees with applicable laws and regulations including, but not limited to, tip reporting, and employment eligibility verification.

## **ARTICLE 7**

### **PAY AND GRATUITIES**

Section 7.1 Wages. Wages shall be paid in accordance with schedules covering wage scales as set forth in Appendix A. Wages shall be paid weekly, or every two (2) weeks. Effective July 2015 all non-cash tips shall be paid on the employees' paycheck.

Section 7.2 Minimum Rates – Merit Pay - Wage scales set forth in the Wage Addendum are minimum wage scales and the Employer, in consideration of merit or otherwise, may in its sole

discretion pay in excess of same. The union shall be notified of all merit increases and the reason therefore.

Section 7.3 Higher Rate. An Employee shall be paid the higher rate of pay for all work performed in a higher job classification, and shall be paid the lower rate for all work performed in a lower paid job classification. This shall not apply where the change in job classification may be considered a minor factor, or is unscheduled, infrequent, of short duration, or is due to an emergency.

Section 7.4 Gratuities/Service Charge

- (a) All gratuities shall be the sole property of the serving person or persons. The Employer shall not require Employees to divide tips nor shall an Employee be required to pay the tipped service charge on credit cards.
- (b) Employees shall reimburse the Employer tips paid on returned credit card charges provided proof of guest's failure to pay the Employer is shown to the Employee.
- (c) For house functions and private parties, the servers shall receive 18% service charge and the remaining balance will go to the house. Morrissey Hospitality menu development and house charges shall receive a 15%-service charge
- (d) An 18% service charge shall be added for dining room parties of 8 or more which shall go to the serving person or persons (excluding private dining and house functions).
- (e) The Employer shall pay the negotiated service charge on all sales and promotions, complementary items, and/or free food and beverage served according to the Pazzaluna Comping Procedures as attached hereto.
- (f) Employees shall be fully briefed by the Employer on any upcoming promotional events or promotional specials.

Section 7.5 Business Costs. Employees shall not have unauthorized deductions made from their checks, nor shall they be required to pay for such business costs as walk-outs, bad checks, incorrect credit card stamps, addition errors, or cash register shortages.

Section 7.6 New Classifications and Combinations. When the Employer establishes a new job classification or a combination of two or more job classifications within the scope of this Agreement, the Union shall be notified and the rate of pay for the new job classification or combination of job classifications shall be subject to negotiation with the Union. If the parties fail to reach an agreement, the matter shall be pursued through the Grievance and Arbitration Procedure in Articles 11 and 12.

Section 7.7 Regular Rate of Pay. It is specifically agreed by the Union and Employer that any meals or uniforms, furnished by the Employer to an Employee shall not be considered as part of the Employee's regular rate of pay for overtime and wage computation purposes within the

meaning of Wage and Hour Law, and that an Employee's regular rate of pay is that rate reflected on the Schedule of Wages in Appendix A.

Section 7.8 Premium Pay. The trainer's rate for minimum wage trainers shall be an additional \$2.00 per hour. Non minimum wage trainers shall be paid \$2.00 per hour over scale.

Section 7.9 Paid Time Off (PTO) Rate for Servers. All Servers will receive an additional Four dollar and fifty cent (\$4.50) per hour over their base rate for all PTO hours.

## **ARTICLE 8** **UNIFORMS**

Section 8.1 Uniforms. The Employer shall provide: All kitchen uniforms and hats. Any uniform piece with a logo or special embroidery, custom aprons (2) per year, custom vest (2) per year, all other uniform pieces to be provided by the employee. The determining factor as to who provides a uniform piece will be if the piece can reasonably be worn outside of Pazzaluna, then it will be the employee's responsibility to purchase. The Employer will replace these pieces when necessary due to normal wear and tear, but the employee shall be responsible for paying for uniforms damaged by carelessness, recklessness, or use off duty. Employees shall return all uniform pieces provided by the Employer upon termination or shall have the replacement costs deducted from their final paycheck.

Section 8.2 Employees Belongings. The Employer agrees to provide lockers for safekeeping of Employee's personal belongings. Employees shall use these lockers exclusively for keeping their belongings. Nothing in this article shall be intended to make the Employer responsible for the Employee's belongings. The Employer shall have unfettered discretion to search such lockers at anytime, with or without advance notice.

## **ARTICLE 9** **HOURS OF WORK AND OVERTIME**

Section 9.1 Standard Workweek. The normal work week shall consist of forty (40) hours which shall be consecutive on four (4) or five (5) days. Servers shall be scheduled in accordance with the negotiated procedure. However, the work week is not guaranteed and Employees may be scheduled for fewer shifts or hours subject to the seniority provisions of this Agreement. It is understood that Employees shall not be permitted to establish their own work schedules nor shall they be permitted to work overtime without the specific approval of their supervisor. Nothing herein shall be interpreted as a guarantee of a minimum number of hours or days of work.

Section 9.2 Overtime Pay. All Employees shall receive overtime pay of time and one-half (1 ½) their regular straight-time hourly rate of pay for all hours worked in excess of forty (40) hours per week.



Section 9.3 Premium Pay for Seventh Day. All work performed by any part-time or regularly scheduled full-time Employee on the seventh (7<sup>th</sup>) consecutive workday shall be paid at the rate of one and one-half (1½) times the regularly hourly rate of pay.

Section 9.4 Overtime Work. Employees shall not be required to work overtime unless it is a business necessity, in which case such overtime shall be offered based on seniority of those Employees performing the work on the shift.

Section 9.5 No Duplication of Overtime or Premium Pay. There shall be no pyramiding or duplication of overtime and/or premium pay for the same hours worked.

Section 9.6 Work Schedules. Work schedules shall be posted by the Wednesday of the week in advance of the first day of the schedule.

Section 9.7 Report-in Pay. An Employee called in and reporting for work as scheduled without prior notice received by the Employee not to so report shall receive a minimum of three (3) hours of work or pay in lieu thereof. This provision shall not apply if the Employee requests to leave work before working the specified or agreed to scheduled hours.

- (a) No Employee shall be entitled to report-in pay or other pay if the lack of work is due to any strike, work stoppage, labor dispute, or to a fire, flood, act of God, or other such condition which is beyond the control of the Employer.

Section 9.8 Replacements. Employees shall not be required to provide a replacement for themselves. Servers shall be required to replace themselves in accordance with the negotiated scheduling policy.

Section 9.9 Discontinuance of Business. If it is necessary to temporarily close down for remodeling or permanently close any part of the Restaurant the Employer will give affected Employees a minimum of two (2) weeks notice unless the cause of the discontinuance of the business is beyond the control or knowledge of the Employer. If the Employer fails to give affected Employees the two (2) weeks notice, and no suitable alternative employment is provided, these Employees shall receive up to two (2) weeks pay in lieu of the required notice to be pro-rated by the period of notice actually given. The parties acknowledge that unexpected fluctuations of business are beyond the control or knowledge of the Employer in the application of this section.

Section 9.10 Changing Time. All Employees required to change into uniforms prior to their shift shall receive a ten (10) minute paid changing time.

Section 9.11 Rest Breaks. All kitchen Employees working eight (8) hour shifts will be allowed to take two (2) breaks of ten (10) minutes each.

Section 9.12 Hours of Work. Provide for the regular scheduling of ten (10) hour days.

Section 9.13 Change in Operating Hours. Should the employer open the restaurant for lunches

on a regular basis, current employees will not be required to work the lunch shift except by mutual agreement. Employees agree that they shall not accept employment with a similar restaurant within a one mile radius of Pazzaluna for the lunch shift.

## **ARTICLE 10** **SENIORITY**

Section 10.1 Definition. Seniority shall mean continuous length of service in the establishment from first day of work in the classifications covered by this Agreement after completing probation. Such classifications are set forth in Appendix A, incorporated herein. Seniority shall be established being regularly scheduled in the classifications covered by this Agreement. Employees who work on an intermittent basis in another classification shall not build seniority in that classification.

Section 10.2 Same Start Date. For all Employees beginning work after October 5, 1998, in the event two (2) or more Employees begin work on the same day, a numerical suffix will be attached to the seniority data of such Employees based on the last four digits of the Employee's social security number. The Employee with the lowest four digit number shall be deemed the most senior.

Section 10.3 Probationary Period - New Employees. Any new Employee shall be employed on a sixty (60) calendar day trial or probationary basis, during which time she/he may be discharged without recourse; provided, however, that this probationary period will be automatically extended an additional thirty (30) days after written notice to the Union and the Employee of such extension and the reason therefore. After the trial period, the Employee shall be placed on the seniority list and her/his seniority shall then date from the first day of her/his current period of employment.

Section 10.4 Probationary Period - Change Classification. An Employee who moves to a new classification shall serve a thirty (30) working day probationary period. During the probationary period, the Employer may return the Employee to their previously held classification, room and schedule for inability to perform the duties of the new job, or the Employee may elect to return to their previously held classification, room and schedule. Employees so returning to previous work shall suffer no loss of seniority.

Section 10.5 Uses of Seniority. The employer and the Union agree to recognize seniority in the following areas; however, ability to perform the required work shall be the determining factor.

- (a) Lay-off and recall according to Employee's length of service of their respective job classification;
- (b) Scheduling PTO, consistent with established PTO procedures;
- (c) Offering and/or requiring overtime, except that servers will be allowed to complete guest service in their respective station;

- (d) Promotion or transfer to different classification job opening between equally qualified in-house applicants.

Section 10.6 Bumping. Bumping shall not be permitted except in cases of lay off or reduced hours.

Section 10.7 Classification Seniority. Employees changing classifications shall begin their seniority for scheduling on day of entry into the new classification. During layoffs or reduction in the work force within a classification, an Employee may exercise any accrued seniority in their prior classification to revert to the classification from which she/he was last transferred provided the Employee can demonstrate current qualification to perform the work.

Section 10.8 Loss of Seniority. The term “continuous service”, wherever used in this Agreement, is the period of time that begins with the Employee's date of hire (or the effective date of this contract, whichever is later.) If such service is broken by any of the reasons listed below, continuous service shall commence with the Employee's most recent hiring date. An Employee's seniority shall be broken if she/he:

- (a) Voluntarily quits; or
- (b) Is discharged for just cause; or
- (c) Has been laid off for a period of one (1) year; or
- (d) Fails to return from an approved leave of absence; or
- (e) Takes a leave of absence to accept gainful employment elsewhere; or
- (f) Is absent beyond the leave of absence period granted due to an illness or disability except in case of injury on the job for which workers compensation benefits are being paid.

Section 10.9 Job Posting. The Employer agrees to post all job openings for six (6) Employer business days. Any Employee may apply for a job opening, but Employees working within the classification with the opening will be offered the position before Employees from other classifications. All selections for all vacancies shall be made based upon skill, ability and demonstrated performance in management's discretion.

Section 10.10 Seniority List. The Employer shall furnish an accurate seniority list to the Union within ten (10) days of the date such request is made by the Union.

## **ARTICLE 11**

### **GRIEVANCE PROCEDURE**

Section 11.1 Grievance Procedure. If any difference of opinion or dispute arises between the parties to this contract concerning the performance of an obligation under the terms and provisions of this Agreement, an attempt will be made to resolve it under the following grievance procedure:

- (a) Step 1. The aggrieved Employee shall first discuss the dispute with the General Manager or his/her designee.

- (b) Step 2. If no satisfactory resolution to the grievance is reached in Step 1, the Union shall, within fourteen (14) days of the Employee's knowledge of the facts giving rise to the grievance, file a written grievance with the authorized representative of the Employer. The written grievance shall indicate the contract provision(s) violated and the name of the Employee(s). Either party may request a meeting at the time of or subsequent to the filing of the written grievance. The meeting shall take place within ten (10) days of the filing of the written grievance.
- (c) Step 3. If the grievance is not settled pursuant to Step 2 above, the Employer shall issue a decision in writing within fourteen (14) days from the time of the filing of the written grievance.

Section 10.2 Working Conditions While Processing Grievance. During the processing of any grievance through the Grievance Procedure, the Employees concerned, unless suspended or discharged by the Company, will continue to work under the conditions which give rise to the grievance.

Section 11.3 Time Limits. Any grievance not appealed to the succeeding step within the time limits specified in this Article shall be deemed abandoned and not entitled to consideration. However, the time limits of the Grievance Procedure can be mutually extended by the parties. Such extensions of time shall be in writing.

## **ARTICLE 12**

### **ARBITRATION PROCEDURE**

Section 12.1 Request for Arbitration, Time Limits. A grievance will be subject to arbitration only if it is processed through the grievance procedure as outlined in Article 11. Request for arbitration must be in writing, and must be submitted to the other party within fourteen (14) days from the date of the Employer's written decision in Step 3 of the Grievance Procedure.

Section 12.2 Selection of Arbitrator. The parties will select an Arbitrator according to the following procedures:

- (a) Selection. If the Company and the Union are unable to promptly agree upon an Impartial Arbitrator, the parties shall request a list of seven (7) Arbitrators from the Federal Mediation and Conciliation Service. The Impartial Arbitrator will then be selected by the parties alternately striking off names from the list until one remains. The selection of the Arbitrator should be made within fifteen (15) days after the receipt of the list of Arbitrators.
- (b) Final and Binding Decision. The decision of the Arbitrator will be in writing and will be final and binding on the Company, the Union and the Employee.
- (c) Expenses. Each party shall pay its own expenses incurred in arbitration, including fees and expenses of the Arbitrator which will be borne equally by the Company and the Union.

- (d) Time Limits. In the case of a grievance involving loss of time or wages, the Arbitrator or the Arbitration Board may order reinstatement and/or back wages in an amount not to exceed the amount actually lost by the aggrieved party, less income gained from other employment. Wages within the meaning of this Article shall mean all income lost by the Employee due to the violation of the Agreement.
- (e) Limitation of Arbitrator. The Arbitrator shall not have the power to add to, ignore, or modify any of the terms, conditions or sections of this Agreement. Her/his decision shall not go beyond what is necessary for the interpretation and application of this Agreement in the case of the specific grievance at issue. The Arbitrator shall not substitute her/his judgment for that of the parties in the exercise of rights granted or retained by this Agreement.

### **ARTICLE 13** **DISCIPLINE AND DISCHARGE**

Section 13.1 Discipline and Discharge. The Employer will discipline Employees for just cause only. Discipline will normally be in the following form:

- (a) Verbal warning;
- (b) Written warning;
- (c) Suspension;
- (d) Discharge

Provided, however, in the case of dishonesty, theft, insubordination, abuse of company assets, abusive behavior towards guests or coworkers, reporting for work under the influence of drugs or alcohol or an equally serious violation of the Employer's rules, the preceding progressive discipline need not apply.

Section 13.2 Written Notices. Written reprimands, notices of suspension and notices of discharge, which are to become part of the Employee's file, shall be read and signed by the Employee, but such signature shall in no way be an admission of wrongdoing on the part of the Employee. A copy of such reprimands and/or notices shall be given to the Employee and the Union.

Section 13.3 Suspension and Discharge. All suspensions and discharge will be in written form and copies will be mailed to the Union following issuance of such notices. Discharges will be preceded by a suspension, during which an investigation of the incident leading to the discharge will be conducted.

Section 13.4 Right of Review. The Union shall have the right of review of any discharge of an Employee who has completed the probationary period by following the grievance procedure of this Agreement.

Section 13.5 Posting of Rules. All rules shall be conspicuously posted by time clocks, on Employee bulletin boards, or in the Employer's Employee Handbook. The Employer's rules shall not conflict with this Agreement.

Section 13.6 Warning Notices - Cancellation. Warning notices shall not be used as a basis for discipline after a period of twelve (12) months.

Section 13.7 Disciplinary Meetings. In the event a meeting is held for disciplinary purposes, the affected Employee shall have the right to have a union steward and/or union representative present.

Section 13.8 Personnel Files. The Employer shall, at reasonable times and at reasonable intervals, upon the request of an Employee, permit that Employee to inspect such Employee's personnel file on his/her own time.

## **ARTICLE 14** **LEAVES OF ABSENCE**

Section 14.1 Medical and Family Leave. Employees who have completed one (1) year of service and who have worked 1250 or more hours in the prior year shall be granted unpaid medical leave for up to six (6) months when they are unable to perform the duties of their job due to their own serious health condition, as that term is defined by the Family and Medical Leave Act. Such Employees shall also be granted up to twelve (12) weeks of unpaid leave when needed to care for a son, daughter, spouse or parent with a serious health condition. If medically necessary, medical leave may be taken on an intermittent or reduced schedule basis. Employees may be required to utilize Paid Time Off during such leaves. The Employer may require medical certification to support a claim for medical leave for an Employee's own serious health condition or to care for a family member with a serious health condition. For medical leaves in excess of thirty (30) days, Employees shall be required to submit periodic medical certifications for each successive 30-day period. Employees returning to work from a personal medical leave in excess of three (3) days shall furnish the Employer medical certification that they are physically able to perform the duties of their job. The Employer will have up to seven (7) days after such notification in which to reinstate the Employee.

Section 14.2 Parenting Leave. Employees who have completed one (1) year of service, and who have worked an average of at least fifteen (15) hours per week during the prior year, shall be granted up to six (6) weeks of unpaid parenting leave in connection with the birth, adoption, or placement of a child in foster care as provided in the Minnesota Parental Leave Law. When possible, Employees shall give the Employer at least thirty (30) days notice before the date such leave is to begin.

Section 14.3 Funeral Leave. All regular Employees, exclusive of probationary, on-call or extra Employees are eligible for funeral pay and leave under this Section, when an Employee's bereavement involves death of an immediate family member, subject to the conditions contained in this paragraph. Maximum funeral pay shall be three (3) days immediately preceding and/or including the funeral day. Employees shall be paid within these limits only for time actually lost at Employee's regular hourly rate. An Employee must actually attend the funeral service of a member of their immediate family, which includes only spouse, child, parent, sibling, mother-in-

law or father-in-law, Grandparent or grandchild. An Employee must also notify the employer of a need for funeral leave and, afterwards, of the facts of the funeral leave.

Section 14.4 Military Leave. Employees, other than those holding temporary positions, who serve in the military, shall be entitled to re-employment and benefits rights as required by law.

Section 14.5 Union Business Leave. The Employer shall grant up to seven (7) days unpaid leave per year to each of two (2) Employees delegated by the Union to attend a labor convention. The Employer shall also grant unpaid leave to any Employee elected to or hired for a position of full time service with the Union for six (6) months. Only one (1) Employee may take such leave at one time. Any Employee seeking leave pursuant to this section shall give the Employer a minimum of thirty (30) days advance notice prior to taking the requested leave.

Section 14.6 Personal Leave. Employees desiring an unpaid leave of absence from the job because of extraordinary personal or family circumstances must first secure written permission from the Employer. The Employer shall not be expected to grant a personal leave of absence that will interfere with the Employer's operations. During such leave of absence, the Employee shall not engage in gainful employment.

Section 14.7 Leave Benefits. In the case of family and medical leaves, the Employer shall continue to pay its share of health insurance contributions, where the Employee was previously participating in the insurance plan, for up to twelve (12) weeks of leave. The Employer shall make available group health insurance to Employees at their own expense, where the Employee was previously participating in the insurance plan, for family and medical leaves in excess of twelve (12) weeks, pursuant to COBRA.

Section 14.8 Employees shall retain pre-leave seniority, and shall accrue seniority during authorized leaves, except as to progression on the wage scale and accrual of PTO.

Section 14.9 The Employer may attempt to recover the cost of medical premiums paid during a covered leave of absence should the Employee fail to return to work as provided for under the Family and Medical Leave Act.

Section 14.10 Return From Leave. An Employee returning from a leave of twelve (12) weeks or shorter duration shall be entitled to return to his or her previously held job classification and schedule (hours and days), subject to the following conditions:

- (a) Neither the classification nor schedule has been abolished; and
- (b) The Employee's leave does not exceed that permitted by any provision of this Agreement.

Section 14.11 If during an Employee's leave under this article, the Employee's schedule has been abolished, the Employee may bump into any schedule commensurate with his or her accrued seniority. An Employee returning from an authorized leave of greater than twelve (12)

weeks and less than six (6) months as provided in this Agreement may return to any open position for which the Employee is qualified.

Section 14.12 Coordination With Applicable Laws. The Union and the Employer agree to follow all federal, state and local laws, regulations and guidelines with respect to the administration of all Leaves of Absence. Where the provisions of this Agreement are more favorable to the Employee than those provided under law the terms of this Agreement shall prevail. Where applicable, leaves of absence granted under this article may run concurrently with any applicable leave rights the Employee may have under the Family and Medical Leave Act.

## **ARTICLE 15** **JURY DUTY**

Section 15.1 Jury Duty. Regularly scheduled Employees, exclusive of probationary, on-call or extra Employees who are required to serve on court jury (not grand jury) shall be given a leave of absence for the jury duty pay and shall be paid the difference between his/her jury pay and the wages he/she otherwise would have earned during straight time hours of available employment or at her/his prevailing PTO rate of pay for tipped Employees.

- (a) Notice to the Employer. Employees must notify their designated supervisor prior to the commencement of jury service and, if the period of service is for longer than one week, they shall be required to report by telephone to their supervisor at the end of each week of jury duty.
- (b) Jury Service of Half-Day. In the event that time required for jury duty on any regularly scheduled work day during the period of jury service is a half-day or less, and the Employee is excused from further jury service on that day, the Employee must immediately make themselves available for work for the balance of said day, unless specifically excused by their supervisor.
- (c) Evidence of Jury Duty Pay. Employee shall submit evidence of jury duty pay before pay adjustments will be authorized; provided, that allowance for travel time or other expenses shall not be considered jury duty pay in computing wages due to Employees under this Section.

## **ARTICLE 16** **PAID TIME OFF (PTO)**

All regular full-time and part-time Employees after six (6) months of service.

Section 16.1 Accrual. Employees accrue PTO hours with every hour they are paid, but PTO hours become available for use only when Employees pass their PTO anniversary date which is the Employee's date of hire. Available PTO hours shall be included on each Employee's paycheck stub. Employees accrue PTO hours based on length of service. PTO hours are accrued according to the following schedule.



**YEARS OF SERVICE**

**PTO  
HOURS**

6 Months	24
1 Year	48
2 Years	88
5 Years	116
10 Years	148
15 Years	164
20 Years	188

Maximum PTO Carryover - Thirty (30) Hours

Section 16.2 Rate of Pay for PTO. All PTO hours will be paid at the Employee’s hourly rate at the time the hours are taken. Servers will receive an additional \$4.50 per hour over their base rate for all PTO hours.

Section 16.3 Scheduling. Employees are required to request PTO at least two weeks in advance of their requested time off, completing appropriate HRAF (Human Resource Action Form) documentation. PTO shall be taken in any increment of four (4) hours or more. To the extent business requirements permit, Employee requests for a specific period in which to take PTO will be honored so long as the efficient operation of the business will permit. If two or more employees request PTO on the same day for the same time period, seniority shall prevail. The Employer reserves the right to schedule PTO so that PTO hours will not interfere with business operations. All PTO requests shall be responded to in writing within ten (10) days of the request. Failure to respond within the ten (10) day time period shall result in the request being approved. Once a request for PTO has been approved by the Employer, the PTO dates shall not be changed unless by mutual consent of the Employer and the Employee. To receive PTO, the Employee must work the regularly scheduled hours immediately preceding and following the requested PTO time.

**ARTICLE 17  
HOLIDAYS**

Any work performed by Employees on the following holidays shall be paid for at the rate of two (2) times the regular hourly rate of pay provided the Employer is open for business on the named holiday: New Year’s Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day and Christmas Day. The Employer and the Union agree to a mutually acceptable rotation schedule for staffing on holidays.

**ARTICLE 18**  
**STATE AND FEDERAL LAW AND SAVINGS CLAUSE**

It is the intention of this Agreement that it be in conformity with all applicable State, City and Federal Laws and if any part of this Agreement shall be found to conflict with such laws, the law shall apply, and the remaining terms and provisions of the Agreement shall remain in full force and effect.

**ARTICLE 19**  
**MEDICAL EXAMINATION**

The Employer may, at its own expense, require and provide for periodic physical and medical examination of Employees and may layoff and release such Employees as are unable to satisfactorily pass such tests. If the Union so requests, the Employer shall furnish a certificate of the physician as to the facts involved, and the Union reserves the right to re-examination of said Employees by their own physician.

**ARTICLE 20**  
**HEALTH, LIFE, DISABILITY AND DENTAL INSURANCE**

Section 20.1 Employer Contributions: Effective July 1, 2014, the Employer under this Agreement agrees to remit not later than the twentieth (20<sup>th</sup>) day of the month following the preceding work month to the Local 17 Hospitality Benefit Fund (“the Fund”), in order to provide benefits under the Fund, a total contribution of \$ 470.00, or any subsequent monthly contribution established by the Trustees of the Fund, on behalf of all employees who have completed and maintained the eligibility requirements established in this Article.

At the time of hire or re-hire, Employees must choose whether to accept or reject the above listed insurance benefits. The Employer shall provide to each new (and returning) employee an Enrollment Card on which THE EMPLOYEE SHALL STATE THE CHOICE OF ACCEPTING OR REJECTING THE BENEFITS. If there is no completed Enrollment Card for a particular Employee, then the parties hereto agree that the Employee has chosen to accept the benefits, and the Employer agrees to submit corresponding contributions to the Fund. In order that the Fund may make a determination on Employee eligibility, the Employer agrees to provide the Fund with all hours paid on all Employees from first hour worked by all Employees.

The parties agree that the Fund’s Board of Trustees reserves the right to establish and adjust contribution rates required by Participating Employers in order to maintain the reserves necessary to assure the Fund’s viability-

Section 20.2 – Employee Contributions:- Effective July 1, 2015, Employees who were hired before 6/6/08 and are covered under the Plan must pay \$43.75 per month (or any subsequent amount as required by the Trustees of the Plan), through authorized payroll deduction. The next three (3) premium increases for these “Grandfathered” rate Employees shall be paid 100% by the Employees. Thereafter, the Employer will pay fifty percent (50%) of future premium increases

for “Grandfathered” rate Employees until either the end of this contract Term or they reach the Employee contribution of Non-Grandfathered participants.

The Employer agrees to pay seventy percent (70%) of the monthly premium for full time Employees working an average of thirty (30) hours or more per week. The Employer agrees to pay fifty (50%) percent of the monthly insurance premium for part time Employees who work at least seventy-five (75) hours per month but less than thirty (30) hours per week. Any premium increase for Non-Grandfathered participants would be shared by the Employer and Employee base on the above percentages. Qualifying hours will remain unchanged and are based on the number of hours worked the previous month. Employees not having sufficient funds on their paychecks to cover this cost must pay the Employer the required amount for submission by the Employer to the Fund along with the Employer contributions. Employees not providing the Employer with their portion of the contribution as required will be dropped from the Plan and not eligible to participate until the next open enrollment period. The responsibility for providing the required co-payment to the Employer for submission to the Fund lies with the Employee. Employees will not be billed or given notification of insufficient funds on their paychecks. Neither the Fund nor the Employer assumes any responsibility for benefits or for claims made by any Employee who fails to make the necessary co-payment to maintain their benefits. Employees dropped from the Plan by failure to pay are not eligible for COBRA. The Employer shall not be obligated to make contributions on any Employee who fails to submit the required co-payment.

**Section 20.3 Eligibility.** Employees are eligible for Fund benefits after they have worked three (3) consecutive months with seventy-five (75) hours or more per month. The Employee must designate on the Enrollment Card at the time of hire their option of accepting or rejecting benefits. Eligibility is maintained by working seventy-five (75) hours per month or more as required by the Plan.

The Employer agrees to pay the contribution amount in the fourth (4<sup>th</sup>) month following the Employee’s third (3<sup>rd</sup>) work month of 75 hours or more, as stated in Section 20.1. When payment is received in the fourth (4<sup>th</sup>) month, then the Employee’s coverage will begin in the fifth (5<sup>th</sup>) month.

**PTO Towards Eligibility:** PTO (Paid Time Off) or other time off for which payment is actually made to the Employee shall be considered as hours worked for the purpose of maintaining medical and dental eligibility.

**Section 20.4 Employer Deductions.** The Employer agrees to deduct the appropriate amount from the paycheck of any Employee who authorizes such deduction in writing to provide payment to the Fund for the Employee’s contribution under either section 2 or section 5.

**Section 20.5 Self-Pay.** All eligible Employees, as determined by section 3 above, who fall below the required hours for Health and Welfare coverage or who terminate their employment shall be permitted to submit to the Fund self-payments for up to the amount of time required under the Comprehensive Omnibus Budget Reconciliation Act of 1986 (“COBRA”). When applicable, the Employer agrees to deduct the Employee’s COBRA from the paycheck of the Employees.

Section 20.6 Dependent Care Reimbursement. Employees covered under the benefits of the Trust Fund are eligible for the “dependent reimbursement” established by the Trustees by making application to the Trust Fund.

Section 20.7 Trustees. The Fund is administered by six (6) Trustees, three (3) Trustees to be selected by the Employers and three (3) to be selected by the Union. The Employer adopts the Fund’s Agreement and Declaration of Trust as of October 24, 1952, as revised and amended.

Section 20.8 Collection of Delinquent Contributions.

- (a) The provisions of the Fund’s Agreement and Declaration of Trust, as amended, are expressly incorporated herein and the Employer signatory to this agreement agrees to be bound by the provisions of said Trust agreement. The Employer further agrees to all of the rules and regulations heretofore and hereafter adopted by the trustees of said Trust Fund pursuant to said Trust Agreement and all of the actions of the trustees in administering such trust in accordance with the Trust Agreement and rules adopted.
- (b) The Employer hereby accepts as Employer trustees the present Employer trustees appointed under said Trust Agreement and all such past or succeeding Employer trustees as shall have been or will be appointed in accordance with the terms of the Trust Agreement. The Union hereby accepts as Union Trustees the present Union trustees appointed under said Trust Agreement and all such past or succeeding trustees as shall have been or will be appointed in accordance with the terms of the Trust Agreement.
- (c) The payments required by this Article shall be made not later than the 20<sup>th</sup> day of the month following the month in which the Employee worked.
- (d) In the event that an Employer fails or refuses to submit the contributions required by this Article, the Fund may bring an action in either federal or state court seeking legal and/or equitable relief. In any such action, the Trust Fund shall be entitled to recover from the Employer the following:
  - 1) The principal amount of the Employer’s delinquency;
  - 2) The attorney fees and costs incurred by the Fund in collecting the contributions;
  - 3) Such other legal or equitable relief as the court deems appropriate.
- (e) In bringing an action to collect contributions required by this Article, the Fund shall not be obligated to exhaust any contractual remedies such as the grievance procedures set forth in this Collective Bargaining Agreement.
- (f) In determining whether the Employers signatory to this Agreement are properly reporting and remitting payment in accordance with the provisions of this Article, the Fund is hereby authorized to examine the payroll and such other pertinent records of the Employer as the Fund deems necessary. In conducting such an examination, the Fund is

authorized to review the payroll and other pertinent records of all bargaining unit Employees.

- (g) If any Employee's entitlement to the benefits provided by the Fund is suspended by virtue of a signatory Employer's failure to pay the contributions required by this Article, the Employer shall be directly liable to the Employee for the benefits to which the Employee would otherwise have been entitled.

**ARTICLE 21**  
**PENSION**

Effective April 2015 the Employer shall cease making contributions to the Bar & Restaurant and On-Sale Pension Plan.

**ARTICLE 22**  
**401K PLAN**

Employees shall be entitled to participate in the Morrissey Hospitality Companies 401(k) Plan. The Plan allows Employees to be fully vested after two (2) years of service. However, on a one-time basis, Employees employed April 2015, will be given credit for time served and made immediately eligible and fully vested; providing they enroll in the Plan at the time it is initially offered to them.

Employees hired after the initial startup of the Plan will be automatically enrolled once they become eligible to participate but would have the ability to decline participation in the Plan, if they wished. Employees would be eligible to participate in the Plan beginning the first day of the quarter following their one year service anniversary. The Employer will allow one (1) employee participant to become a member of the Plan's Investment Committee.

Employees may defer up to eighty (80%) percent of their income and receive an Employer match on the first six percent (6%) of the wages they deferred. The Employer match would be based on the following schedule:

Percent of Wages Deferred	Employer Match	Percentage Matched
1%	100%	1.0%
2%	50%	0.5%
3%	50%	0.5%
4%	50%	0.5%
5%	50%	0.5%
6%	50%	0.5%
Total		3.5%

**ARTICLE 23**  
**TERM OF AGREEMENT**

This Agreement shall remain in full force and effect from the \_\_\_ day of April, 2015 through the 31<sup>st</sup> day of March, 2018, and shall automatically renew itself from year to year unless notice in writing is given by either party to the other party sixty (60) days prior to the anniversary date that the said party desires to make a change in the terms and provisions of the Agreement.

IN WITNESS WHEREOF, the Employer and the Union hereby execute, sign and attest to this Agreement this \_\_\_ day of \_\_\_\_\_, 2015

MORRISSEY HOSPITALITY  
COMPANIES, INC., AS OWNERS'  
REPRESENTATIVE OF PAZZALUNA

UNITE HERE LOCAL #17 AFL-CIO

\_\_\_\_\_  
William Morrissey, President

\_\_\_\_\_  
Nancy Goldman, President

\_\_\_\_\_  
Phil Jungwirth CFO

\_\_\_\_\_  
Martin Goff, Sr. Vice-President

**Appendix A Schedule of Wage**

<b>Classification</b>	<b>8/1/2014</b>	<b>8/1/2015</b>	<b>8/1/2016</b>	<b>8/1/2018</b>
<b>All Servers</b>	minimum plus tipped employee P.T.O. adjustment			
<b>Bartender</b>				
Start	\$9.45	\$9.50	\$10.00	\$10.25
12 Months	\$10.25	\$10.25	\$10.25	\$10.51
24 Months	\$10.52	\$10.52	\$10.52	\$10.78
<b>Stewarding</b>				
Start	\$10.65	\$11.00	\$11.50	\$11.79
12 Months	\$11.56	\$11.75	\$12.25	\$12.56
24 Months	\$12.17	\$12.41	\$12.66	\$12.98
<b>Busser (Assistant Server)</b>				
Start	\$8.06	\$9.25	\$9.75	\$10.00
12 Months	\$8.96	\$9.50	\$10.00	\$10.25
24 Months	\$9.55	\$9.75	\$10.25	\$10.51
<b>Food Runner</b>				
Start	\$8.06	\$9.75	\$10.25	\$10.51
12 Months	\$8.96	\$10.00	\$10.50	\$10.76
24 Months	\$9.55	\$10.25	\$10.75	\$11.02
<b>Host/Hostess</b>				
Start	\$11.87	\$12.25	\$12.75	\$13.07
12 Months	\$13.36	\$13.50	\$14.00	\$14.35
24 Months	\$13.48	\$13.75	\$ 14.25	\$14.61

- Bar Server Minimum Wage
- Dining Room Server Minimum Wage
- Lead Steward \$1.00 above Steward Wage
- Lead Host \$1.00 above Host Wage
- Lead Bartender \$1.00 above Bartender Wage

Overscale employees shall receive the same percentage increase.

- Employees asked to perform Management Duties will be paid \$20.00 per hour for the time spent doing such work.

**APPENDIX B**  
**HEALTH, LIFE, DISABILITY AND DENTAL INSURANCE**

Below you will find an explanation of the current benefits provided by the Board of Trustees effective July 1, 2011, but subject to change by Trustees action during the term of this Agreement.

Each eligible Employee electing Health, Dental, Life and Disability Insurance will be provided the following benefits.

Weekly Disability Pay. For those who elect coverage, a weekly disability benefit of up to \$100.00 is payable for up to 13 weeks. This is subject to a seven (7) day waiting period for an illness and two (2) days for an accident.

Life Insurance Benefits. A \$5000 Group Life plus an additional \$5000 Accidental Death and Dismemberment Policy is provided for those who elect coverage.

Dependent Care Reimbursement. For those who elect coverage and purchase a separate policy for dependent care, up to a \$100.00 per month reimbursement is available through the Trust Fund.

Please contact the Fund Office at:

Wilson McShane Corporation  
3001 Metro Drive Suite 500  
Bloomington, MN 55425  
952/854-0795

**EMPLOYEES REJECTING MEDICAL AND DENTAL COVERAGE WILL NOT RECEIVE THE ABOVE BENEFITS.**