

## ***Diabolo® Summer Cocktail Crafting (“Contest”)***

### **Official Rules**

- **NO PURCHASE OR PAYMENT OF ANY KIND IS NECESSARY TO ENTER OR WIN THIS CONTEST. A PURCHASE OR PAYMENT OF ANY KIND WILL NOT INCREASE YOUR CHANCES OF WINNING.**
- **VOID WHERE PROHIBITED BY LAW.**
- **ALL DISPUTES WILL BE RESOLVED SOLELY BY BINDING ARBITRATION AND ENTRANTS WAIVE THE ABILITY TO BRING CLAIMS IN A CLASS ACTION FORMAT.**

BY ENTERING (OR OTHERWISE PARTICIPATING IN) THE CONTEST, ENTRANTS AGREE TO THESE OFFICIAL RULES, WHICH ARE A BINDING CONTRACT, SO READ THEM CAREFULLY BEFORE ENTERING. WITHOUT LIMITATION, THIS CONTRACT INCLUDES INDEMNITIES TO THE CONTEST ENTITIES FROM YOU AND A LIMITATION OF YOUR RIGHTS AND REMEDIES.

**1. Eligibility.** The Contest is open only to individuals who are legal residents and physically located in the United States and who are at least twenty-one (21) years of age at the time of entry. Employees, officers and directors of Diabolo Beverage Co. LLC and its (“Sponsor”) parent companies, affiliates, subsidiaries, advertising and promotion agencies, distributors and other prize suppliers (collectively with Sponsor, the “Contest Entities”), and each of such employees’, officers’ and directors’ immediate family members and/or those living in the same household (whether legally related or not) of each are not eligible to enter the Contest or win a prize. For purposes of this Contest, immediate family members are defined as spouse, partner, parents, legal guardians, in-laws, grandparents, siblings, children and grandchildren and those living in the same household shall mean people who share the same residence at least three (3) months a year, whether legally related or not. Void where prohibited by law. By participating in the Contest, each entrant unconditionally accepts and agrees to comply with and abide by these “Official Rules” and the decisions of Sponsor, including the interpretation of these Official Rules and its exercise of discretion, which will be final and binding in all respects.

**2. Entry Period.** The Contest begins on or about July 19<sup>th</sup>, 2021 and will have 3 rounds. The first round will last from July 19<sup>th</sup>, 2021, through July 30<sup>th</sup>, 2021. The second round will last from August 9<sup>th</sup>, 2021, through August 20<sup>th</sup>, 2021. The third round will last from August 27<sup>th</sup> through September 5<sup>th</sup>. All entries must be received by the Sponsor on or before 11:59 p.m. Pacific Time on the final date of each round (the “Entry Period”).

**3. How to Enter.** There is one (1) method of entry for this Contest, and you may enter as follows:

- (i) Online Method of Entry.** To enter the Contest, during the Entry Period, follow Diabolo on Instagram (@drinkdiabolo) or Facebook (diabolo beverages) and upload a photo or story of your unique cocktail recipe using the designated diabolo flavor using hashtag #Diabolococktailcontest, tagging three (3) friends, @drinkdiabolo and @julesaron.

Limit of one (1) entry per person will be accepted. Subsequent attempts made by the same individual to submit multiple entries by using multiple accounts or otherwise may result in the entrant being disqualified. Entries generated by a script, computer programs, macro, programmed, robotic or other automated means are void and may be disqualified. Entries that are in excess of the stated limits, incomplete, false, late or misdirected, deceptive or otherwise not in compliance with the Official Rules may be disqualified from the Contest at Sponsor’s sole and absolute discretion. Entries submitted by entrants who do not meet the eligibility requirements (including all requirements with respect to age and residence) are void. All materials submitted become the property of Sponsor, and may be used by the Sponsor in future advertising and promotions. In the event of a dispute over the identity of an online entrant, entry will be deemed submitted by the registered account holder of the email address associated with the entry or social media account for the domain associated with the submitted address provided that person is eligible. Winner may be required to show proof of being the registered account holder. Registered account holder is defined as the person assigned to an email address by an Internet access provider, on-line service provider or other organization responsible for assigning email addresses. In the event a dispute regarding the identity of the individual who actually submitted an entry cannot be resolved to Sponsor’s satisfaction, the affected entry will be deemed ineligible. The Sponsor’s designated database clock will be the official timekeeper for this Contest. Those who do not follow all of the instructions, provide the required information in their entry form, or abide by these Official Rules or other instructions of Sponsor may be disqualified. All entrants submitting materials/content as part of the Contest will be non-exclusively licensing (with the unlimited right to sublicense) to Contest Entities the right to use such materials, and the images related thereto (including entrant’s name, social media account username and

likeness), for any purpose (including any and all commercial purposes) with the right to modify the materials and make derivative works thereof. Entrants represent and warrant that the materials submitted will not infringe or violate any right whatsoever, including, without limitation, any personal rights (e.g., defamation, privacy, false light, moral right, etc.) or any property rights (e.g., copyright, trademark, right to ideas, etc.) of any person or entity and the use thereof will result in no third party liability or obligations. The Contest Entities may run multiple campaigns, contests, Contest or other promotions simultaneously. Entry into one

(1) campaign, contest or Contest does not constitute entry into any other.

(2) **Winner Selection and Prize Claiming.** There will be three (3) winners selected in this Contest. The potential winner will be selected by the Sponsor on or before September 15<sup>th</sup>, 2021 from all eligible entries received in accordance with these Official Rules. Sponsor's criteria will be the entry that Sponsor deems to be the most creative in showing or explaining why Diabolo is the entrant's favorite beverage. Sponsor will have complete discretion over interpretation of the Official Rules, of administration of the Contest, and of selection of the winner. Decisions of the Sponsor as to the selection of the winner will be final. The potential winner will be notified using through the winner's social media account used to enter the Contest in a commercially reasonable time after selection of the winner by Sponsor. The Contest Entities are not responsible for false, incorrect, changed, incomplete or illegible contact information. The Contest Entities are not responsible for electronic communications that are undeliverable as a result of any form of active or passive filtering of any kind.

Each potential winner may be required to submit an affidavit of eligibility / release of liability / prize acceptance agreement (collectively, the "**Affidavit**") and return the Affidavit within the time period specified at notification before being eligible to receive his or her prize(s). If any potential prize winner fails or refuses to sign and return such Affidavit within the time period required by Sponsor or if the prize or prize notification is returned as rejected, faulty, unclaimed or returned as undeliverable to such potential prize winner, such potential prize winner may be disqualified and an alternate may be selected. Non-compliance shall result in disqualification and award of the prize(s) to an alternate winner. If the potential prize winner is found to be ineligible, or if he or she has not complied with these Official Rules, or if the potential prize winner cannot attend or participate in any portion of the prize, or declines a prize for any reason prior to award, such potential winner may be disqualified and an alternate potential winner may be selected. If, for any reason, more bona fide winners come forward seeking to claim prizes in excess of the number of each type of prize set forth in these Official Rules, the winners, or remaining winners, as the case may be, of the advertised number of prizes available may be selected in a random drawing from among all persons making purportedly valid claims for such prize(s). Inclusion in such drawing shall be each entrant's sole and exclusive remedy under such circumstances. The Contest Entities are not responsible for and shall not be liable for late, lost, damaged, intercepted, misdirected, or unsuccessful efforts to notify the potential winners.

4. **Odds.** Odds of winning will depend upon the total number of entries received.

5. **Prize and Value.** Sponsor will be awarding one (1) Diabolo merchandise kit including t-shirt, hat, tote and Diabolo Product, and recipe featured on Diabolo website and Instagram.

Prize is non-transferable, with no cash redemptions, equivalents, or substitutions except at Sponsor's sole and absolute discretion. All prize details not specified in these Official Rules will be determined in Sponsor's sole and absolute discretion. Prize details and availability are subject to change and prize provider's rules and restrictions, and in the event that Sponsor is unable to provide the winner with his or her prize(s), the Sponsor may elect to provide winners with the approximate value of such item in cash or award an alternate prize of comparable or greater value. All prize(s) are awarded "AS IS" and without warranty of any kind, express or implied (including, without limitation, any implied warranty of merchantability or fitness for a particular purpose). Prize winner will be solely responsible for all federal, state and/or local taxes, and for any other fees or costs associated with the prize(s) they receive, regardless of whether they, in whole or in part, are used. The approximate retail value ("**ARV**") of the prize(s) is based on available information provided to Sponsor and the value of any prize awarded to a winner may be reported for tax purposes as required by law. The winner may be required to provide Sponsor with a valid social security number before the prize(s) will be awarded for tax reporting purposes. An IRS Form 1099 may be issued in the name of winner for the actual value of the prize(s) received. Unclaimed prize(s) will be forfeited. Prize(s), if legitimately claimed, will be awarded. The Contest Entities are not responsible for and will not replace any lost, mutilated or stolen prize(s) or any prize that is undeliverable or does not reach the winner because of an incorrect or changed address. If a winner does not accept or use the entire prize, the unaccepted or unused part of the prize will be forfeited and the Contest Entities will have no further obligation with respect to that prize or portion of the prize. No more than the stated prize(s) will be awarded.

6. **Publicity Release.** Subject to applicable law, winner irrevocably grants the Contest Entities, and each of their licensees, and its and their successors, assigns and sub-licensees, the right and permission to use their name, voice, likeness and/or biographical material for advertising, promotional and/or publicity purposes in connection with the Contest, in all forms of media and by all

manners (now and hereafter known), and on and in connection with related products, services, advertising and promotional materials (now known or hereafter developed), worldwide, in perpetuity, without any obligation, notice or consideration, except for the awarding of the prize(s) to the winner.

**7. Tampering with Contest.** The Contest Entities are not responsible for the actions of entrants in connection with the Contest, including entrants' attempts to circumvent the Official Rules or otherwise interfere with the administration, security, fairness, integrity or proper conduct of the Contest. Persons found tampering with or abusing any aspect of this Contest, or whom Sponsor believes to be causing malfunction, error, disruption or damage may be disqualified. Additionally, any attempt to cheat the Contest, as determined at the sole and absolute discretion of Sponsor, may result in immediate disqualification of the entrant, as well as other possible consequences, including disqualification from any and all existing and future Contest. ANY ATTEMPT BY A PERSON TO DAMAGE ANY WEBSITE (INCLUDING ANY SOCIAL MEDIA PLATFORM OR APPLICATION) OR UNDERMINE THE LEGITIMATE OPERATION OF THIS CONTEST MAY BE A VIOLATION OF CRIMINAL AND CIVIL LAWS AND SHOULD SUCH AN ATTEMPT BE MADE, SPONSOR RESERVES THE RIGHT TO SEEK ALL LEGAL AND EQUITABLE REMEDIES FROM AND AGAINST ANY SUCH PERSON TO THE FULLEST EXTENT PERMITTED BY LAW. Sponsor reserves the right, at its sole and absolute discretion, to disqualify (or terminate the prize of) any individual who is found to be, or suspected of, acting in violation of these Official Rules, or to be acting in an unsportsmanlike, obscene, immoral or disruptive manner, or with the intent to annoy, abuse, threaten or harass any other person.

**8. Suspension / Modification / Termination.** In the event Sponsor is prevented from continuing with the Contest by any event beyond its control, including, but not limited to, fire, flood, epidemic, earthquake, explosion, labor dispute or strike, act of God or public enemy, communications or equipment failure, utility or service interruptions, riot or civil disturbance, terrorist threat or activity, war (declared or undeclared), interference with the Contest by any party, or any federal, state, local or provincial government law, order, or regulation, order of any court or jurisdiction, or other cause not reasonably within Sponsor's control (each a "**Force Majeure**" event or occurrence), Sponsor shall have the right to modify, suspend or terminate the Contest or prize. Sponsor additionally reserves the right, in its sole and absolute discretion: (a) to modify, suspend or terminate the Contest should causes beyond Sponsor's control corrupt or interfere with the administration, integrity, operation, security or proper play of the Contest; or (b) to disqualify any entrant found to be, or suspected of: (i) tampering with the entry process or the operation of the Contest; (ii) acting in violation of these Official Rules; or (iii) acting in an un- sportsmanlike manner.

**9. Waivers, Disclaimers and Releases.** This Contest is in no way sponsored by Facebook or Instagram. By participating in the Contest, entrant agrees to release, discharge, indemnify and hold harmless the Contest Entities, Facebook and Instagram and each of their respective directors, officers, employees, agents, successors and assigns ("**Released Parties**") from and against any and all claims, liability, costs (including attorneys' fees), losses, damages, fines or injuries (up to and including bodily injury and death) of any kind arising out of or related to: (i) entrants' participation in the Contest (including travel to/from any Contest activity); (ii) any acceptance, possession, misuse or use of any prize (including, without limitation, losses, damages or injuries to entrant's or any other person's equipment or other property, or to their persons, including those arising from any travel to/from any prize event or activity); (iii) the Released Parties' violation of rights of publicity or privacy, claims of defamation or portrayal in a false light or based on any claim of infringement of intellectual property; and (iv) any typographical, human or other error in the printing, offering, selection, operation or announcement of any Contest activity and/or prize. Without limiting the generality of the foregoing, entrants agree that the Released Parties have neither made nor will be in any manner responsible or liable for any warranty, representation or guarantee, express or implied, in fact or in law, in connection with the Contest and/or with respect to prizes, including, without limitation, to any prize's quality or fitness for a particular purpose. Entrants agree and that the Released Parties shall have no responsibility or liability for discontinued prizes; human error; incorrect or inaccurate transcription of registration and/or account information; any technical malfunctions of the telephone network, computer online system, computer dating mechanism, computer equipment, software, or Internet service provider utilized by Sponsor interruption or inability to access the website, application or any online

service via the Internet due to hardware or software compatibility problems; any damage to participant's (or any third person's) computer and/or its contents related to or resulting from any part of the Contest; any lost/delayed data transmissions, omissions, interruptions, viruses, bugs, defects; and/or any other errors or malfunctions, even if caused by the negligence of the Released Parties. Each entrant further agrees to indemnify and hold harmless the Released Parties from and against any and all liability resulting or arising from the Contest and to release all rights to bring any claim, action or proceeding against Released Parties and hereby acknowledge that the Released Parties have neither made nor are in any manner responsible or liable for any warranty, representation or guarantee, express or implied, in fact or in law, relative to a prize, including express warranties provided exclusively by a prize supplier that may be sent along with a prize. The Released Parties are not responsible for any changes or unavailability of the social media platform used for purposes of administering this Contest that may interfere with the Contest (including any limitations, any restrictions, or any conditions on Sponsor's ability to use the social media platform for the Contest as set forth herein that are not acceptable to Sponsor) or ability of entrant to timely enter, receive notices or communicate with Sponsor via the social media platform, in which case Sponsor, in its sole discretion, may terminate or modify the Contest.

**10. Entry Information and Contest Communications.** As a condition of entering the Contest, each entrant gives consent for Sponsor to obtain and deliver his or her name, address and other information to third parties for the purpose of administering this Contest and to comply with applicable laws, regulations and rules. Any information entrant provides to Sponsor may be used to communicate with entrant in relation to this Contest or on a Contest winner's list. Information collected from entrants is subject to the Sponsor's Privacy Policy, available at <https://drinkdiabolo.com/privacy-policy> and will be shared and made available to all Contest Entities for use for their direct marketing purposes.

**11. Governing Law / Limitation of Liability.** All issues and questions concerning the construction, validity, interpretation and enforceability of these Official Rules or the rights and obligations of entrants, Sponsor or the Released Parties in connection with the Contest will be governed by and construed in accordance with the internal laws of the State of California, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of any other laws.

BY ENTERING THE CONTEST, ENTRANT AGREES THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW: (A) ANY AND ALL DISPUTES, CLAIMS AND CAUSES OF ACTION ARISING OUT OF OR CONNECTED WITH THE CONTEST, OR ANY PRIZE AWARDED, WILL BE RESOLVED INDIVIDUALLY, WITHOUT RESORT TO ANY FORM OF CLASS ACTION; (B) ANY AND ALL CLAIMS, JUDGMENTS AND AWARDS WILL BE LIMITED TO ACTUAL THIRD-PARTY, OUT-OF-POCKET COSTS INCURRED (IF ANY) NOT TO EXCEED TEN DOLLARS (\$10.00), BUT IN NO EVENT WILL ATTORNEYS' FEES BE AWARDED OR RECOVERABLE; (C) UNDER NO CIRCUMSTANCES WILL ANY ENTRANT BE PERMITTED TO OBTAIN ANY AWARD FOR, AND ENTRANT HEREBY KNOWINGLY AND EXPRESSLY WAIVES ALL RIGHTS TO SEEK, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, LOST PROFITS AND/OR ANY OTHER DAMAGES, OTHER THAN ACTUAL OUT OF POCKET EXPENSES NOT TO EXCEED TEN DOLLARS (\$10.00), AND/OR ANY RIGHTS TO HAVE DAMAGES MULTIPLIED OR OTHERWISE INCREASED; AND (D) ENTRANTS' REMEDIES ARE LIMITED TO A CLAIM FOR MONEY DAMAGES (IF ANY) AND ENTRANT IRREVOCABLY WAIVES ANY RIGHT TO SEEK INJUNCTIVE OR EQUITABLE RELIEF. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATIONS OR EXCLUSION OF LIABILITY, SO THE ABOVE MAY NOT APPLY TO YOU.

**12. Dispute Resolution.** The parties each agree to finally settle all disputes only through arbitration; provided, however, the Sponsor shall be entitled to seek injunctive or equitable relief in the state and federal courts in Las Angeles, California and any other court with jurisdiction over the parties. In arbitration, there is no judge or jury and review is limited. The arbitrator's decision and award is final and binding, with limited exceptions, and judgment on the award may be entered in any court with jurisdiction. The parties agree that, except as set forth above, any claim, suit, action or proceeding arising out of or relating to this Contest shall be resolved solely by binding arbitration before a sole arbitrator under the streamlined Arbitration Rules Procedures of JAMS Inc. ("**JAMS**") or any successor to JAMS. In the event JAMS is unwilling or unable to set a hearing date within fourteen (14) days of the filing of a "Demand for Arbitration", then either party can elect to have the arbitration administered by the Dispute Prevention & Resolution ("**DPR**") or any other mutually agreeable arbitration administration service. If an in-person hearing is required, then it will take place in Las Angeles, California. The federal or state law that applies to these Official Rules will also apply during the arbitration. Disputes will be arbitrated only on an individual basis and will not be consolidated with any other proceedings that involve any claims or controversy of another party, including any class actions; provided, however, if for any reason any court or arbitrator holds that this restriction is unconscionable or unenforceable, then

the agreement to arbitrate doesn't apply and the dispute must be brought in a court of competent jurisdiction in Las Angeles, California. Sponsor agrees to pay the administrative and arbitrator's fees in order to conduct the arbitration (but specifically excluding any travel or other costs of entrant to attend the arbitration hearing). Either party may, notwithstanding this provision, bring qualifying claims in small claims court.

**13. Name of Contest Winner.** To receive the name of the winner, send a stamped, self-addressed envelope, within sixty (60) days of expiration of the Entry Period, to: Diabolo Beverage Co. LLC "Contest Winners List," 1055 W 7th Street, 33rd Floor Los Angeles, CA 90017. Please indicate which Contest winners list you are requesting by referencing the name of the Contest in your request.

**14. Miscellaneous.** The invalidity or unenforceability of any provision of these Official Rules or the Affidavit will not affect the validity or enforceability of any other provision. In the event that any provision of the Official Rules or the Affidavit is determined to be invalid or otherwise unenforceable or illegal, the other provisions will remain in effect and will be construed in accordance with their terms as if the invalid or illegal provision were not contained herein. Sponsor's failure to enforce any term of these Official Rules will not constitute a waiver of that provision. Entrants agree to waive any rights to claim ambiguity of these Official Rules. Headings are solely for convenience of reference and will not be deemed to affect in any manner the meaning or intent of the documents or any provision hereof. In the event there is a discrepancy or inconsistency between disclosures or other statements contained in any Contest-related materials, privacy policy or terms of use on any website, social media platform or application and/or the terms and conditions of the Official Rules, the Official Rules shall prevail, govern and control and the discrepancy will be resolved in Sponsor's sole and absolute discretion.

**15. Identification of Sponsor.** This Contest is sponsored by Diabolo Beverage Co. LLC, 1055 W 7th Street, 33rd Floor Los Angeles, CA 90017