PAID FAMILY & MEDICAL LEAVE INSURANCE AUTHORITY

REVISED POLICY & PROCEDURES FOR AN EMPLOYER TO APPLY TO USE A PRIVATE PLAN TO MEET ITS OBLIGATIONS UNDER THE CONNECTICUT PAID LEAVE PROGRAM

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GENERAL PROVISIONS

I. TYPES OF PRIVATE PLANS

In accordance with Section 31-49o of the Connecticut General Statutes, an employer may apply to use a private plan to meet its obligations under sections 31-49e to 31-49t of the Connecticut General Statutes, commonly known as the Connecticut Paid Leave Act.

A. **A private plan may consist of either of the following:**

1. An insurance policy, the forms of which shall have been approved by the Insurance Commissioner and be issued by an approved insurance carrier (hereinafter referred to as "Carrier"), or

2. A self-insured plan, which shall consist of a self-insurance plan document that complies with Authority requirements and a surety bond from an approved surety.

B. **An Insurance Policy**

1. **Fully Insured Plan**

a. As set forth in the updated Policy Filing Guidance Notice (hereinafter referred to as the "2021 CT Paid Leave Policy Filing Guidance Notice"), the Connecticut Insurance Department (CID) will consider Carrier-issued policies as consistent with Authority standards provided Carriers use the policy template that is attached to the 2021 CT Paid Leave Notice; and Carriers submit their own policy forms that offer benefits that are at least as beneficial as the requirements of Sections 31-49e through 31-49t of the Connecticut General Statutes. Such submitted policy forms may include brackets to allow variability for product design, but all bracketed items should be explained as part of the filing so that the CID understands that the product will always meet the relevant standards to be considered an Authority-qualified policy. Additionally, unless specified in the instructions within the template, Carriers are allowed to include the provisions in an order that deviates from the template provided. However, CID shall have the right to disapprove if the provisions appear in a manner that is confusing, misleading, or otherwise inconsistent with the purposes of the CT Paid Leave Act.

b. If the CID approves the submitted policy form(s), it shall issue a certified policy form number for each such approved policy form, shall provide the Authority written notice of the name and address of the insurer and the certified policy form numbers that it has approved, and the SERFF Tracking Number and approval date for the policy form filing.

c. The Employer shall make available to employees a copy of the policy document from approved CID Carrier no later than 90 days following the effective date of coverage. If employees were provided with the actual policy document prior to the vote, then the

requirement shall be deemed to have been met. If employees were previously provided with a sample or draft version, then the in-force policy must be made available within the timeframe noted.

2. **Approved Insurer**. The CT Paid Leave Authority shall accept only insurance policies issued by Carriers that have received one of the following ratings from AM Best: a-, a, a+, aa-, aa, aa+, aaa.

C. **Self-Insured Plan**

1. As an alternative to obtaining an insurance policy, an employer can apply for approval to comply with its obligations under the CT Paid Leave Act through a self-insured plan. As part of that application, the employer shall attest that it will provide self-insured coverage to the Employer's covered individuals for benefits in accordance with the CT Paid Leave Act; that its self-insured plan will comply with all requirements established by the CT Paid Leave Authority; and that it has sufficient financial resources to pay claims and provide adequate benefits claims administration to assure that employees have access to benefits as they would if they participated in the public program.

2. **Self-Insured Plan Document.** In order to be eligible for approval as a private plan, only self-insured plan documents that conform to the requirements of the Self-Insurance Plan Document attached as Exhibit A to this Policy (hereinafter, an "self-insured plan document") will be eligible for approval as a self-insurance plan by the CT Paid Leave Authority.

3. **Surety Bond**. In order for a self-insured plan to be approved, the employer shall furnish as part of the application a bond running to the CT Paid Leave Trust Fund with a surety company authorized to transact business in the state as surety in an amount equal to the estimated total yearly contributions that would otherwise be owed by the employer's employees to the CT Paid Leave Trust Fund.

    a. The CT Paid Leave Authority shall accept only surety bonds that have been issued by surety companies that are on the federal Department of Treasury's Listing of Approved Sureties at the time the application is submitted.

    b. The surety bond shall be in the form established by the Authority.

THE APPLICATION PROCESS

II. PRIOR TO THE EMPLOYEE VOTE

A. Employer shall register with the CT Paid Leave Authority on its portal, ctpaidleave.org, providing or verifying employer's name, address, contact information, industry code and total number of employees working in Connecticut.

B. At least two weeks before the vote commences, the employer shall provide the employees with:
   1. A copy of the approved insurance policy or self-insured plan document;
      a. The Employer may provide the insurance policy or self-insured plan document in a sample or draft format, without customer specific information (e.g. employer name, policy number) and with watermarks or other details that establish that it is not yet part of the final policy or plan. However, such draft must include all substantive language that is intended to be reflected in the policy or plan.
   2. A plain language guide describing the plan that includes, at a minimum, the information contained in the Plain Language Template attached as Exhibit B to this policy; and
   3. Instructions about the voting process.

C. The employer may provide additional information about the proposed private plan, including but not limited to information about any benefits provided that exceed the statutory requirements. Any additional information provided shall adhere to fair business practices and shall not be false, misleading, or deceptive.

D. The method of distribution of such documents and information shall be at least as efficient and effective as the manner by which the employer distributes other legally required work-related postings, such as wage & hour, sexual harassment prevention, and workers' compensation information and other benefit information, such as pension/401(k) summary plan descriptions and open enrollment materials.

E. The employer shall ensure that the documents and information are accessible to employees who are on leave.

F. The employer shall ensure that the documents and information comply with federal and state requirements regarding disability accessibility and language accessibility.

III. REQUIREMENTS FOR THE EMPLOYEE VOTE

A. Section 31-49o of the Connecticut General Statutes mandates that the CT Paid Leave Authority cannot approve a private plan unless it has been approved by a majority vote of the employer's employees. Accordingly, the employer shall hold the vote on the plan **before** submitting its application to the CT Paid Leave Authority.

B. "A majority vote of the employer's employees" means that more than 50% of the total number of employees working in Connecticut for the employer voted in favor the plan. It does **not** mean more than 50% of the number of employees who participated in the vote.

C. All employees working in Connecticut on the employer's payroll as of the date or time period of the vote, including full-time, part-time and probationary employees, as well as any regular employees who are on a paid or unpaid leaves of absence (such as vacation, medical, military, educational, disciplinary, etc.) on the day of the vote, shall be afforded the opportunity to vote. For public school operators or nonpublic elementary or secondary schools, if the plan will not cover employees in positions requiring certification under Chapter 166, then the vote does not need to include those employees. However, if the private plan will include the employees in positions requiring certification, then they must be included in the voting process.

D. The vote shall occur no earlier than six months prior to the anticipated effective date of the private plan. A private plan application involving a vote that occurred greater than six months prior to the effective date of the private plan may be approved, if the Authority, at its sole discretion, determines that there is good cause for the delay and that the vote reflects the decision of a majority of current Connecticut employees as of the date of the application.

E. Each entity of the employer with its own Federal Employer Identification Number ("FEIN") and with employees working in Connecticut shall hold a vote that is separate and independent from any other legal entity.

F. The employer shall not coerce or threaten the employees in any way in connection with the vote. Evidence that the employer engaged in any coercive, threatening, misleading, or deceptive behavior shall be grounds for the CT Paid Leave Authority to deny or revoke the private plan approval.

G. The method of voting shall be accessible to employees who are on leave.

H. The method of voting shall comply with federal and state requirements regarding disability accessibility and language accessibility.

I. The question presented to the employees for the vote shall be: "Do you approve the company's private plan to provide benefits required by the CT Paid Family and Medical Leave Insurance Act? Yes or No." There shall be no other form of question posted for voting on the private plan.

J. The method of voting shall be anonymous, unless the employer obtains advance written permission from the Authority for an exception, and the method of voting shall be capable of independent, after-the-fact verification.

1. In order to qualify as an anonymous vote, the method of voting must assure that neither the management of the employer nor other employees can determine how any individual employee voted.

2. The Authority, in its sole discretion, may grant permission for an employer to hold a vote that is not anonymous if, in advance of holding the vote, the employer makes a written request to the Authority demonstrating good cause for an exception and explaining its proposed alternative form of voting.

3. Examples of good cause for an exception include, but are not limited to, having only one employee in Connecticut, and needing to establish an alternative to an anonymous voting method in order to comply with federal or state requirements regarding disability accessibility or language accessibility.

4. The CT Paid Leave Authority strongly recommends that employers utilize electronic and/or on-line tools for voting, provided the employer assures that all employees have access to such tools.

IV. SUBMITTING A PRIVATE PLAN APPLICATION

A. The process for an Employer to complete the CT Paid Leave Authority's application for a private plan is as follows:

1. Employer specifies whether the plan is in the form of self-insurance or provides for insurance.

2. Employer provides the CT Paid Leave Authority with a copy of the plain language guide provided to its employees and one of the following:
   a. The approved insurance policy form (or draft as described in Section II.B.1.a above); or
   b. The approved self-insured plan document

   If requested by the Authority, the employer shall also provide any other documentation or communication provided to employees regarding the private plan.

3. The CT Paid Leave Authority will verify with CID that the CID has approved the form of the insurance policy.

4. If the Employer is applying on the basis of a self-insured plan, it shall furnish the required surety bond in an amount equal to the estimated total yearly contributions that would otherwise be owed by its employees if the employer were covered by the public program for that year.

5. Employer shall attest that the plan has been approved by a majority vote of its employees working in Connecticut and that the vote complied with the CT Paid Leave Authority requirements.

6. Employer shall report on the application the total number of employees employed by the Employer who are working in Connecticut, the total number of employees who voted and the numbers of votes for and against the plan.

7. The Employer shall attest that it complied with the voting requirements described in Section III. The CT Paid Leave Authority shall have the authority to audit an employer's voting process for compliance with the statute and the Authority's requirements.

8. The Employer shall attest that it will comply and will direct its insurer or Third-Party Administrator (as applicable) to comply with the CT Paid Leave Authority's reporting requirements, as set forth in section VIII of this Policy.

9. The Employer shall attest that it will comply and will direct its Carrier or Third-Party Administrator (as applicable) to comply with claims administration mandates adopted by the CT Paid Leave Authority and/or the CID.

10. The Employer shall attest that it will provide timely and complete responses and will direct its Carrier or Third Party Administrator (as applicable) to provide timely and complete responses to any requests by the CT Paid Leave Authority, or its designee, for information relating to claims that the employer:
    a. Threatened, coerced, misled, or deceived employees in connection with the private plan vote;
    b. failed to pay benefits;
    c. failed to pay benefits timely and in a manner consistent with the public program;
    d. failed to maintain an adequate surety bond as required by the CID;
    e. misused private plan funds;
    f. failed to submit reports as required;
    g. provided materially false information to the CT Paid Leave Authority or the CID; or
    h. failed to comply with sections 31-49e to 31-49t, inclusive of the Connecticut General Statutes; or
    i. any other reason related to the Authority's responsibility to administer CT Paid Leave Act and its policies.

11. The Employer shall provide the name and contact details, including email address and postal address, of the person designated by the Employer to receive notice of any appeals filed with the CT Department of Labor. Such contact person may be from the Employer, its Carrier, or Third Party Administrator.

12. The Employer shall provide the name and contact details for at least two authorized representatives, including email address and postal address, authorized to receive all other correspondence related to the private plan on behalf of the Employer.

B. If an Employer submitting an application for a private plan has not fully remitted contributions for previous calendar quarter(s), the Authority shall not approve the private plan application until

those contributions, including any associated penalties and/or interest, are remitted to the Authority. In addition, failure to remit (by the end of the applicable grace period) contributions that are due following the approval shall be grounds for the Authority to revoke the approval of a private plan.

1. As a reminder, contributions for entities that are covered under the public program are due at the end of each calendar quarter, with a grace period until the end of the first month immediately following the quarter:
    a. First Quarter (Jan. - Mar.) Contributions: Grace period ends April 30
    b. Second Quarter (Apr. - Jun.) Contributions: Grace period ends July 31
    c. Third Quarter (Jul. - Sept.) Contributions: Grace period ends October 31
    d. Fourth Quarter (Oct. - Dec.) Contributions: Grace period ends January 31

C. It is permissible for two or more legal entities, each with its own Federal Employer Identification Number ("FEIN") and with employees working in Connecticut, to participate in a single private plan provided that:
    1. The plan documents or the insurance policy list each entity that is covered by the plan;
    2. Each such entity held a separate vote and a majority of the employees of each entity voted in favor of the plan; and
    3. Each such entity filed a separate application.

D. The CT Paid Leave Authority will accept applications on a rolling basis.
    1. Applications shall be approved only with effective dates corresponding to the first date of the calendar quarter. In order to be approved for a particular calendar quarter, the application must be **approved** no later than the first day of the month immediately prior to the calendar quarter and the date that the employer's obligation to remit contributions to the Authority is waived.
        a. For private plans beginning on January 1 – Application must be **submitted and approved** by December 1
        b. For private plans beginning on April 1 – Application must be **submitted and approved** by March 1
        c. For private plans beginning on July 1 – Application must be **submitted and approved** by June 1
        d. For private plans beginning on October 1 – Application must be **submitted and approved** by September 1

E. Pursuant to Section 31-49o of the Connecticut General Statutes, the CT Paid Leave Authority may deny applications for a private plan option if it determines based upon actuarial principles that the solvency of the Trust may be jeopardized. The CT Paid Leave Authority shall draft a policy identifying the factors it will consider and the procedures it will follow in order to make such a determination.

F. The Authority may also deny a private plan application if the employer failed to meet or comply with any other requirements related to private plans, including while the employer was covered

under a previously approved private plan. Reasons that a private plan application may be denied due to prior noncompliance include but are not limited to the following:

1. A prior private plan was involuntary terminated or coverage (and/or surety bond, if applicable) was not maintained for the full term of approval;
2. Significant errors were discovered during an audit of a prior private plan;
3. The Employer, or the Employer's Carrier, failed to provide required annual reports or the Authority, in its sole discretion, determined that the reports contained material errors;
4. Material changes were made to a prior private plan without a new private plan application approval;
5. The Employer misused private plan funds, including failing to reimburse employees for contributions that were improperly withheld;
6. The Employer failed to provide the notice of intent to terminate a prior private plan to the Authority at least one month prior to the expiration of the plan;
7. The Employer failed to maintain records of at least two authorized representatives, to serve as contacts in the online portal at www.ctpaidleave.org; or
8. The Employer continued to remit contributions to the Authority that were withheld from employees' earnings for periods of time that a prior private plan was in force.

G. In the event that an Employer failed to meet one or more of the requirements of these policies, the Authority shall also have the right to take one or more of the following actions:

1. Terminate the private plan;
2. Approve a subsequent private plan only if the Authority determines, at its sole discretion, that it is reasonable to expect that the Employer can comply with private plan requirements without similar issues recurring.
3. Suspend the Employer from submitting any subsequent private plan applications for a period of one year (i.e., requiring the Employer to participate in the public program for four quarters);
4. Approve any subsequent private plan for less than three years; and
5. Issue a monetary penalty to the Employer of no less than $25 and no greater than $200 for each violation.

ACTIVE PRIVATE PLANS

V. Private Plan Approval Period

A. The approval for a private plan shall be effective for up to three years from the effective date of an approved private plan or until the employer materially changes its private plan, whichever comes first.

1. An employer may request that the Authority shorten the approval period for an unchanged plan to less than three years from its approval date. Any such request shall be made through the Authority portal at www.ctpaidleave.org and shall include a justification for such request.

2. The Authority has the sole discretion to agree to or reject a request to shorten the approval period for an unchanged plan and shall notify the employer of its decision via the Authority portal.

3. The approval of requests for shorter approval periods must include an expiration date as of the last date of a calendar quarter.

4. The Authority may also require a shorter approval period, as indicated in Section IV.G.

B. An employer with an approved private plan shall be responsible for ensuring that private plan coverage is in force for the entirety of the approval period. The employer shall also be responsible for the insurance policy and plan documents remaining in compliance with applicable laws, including the Connecticut Paid Leave Act and policies adopted by the Authority. While the private plan must comply with changes in law or policy as of the effective date of such change, there shall be a grace period of up to one year for the insurance policy and plan documents to be updated, unless the Authority or State specifically indicates a different compliance period.

C. Each employer that has been approved for a self-insured plan shall be required on each anniversary of the private plan effective date to either:
1. Update its surety bond to reflect the amount of contributions from that anniversary date to the next anniversary date; or
2. Certify to the Authority that no update is necessary because the surety bond remains in force and is sufficient for the amount of contributions from that anniversary date to the next anniversary date.

D. The employer shall make the policy or plan document available to employees no later than 90 days following the effective date of the private plan. The employer shall have an additional 30 days to upload the policy or plan document to their private plan application in the Authority portal as proof of coverage. If the actual insurance policy or plan document (i.e. not a draft or sample version) was provided during the application process, another copy is not necessary. For fully insured policies, employers may upload the face page of the policy document in order to meet the requirement, as long as it includes the Employer's name, the carrier's name, and the effective date of coverage. If the policyholder is not the Employer themselves, but a related entity (e.g., a

subsidiary or parent company), the Authority may also request documentation that the employees of the Employer are covered under the policy.

E. Absent the assessment of a penalty described in Section IX, employers shall not remit contributions to the Authority for the period of time that paid leave coverage is in force through a private plan. If an employer continues to remit contributions to the Authority for a period of time that the private plan is in force, the Authority shall refund the contributions to the employer. Such contributions must be returned to the employees from whom them were withheld.

F. If the employer continues to remit contributions for periods of time while covered by a private plan, the following penalties shall apply:
   1. There shall be no penalty for the first or second instance of a refund related to the private plan exemption period;
   2. For the third refund, the Authority shall assess a penalty of $50;
   3. For the fourth refund, the Authority shall assess a penalty of $100; and
   4. For the fifth and each subsequent refund, the Authority shall assess a penalty equal to the greater of $100 or 1% of the refunded amount.

   The penalties shall be owed by the employer. The employer shall not withhold funds from employees' earnings in order to pay for such penalties.

VI. Material Changes to a Private Plan

A. If an employer seeks to make a material change to its private plan, it shall submit a new application to the CT Paid Leave Authority, following a vote by its employees in accordance with Section III of this policy. Such new application shall not terminate the approved status of the previously approved plan, until the effective date of the new approved plan.

B. The determination of whether a change is material shall be made by taking into consideration the perspective of covered employees.

C. The following is a non-exclusive list of changes that are considered material:
   1. Changes to the plan design related to benefit amounts or durations
   2. Changes to the Carrier or the third-party administrator
   3. Changes to the class of covered employees, including eligibility rules and waiting period for coverage
   4. Changes to the rate of contribution for the employee
   5. Changes to the method of determination of the 12 month benefit period (e.g. (A) A calendar year; (B) any fixed twelve-month period, such as a fiscal year or a twelve-month period measured forward from an employee's first date of employment; (C) a twelve-month period measured forward from an employee's first day of leave taken under Conn. Gen. Stat. §§ 31-51kk to 31-51qq, inclusive; or (D) a rolling twelve-month period measured backward from an employee's first day of leave taken under Conn. Gen. Stat. §§ 31-51kk to 31-51qq, inclusive)
   6. Changes in how accruals (paid time off, sick bank, etc.) are utilized
   7. Changes in the legal entity (a new FEIN, mergers, or acquisitions) that impact any of the plan attributes listed above.

D. The following changes are not considered to be material:
   1. Cosmetic changes to the plan, for example logos, fonts, branding
   2. Changes to the legal name or legal address of the employer, assuming no changes to the actual ownership structure
   3. Changes to the contact information or method for filing claims
   4. Changes that are the result of changes in an employee's status
   5. Changes to correct grammatical or typographical errors.

E. Changes made in order to comply with the law, including but not limited to the Connecticut Paid Leave Act and related policies, will not require a new vote or a new application, even if material.

F. If the CT Paid Leave Authority approves the proposed new private plan, the date the new plan is approved will begin a new three-year approval period, unless a shorter period is applicable under Section V.A. When an existing private plan is in effect, the effective date of the new plan shall follow the effective date identified in Section IV.D. At its own discretion, the Authority may approve an alternative effective date upon request of the Employer.

G. As noted in Section IV.A.10-12, the Employer shall provide and maintain current records, such as the name and contact details, including email address and postal address, of the authorized representatives who are responsible for responding to questions and requests related to the private plan. Updates to the contact information of the authorized representatives should be made to the Connecticut Paid Leave online portal at www.ctpaidleave.org no later than 15 days from the date of the change. Employer accounts must have at least two individuals whom the Authority can contact with any requests, questions or concerns about the private plan. Failure to provide and maintain current contact records for the authorized representatives, may be grounds for the involuntary termination of the private plan or other penalties as indicated in Section IV.G.

H. An employer with an approved private plan shall notify the Authority if it ceases to employ employees in Connecticut.

VII. AUDITS OF PRIVATE PLANS

A. The employer, its Carrier, or third-party administrator, as applicable, shall maintain accurate and complete records relating to the private plan and shall make all such records available at all reasonable hours for audit or inspection by the Authority, upon reasonable advance written notice. Such records may include, but are not limited to, payroll records; employee schedules and timecards; tax forms; and claim files. Such records shall be kept at least six years from the termination of the plan.

B. Details of the audit process shall be established in a Private Plan Audit Guide that is adopted and published by the Authority.

C. The Authority shall make all requests for any audit or inspection in writing and shall provide the employer, Carrier or third-party administrator with reasonable advance notice prior to the

requested audit and inspection date, provided, however, if the Authority suspects fraud or other abuse, or if the Authority determines that the need for the audit or inspection is urgent, the Authority is not obligated to provide any prior notice.

D. The employer shall preserve and maintain, and shall require its Carrier or third-party administrator as applicable to preserve and maintain any records relating to an audit or inspection until the audit and any audit-related proceedings are concluded.

E. The employer and the Employer's Carrier or third-party administrator, shall cooperate fully with the Authority in connection with an audit or inspection.

F. **Reasons for Audits.** Audits may be triggered for any number of reasons, including but not limited to, the following:
   1. Random Audits;
   2. As a result of a complaint;
   3. As the result of deviations in data collected; or
   4. As a result of any other information received by the Authority that has a direct bearing on the ability or integrity of the private plan administrator, the plan's compliance with state law, or the solvency of plan.

G. **Categories of Audits.** Categories of Audits for Private Plans (can include any combination in a single audit):
   1. Related to the Application
   2. Related to Contributions
   3. Related to Financial Solvency
   4. Related to Claims

H. **Scope of Audits.** Typically, the audit will specify the scope of an audit to be for a specific number of plans or specific time period of claims; however, the Authority also reserves the right to review any and all claims. The Authority may request a list of all plans or claims and choose a random number of files to review, or it may request specific files.

I. **Subject of Audits.** If necessary, the Authority may contact other parties in connection with the audit. For example, if auditing a Carrier, the Authority may request information from an employer whose private plan is administered by the carrier.

J. **Remedies and Penalties.** The Authority has the discretion to determine the appropriate remedies or penalties that may be appropriate in the event of audit findings or failure of the private plan to cooperate fully with the audit, including but not limited to requiring the employer, Carrier or third-party administrator to cure any errors; rescission of private plan approval; suspension of any subsequent private plan for a period of one year; or monetary fines.

VIII. RECORDS RETENTION AND REPORTING REQUIREMENTS

A. **Annual Reports**

No later than May 1, 2022, and annually thereafter, each Employer, or the Carrier, shall submit, in a manner and form to be determined by the Authority, the following information about its plan for the prior calendar year:

1. the actual participation in the plan
2. the reasons claimants received family and medical leave compensation;
3. de-identified demographic information of claimants, including gender, age, town of residence and income level;
4. the total number of claims submitted, claims approved, and claims denied;
5. the reasons for any denials; and
6. any other data requested by the Authority pertaining to employee contributions or the claims administered under the private plan.

B. **Record Retention Obligations**

1. The employer shall keep and preserve, or cause the carrier or administrator, as applicable, to keep and preserve a record of all plan-related documents including but not limited to:
    a. the essential details of the private insurance or self-insured plan coverage that applies to Covered Employees, which may include wage or payment history if the Covered Employee's wages are used to determine the benefit amount and/or premium amount;
    b. financial data including records relating to the collection, retention and use of employee contributions and benefit payments;
    c. Records relating to the contract between the employer and the carrier or administrator claims documents;
    d. Records relating to the employee vote, including:
        i. Date required documentation was sent to employees, at least two weeks prior to vote;
        ii. Date of vote;
        iii. Method used to conduct the vote;
        iv. Proof of "A majority vote of the employer's employees" (i.e., that more than 50% of the total number of employees working in Connecticut for the employer voted in favor the plan);
        v. Record of all employees working in Connecticut at the time of the vote; and
        vi. All documentation that was provided to employees.

2. Such records shall be kept at least six years from the termination of the plan.

3. The Employer shall furnish records to the CT Paid Leave Authority upon request.

TERMINATION OF PRIVATE PLAN

IX. TERMINATION OR SUSPENSION OF PRIVATE PLAN

A. Employer's Responsibility for Coverage.

It shall be the employer's responsibility to keep paid leave coverage in force for all covered employees.

1. If an Employer's **plan is terminated during** the term of a CT Paid Leave Authority-approved exemption period, and the Employer does not obtain approval from the CT Paid Leave Authority to provide private plan coverage from another source (either its own self-insured private plan or another fully insured private plan) the Employer may be:
   a. Required to remit contributions that its employees would have paid to the CT Paid Leave Authority pursuant to Conn. Gen. Stat. § 31-49g, the effective date of the Employer's approved exemption;
   b. Required to repay to the CT Paid Leave Trust Fund ("Trust Fund") the cost of total amount of benefits paid to Covered Employees who received benefits from the Trust Fund following the private plan's termination date through the original private plan expiration date; and
   c. Subject to additional interest and penalties established by the CT Paid Leave Authority for not maintaining a private plan. Additional penalties are noted in Sections IV.G, IX.B and IX.C of this policy.

2. The employer is responsible for the payment of any penalties, which are independent of amount of contributions employees must pay to the Authority pursuant to Conn. Gen. Stat. § 31-49g. The employer is prohibited from withholding from covered employees' wages or otherwise collecting funds from covered employees in order to pay any penalties.

3. In the event that a private plan is terminated, either voluntarily or involuntarily, the employer shall be responsible for notifying all Connecticut employees of the termination of the private plan, of the effective date of such termination, and that requests for paid leave after the termination date can be made to the Authority. Such notice shall be provided to employees no later than one calendar month prior to the date of the transition to the public program. In the event that the Authority terminates the private plan and the effective date of that transition is less than one month from the date of the Authority notice, the employer shall notify employees within five business days of the date of the Authority notice.

B. Voluntary Termination of Private Plan.

If an employer voluntarily elects to terminate private plan coverage, and moves coverage to the program administered by the CT Paid Leave Authority (hereinafter the "public program"), the employer must notify the CT Paid Leave Authority. In addition, the following requirements shall apply:

1. *Employee Contributions.* Upon transition to the public program, the employer must remit to the Authority all funds remaining in their possession or control that have been collected from employees for the purpose of providing private plan coverage. Funds that were collected and are owed to a carrier or Third Party Administrator for the period of time that the plan was in force shall be remitted to the carrier or TPA rather than the Authority.

2. *Termination at End of Approved Period.* If the transition occurs at the end of the approved period for the private plan, the employer shall provide notice to the Authority no less than one month from the date coverage will end under the private plan. Failure to provide such notice shall not prevent the private plan from terminating.

   However, if such notice is not provided by the above timeframe, the Authority shall have the right to assess a penalty up to $50. The penalty shall be due as of the date of the transition to the public program. The employer may not deduct from employees' earnings in order to pay the penalty.

   Coverage under the public program will begin immediately following the last day that coverage is in force under the private plan.

3. *Penalties related to Termination During the Approval Window.*
   a. The Authority shall have the right to assess a penalty up to $250.

   b. The penalty shall be due at the end of the first full calendar quarter that coverage is in force under the public program.

   c. The employer may not deduct from employees' earnings in order to pay the penalty.

4. *Penalties are in Addition to Regular Contributions.* Any penalties assessed shall be independent of contributions employees must pay to the Authority pursuant to Conn. Gen. Stat. § 31-49g related to on-going coverage under the public program and amounts remitted to the Authority that were collected from employees while the private plan was in force.

5. *Reconsideration of Penalties.* If the Authority assesses a penalty to the employer, the employer shall be allowed to request reconsideration from the Authority. The employer may provide any evidence in support of a waiver or reduction in the penalty amount. The Authority may waive, in whole or in part, the amount of such penalty if such payment would be against equity and good conscience.

C. Involuntary Termination of a Private Plan

1. The CT Paid Leave Authority may deny or withdraw approval for a private plan if the CT Paid Leave Authority determines that the employer has:
   a. Threatened or coerced employees in connection with the private plan vote;

b. Failed to pay benefits;
c. Failed to pay benefits timely and in a manner consistent with the public program;
d. Failed to maintain an adequate surety bond as required by the CID;
e. Misused private plan funds;
f. Failed to submit reports as required;
g. Provided materially false information to the CT Paid Leave Authority or the CID;
h. Failed to comply with sections 31-49e to 31-49t, inclusive of the Connecticut General Statutes;
i. Failed to remit contributions for periods in which it was covered under the public program;
j. Failed to comply with any other requirements related to private plans, including while covered under a prior private plan approval; or
k. Directed its insurer or Third-Party Administrator to engage in such actions.

2. If the private plan is terminated, the Authority may also engage in the additional actions identified in Section IV.G.

3. If the Authority terminates the private plan for any of the reasons listed in Conn. Gen. Stat. § 31-49o(b) or for failure to meet any other requirements or policies promulgated by the Authority, coverage will terminate on a date indicated by the Authority.
   a. Coverage will begin under the public program immediately following the last day that coverage is in force under the private plan.
   b. Penalties related to Involuntary Termination: The Authority shall have the right to assess a penalty up to $500. The penalty shall be due at the end of the first full calendar quarter that coverage is in force under the public program. The employer may not deduct from the employees' earnings in order to pay the penalty.
   c. Upon transition to the public program, the employer must remit to the Authority all funds remaining in their possession or control that have been collected from employees for the purpose of providing private plan coverage. Funds that were collected and are owed to a carrier or Third Party Administrator for the period of time that the plan was in force shall be remitted to the carrier or TPA rather than the Authority.

4. **Notice to Employer of Identified Violation**
   a. The Authority shall provide written notice to an employer of a potential violation of the policies relating to private plans, which notice shall include a statement of the alleged violation, a summary of the information upon which the Authority relied in making its determination that a potential violation occurred, and the penalty or penalties the Authority is seeking.
   b. Not later than twenty days after the date the notice was mailed or sent by electronic mail, the employer may submit additional information to the Authority with a request for reconsideration.
   c. The Authority shall issue a final determination regarding the alleged violation not later than sixty calendar days after the date the Authority mailed or sent by electronic mail the notice of the potential violation, which sixty-day period may be extended for an

additional period not to exceed sixty days if (1) the Authority gives written notice to the employer that it requires additional time, and (2) such notice is mailed or sent by electronic mail during the initial sixty-day period.

d. **Request for Reconsideration.** An employer who has received notice of a violation may request reconsideration with the Authority.
    i. Such request shall include the employer's response to the alleged violation and potential penalty.
    ii. The response shall include all information the employer wants the Authority to consider in reaching a final determination.
    iii. Such request for a reconsideration must be received no more than twenty calendar days from the date after the notice was mailed or sent by electronic mail.
    iv. If no request is received, the employer will be deemed to have admitted to the violation and accepted the penalty.
    v. If the Authority determines that a hearing is necessary to address the request for reconsideration, it shall advise the employer of the date and time of such hearing.

e. **Hearing.** In the event that a hearing is requested by the Authority, the Chief Executive Officer of the Authority, or his or her designee, will act as the Hearing Officer. Such Hearing Officer shall not be the same person or persons who investigated or made the initial determination that the alleged violation occurred. The Hearing Officer may set a date, time, and place for the hearing. Such hearing may be in-person, via telephone, or other electronic-meeting means.
    i. *Process.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances and in accordance with due process principles. The employer and/or their representative shall be present as well as a representative of the Authority other than the Hearing Officer. Hearings may be recorded, but need not be transcribed. An oral or written statement may be provided by the employer or their representative and by the Authority representative. Physical evidence may be presented and witnesses may be called by either party. All witnesses shall testify under oath or affirmation, and may be subject to cross-examination.
    ii. *Evidence.* Formal rules of evidence shall not apply to the hearing. The Hearing Officer shall have the discretion to attach as much weight to evidence presented as he or she deems appropriate and reasonable. The Hearing Officer shall have the power to request additional evidence from either party, after the hearing, if he or she deems necessary. If a request is made, such evidence shall be provided to both parties and may be contested by the opposite party within 5 business days.
    iii. *Decision.* The Hearing Officer shall issue a final determination in writing. In the written determination, the Hearing Officer shall state the facts relied upon in order to make the determination of whether or not the employer violated the

policies relating to private plans. The Hearing Officer may recommend a penalty or waiver of a penalty, in whole or in part. However, the assessment of such a penalty will remain within the power of the Chief Executive Officer of the Authority, or his or her designee.

Reconsideration of Penalties. If the Authority assesses a penalty to the employer, the employer shall be allowed to request reconsideration from the Authority. The employer may provide any evidence in support of a waiver or reduction in the penalty amount. The Authority may waive, in whole or in part, the amount of such penalty if such payment would be against equity and good conscience.

D. Requirements Relating to Data Transfer Upon Any Termination of a Private Plan

1. **Data Transfer upon transition from a private plan to the public program**
   a. Information about the process to handle open paid leave claims as of the date of the transition to or from a private plan can be found in the Authority's Consolidated Policies *CTPL-009-PRVP* (e).
   b. Upon request by the Authority, the employer, carrier or administrator of the private plan shall provide information that is reasonably necessary related to open paid leave claims.

2. **Data Transfer upon transition from a private plan to another private plan**

   The data transfer requirements from a terminating private plan to a new private plan shall be determined by the employer and the carriers or administrators, if applicable, of the terminating and new plans. The employer is responsible for ensuring that the transition from the terminating private plan to the new private plan occurs with minimal disruption to its covered employees.

E. Expiration of the Approval Period

1. At the end of the private plan approval period, an employer has the option to either:
   a. Transition to the public program; or
   b. Renew private plan coverage under a new private plan.

2. *Transitioning to the public program*. In order to transition to the public program, the employer must provide notice to the Authority, in the manner provided by the Authority, no later than one month prior to the expiration date for the private plan.

   a. The Authority shall make available a document to provide such notice.
   b. Failure to provide the notice at least one month prior to the date of the expiration shall be subject to the penalty detailed in Section IX.B.2.

3. *Renewing private plan coverage*. In order to continue to be covered under a private plan, an employer must submit a new private plan application with the Authority.

    a. The employer must submit a new application for a private plan according to the process detailed in Section II, III, and IV of this policy. This process includes:
        i. A new vote of all current Connecticut employees; and
        ii. Policy or plan documents reflecting the new private plan.

    b. In order to avoid a gap in private plan coverage, such application must be approved no later than the first day of the month immediately prior to the expiration of the private plan date, in line with the timelines identified in Section IV.D.

4. Failure to notify the Authority of the intent to transition to the public program or to renew the private plan coverage shall result in the employer transitioning to the public program on the date immediately following the last date of coverage under the private plan. Such transition shall be subject to the penalty identified in Section IX.B.2.

EXHIBITS

EXHIBIT A

SELF-INSURANCE PLAN DOCUMENT

Notices

(Employers are allowed to utilize modifications to the language in order to fit the employer's plan document format – e.g. replacing "Employer" with the actual employer's company name or claims' administrator's name, as applicable, or "We" – only as long as they do not alter the intent of the required notice)

The first page should include a statement that the plan is intended to cover paid leave benefits that comply with the Connecticut Paid Family and Medical Leave Insurance Authority ("CT Paid Leave Authority" or "Authority") standards. The provisions of this Plan must conform with the requirements of sections 31-49e through 31-49t of the Connecticut General Statutes and the policies promulgated by the CT Paid Leave Authority (hereinafter respectively referred to as "the CT Paid Leave Act and policies"). If any Plan provisions do not conform to the requirements of the CT Paid Leave Act and policies, then the Employer is required to administer paid benefits consistent with the CT Paid Leave Act and policies. If there are any conflicts between the plan and the CT Paid Leave Act and policies, the CT Paid Leave Act and policies will be the controlling requirements, unless the plan provisions are more advantageous to the Covered Employee in which case the plan terms as to those more advantageous provisions will prevail.

The first page should acknowledge that if there are any changes, amendments, or regulatory clarifications to the provisions of the CT Paid Leave Act and policies then the plan will be administered consistent with the relevant changes, amendments, or clarifications and all claims practices will be updated to be in compliance with the new requirements. The plan should be reviewed and updated at least annually to comply with any changes, amendments or clarifications.

The following notice should be on the first or second page of the plan: An employee covered under the plan shall retain all rights under Conn. Gen. Stat. §§ 31-51kk to 31-51qq, inclusive.

The following notice should be on the first or second page of the plan if the Employer requires contributions from Covered Employees: Contributions from Covered Employees cannot exceed the maximum employee contributions as described in the CT Paid Leave Act and policies. This maximum contribution percentage is subject to an annual adjustment by the CT Paid Leave Authority as specified in Conn. Gen. Stat. §31-49g(b). The amount of wages withheld or diverted from employees for contributions shall not be increased, except on an anniversary of the effective date of private plan or within thirty days after the state adjusts the contribution rate.

Employer Obligations:

Records -Information to Be Furnished

The Employer is required to keep a record of the essential details of the self-insured plan that applies to Covered Employees, which may include wage or payment history if the Covered Employee's wages are used to determine the benefit amount and/or premium amount. The Employer is to keep a record of all details of the plan, including records relating to its Claims Administrator, if any, for a minimum period of

three years after termination of the plan. The Employer shall furnish these records to the CT Paid Leave Authority upon request.

Covered Employee Right to Review Policy

Covered employees shall either be given a copy of the plan or have the right to examine the plan upon request, at a reasonable time and location.

Effective Date of Plan Coverage:

The plan should explain the coverage relevant to the eligibility dates as follows:

Effective Date for Employer [Effective date of coverage]

Employee Eligibility

The plan should indicate that all employees who qualify as Covered Employees under the CT Paid Leave Act and policies will be covered as of the plan effective date. The plan should also indicate the effective date of coverage for any new hires or newly eligible employees. Such time must be no later than the date required under the CT Paid Leave Act and policies.

Benefit Provisions

The plan should describe the following items:

Payment Period: The maximum payment period under the plan.

[Variable by Employer, but the minimum durations of paid leave allowable for qualifying reasons are 12 weeks in a 12-month period for all leave reasons except (1) an eligible employee may receive an additional 2 weeks of leave for incapacitation during pregnancy and (2) only 12 days of the 12 weeks may be used for safe leave.

The plan should state specifically how it is determining the 12-month period, which must correspond to one of the approved options under the CT Family and Medical Leave Act and regulations issued by the CT Department of Labor. The plan must provide the same method for determining the 12-month period for all leaves, with two exceptions allowed if the plan intends to mirror the measurement method indicated under such act and regulations:

- For military caregiver leaves, the plan may provide for a 12 month period measured forward from the first day of leave compensation;
- For safe leave related to family violence or sexual assault, the plan may provide for utilization on a calendar year basis.

The use of separate methods of calculation is optional. Either or both of the above leave reasons may match the method of measurement for all other leaves.

Definition of a work week: The Employer shall calculate the Covered Employee's work week in accordance with the section 31-51qq-16 of the Regulations of State Agencies, as may be amended from time to time by the Connecticut Department of Labor regarding the calculation of a variable work week.

Waiting Period: The Employer may not impose any waiting period on the payment of leave benefits.

How Payments Start: This provision must meet or exceed the minimum qualifying eligibility conditions consistent with the CT Paid Leave Act and policies.

If the Employer intends to match the minimum requirements of CT Paid Leave Act and policies, it is recommended that it does not attempt to specifically redefine all the exact reasons for leave in the policy, in order to avoid any unintended inconsistencies between the plan and the CT Paid Leave Act and policies. Instead, it is preferable that the plan incorporate by reference the location of the specific reasons as defined in the CT Paid Leave Act and policies. However, in order to aid in understanding, the plan may reference the broad categories of leave:

- Because of their own serious health condition (Including pregnancy, organ or bone marrow donation);
- To care for a family member with a serious health condition;
- To bond with a newborn baby, newly adopted child or newly placed foster child;
- To address specific issues associated with a parent, spouse, or child's active duty in the military
- To care for a family member who became ill or was injured in the course of duty while on active duty in the military;
- To address specified needs associated with family violence or sexual assault.

When Payments End: This provision must meet or exceed the minimum qualifying eligibility conditions consistent with CT Paid Leave Act and policies. It may state that this occurs when the Covered Employee is no longer eligible for paid family or medical leave, no longer has a qualifying reason for leave, or the person has completed the maximum payment period under the plan.

The plan should state that termination of the plan will have no impact on eligibility for benefits under any approved leaves that began while the plan was in force (whether block, intermittent, or reduced leaves), including any approved extensions for the same leave regardless of whether or not the plan was in force at time of extension. If a paid leave compensation continues beyond the termination date of the plan, the plan may terminate such benefits at the earlier of:

- The date that a new medical certification is required due to the expiration of the previously submitted certification; or
- 12 months from the date paid leave benefits were initially provided for that leave.

Intermittent Leave or Reduced Leave Schedule: The plan must indicate that intermittent leave shall be taken in increments consistent with the established policy the Employer uses to account for use of leave under the CT Family and Medical Leave Act, Conn. Gen. Stat. §31-51kk et seq and CT Family Violence Leave Act, Conn. Gen. Stat. §31-51ss. The plan must also describe any limits on payments, including when payments may be made, provided that for intermittent leave and reduced leave schedule absences of less than 4 hours per day, the plan must issue payments for such absences no less frequently than either every two weeks or semi-monthly. As Employers' plans may vary, in order to

provide benefits that are more generous than the CT Paid Leave Act and policies, the language of the plan may include options to account for these variations.

- For leave to bond with a Child during the first twelve months after the Child's birth, Adoption, or Foster Care placement, the plan may state that income replacement compensation may be provided on an intermittent or reduced leave schedule only if the Employer and the Covered Employee mutually agree.

- For leave to care for a Family Member's Serious Health Condition or to care for a Family Member who is a Covered Service Member, the plan must provide that income replacement compensation may be provided on an intermittent or reduced leave schedule, if needed. The plan may require that the employee provide a certification from Health Care Provider that the intermittent leave schedule is medically necessary as a condition of coverage. If the plan requires this Health Care Provider certification, this must be stated in the plan.

- For safe leave due to Family Violence or Sexual Assault suffered by employee or a Qualifying Exigency arising out of a Family Member's active duty or impending call to active duty in the Armed Forces, the plan must provide that income replacement compensation may be provided on an intermittent or reduced leave schedule.

- For leave due to the Covered Employee's own Serious Health Condition, including acting as an organ/bone marrow donor, the plan must provide that income replacement compensation may be provided on an intermittent or reduced leave schedule, if needed. The plan may require that an employee provide a certification from a Health Care Provider that the intermittent leave or reduced leave schedule is medically necessary as a condition of coverage. If the plan requires this Health Care Provider certification, this must be stated in the plan.

Extension of Paid Leave Benefits:

The plan must indicate that the Covered Employee may submit a request for extension of paid family or medical leave beyond the initial approved duration.

The Employer may require the Covered Employee to provide notice to the Employer requesting an extension of leave. This notice period may not be greater than 14 calendar days prior to the date of expiration of the original approved leave. If the Employer requires a notice period, it must state ·that there is a provision allowing a late filed request for an extension for good cause shown.

The Employer may require that a request for an extension of leave include the following information:

- The reason for the extension;
- The requested duration of the extended leave;
- The date on which the Covered Employee provided notice of the request for the extension and
- A newly completed or updated health care certification or supporting document consistent with the provisions applicable to the rights of employers as set forth in Conn. Gen. Stat. 31-51mm.

Employer-Provided Paid Leave

This section should state whether the Employer requires or permits the Covered Employee to use any sick or other accrued paid leave or paid time off prior to initiating a claim under the plan or while on approved leave. In the event that an Employer requires the use of sick or other accrued paid leave or paid time off, an employee who is taking leave pursuant to Conn. Gen. Stat. §§ 31-51kk et seq. is able to retain not less than two weeks of such paid time off, as required by Conn. Gen. Stat. § 31-51ll(e).

When a Covered Employee's earned or accrued paid leave with the employer is not substituted for the entire period of unpaid leave to which the employee is entitled under Conn. Gen. State 31-51kk et seq, the employee shall receive income-replacement benefits under the policy for all or part of any unpaid federal FMLA or CT FMLA leave.

When the earned or accrued paid leave is equal to the Covered Employee's regular rate of compensation, such that the Employee does not qualify for benefits under the policy, such day or days shall not count against the Employee's maximum allotment of income replacement benefits in a 12-month period.

When the earned or accrued paid leave is less than the Covered Employee's regular rate of compensation, such that the Employee elects to utilize such paid leave to supplement the benefits received under the policy, such day or days shall count against the Employee's maximum allotment of income replacement benefits in a 12-month period.

Benefits for Former Employees

For Covered persons who have been separated for any reason from an Employer for fewer than 12 weeks:

- If the covered person remains unemployed or otherwise not covered by the CT Paid Leave Program or a private plan approved by the CT Paid Leave Authority on the date that a requested leave begins, the Covered Employee shall submit an application for benefits with their former Employer.
- If an individual submitting an application for benefits identifies themselves as a former Employee, the plan may inquire as to whether the individual has obtained Connecticut paid leave coverage with another employer following separation from the Employer or is receiving unemployment insurance benefits. An affirmative answer to any of these questions may be grounds for denial of a claim. If such denial is due to separate Connecticut paid leave coverage, the communication of the denial shall include a notification for the former employee to contact the Authority or their current employer for more information on how to file a claim for paid leave compensation.

Verification of Wages

The plan may require the employee to meet financial eligibility requirement set forth in the definition of "covered employee" set forth in subsection (4) of 31-49e of the Connecticut General Statutes.

The plan is allowed to only utilize wages received from the Employer for the purposes of determining eligibility under the plan and the calculation of paid leave compensation. Alternatively, the plan may

consider earnings from additional employers in order to determine eligibility or compensation amount, or both. The plan shall identify which wage sources are factored into the plan.

Calculation of Weekly Benefit Amount and Use of Wages

This section should clearly state how the Weekly Benefit Amount payable to the Covered Employee is calculated. Such provisions should indicate the manner in which benefits may be reduced for other income that the employee may be receiving, and how benefits are calculated for reduced/intermittent leave or when leave begins or ends during a work week. The benefit calculation must be at least equal to the benefits the benefit calculation that would be paid to Covered Employees if participating in the state plan.

Payments

This section will set forth the timing and manner of benefit payments to Covered Employees. Benefits should be paid to Covered Employees only. Benefits cannot be assigned unless such assignment is required by operation of law, such as child support. Benefits that are owed but unpaid at time of death shall be paid to the employee's estate. Except in the case of self-employed individuals or sole proprietors who are both employee and employer, benefits are not allowed to be paid to the employer.

The Employer agrees that it will comply with the time periods and other requirements related to processing and payment of claims that are set forth in the CT Paid Leave Act and policies. This section will state that claim payments to a Covered Employee are to be paid not more than 15 calendar days after approving an application, unless that determination occurs more than 15 calendar days before the onset of leave or before the employee meets the eligibility requirements, in which case the Employer shall commence payment of leave benefits as soon as the Employer becomes aware that leave or eligibility begins.

The Employer is not permitted to offer lump sum payments in lieu of a Weekly Benefit Amount and/or pay benefits at the beginning of a claim or in higher amount installments at the commencement of a claim. The only exception to this rule is if the lump sum is necessary to pay benefits to which the Covered Employee became entitled prior to the claim determination. For each request for payment associated with intermittent leave, the Employer may verify the leave taken prior to issuing a payment.

Offset to Policy Benefits Due to Other Income:

This section will explain the permissible offsets to the Weekly Benefit Amount under the CT Paid Leave Act and policies. Employers may not impose additional offsets /reductions but may elect to include any or all of the reductions available under the CT Paid Leave Act and policies. Under the CT Paid Leave Act and policies, Covered Employees may receive other income for the same period of time that they are receiving paid leave compensation. In order to avoid a Covered Employee receiving greater than 100% of their regular rate of compensation, the Weekly Benefit Amount payable under the plan may be reduced by the amount of wages or wage replacement that a Covered Employee on leave receives for that period from the Employer.

While Employers have the right to not reduce benefits as the result of other income, two restrictions will continue to apply:

1. Total compensation received by the employee under the plan and other employer-provided employment benefits cannot exceed such employee's regular rate of compensation;
2. Employees may not receive benefits under the plan concurrently with Unemployment Insurance, Workers Compensation, or any other federal or state program that provides wage replacement, except to the extent permitted by subsection (g) of section 31-49g of the Connecticut General Statutes as amended by section 2 of Public Act 24-5.

Income shall be deemed to be received concurrently with paid leave benefits if it is payable due to the same period of time that the Covered Employee is receiving paid leave benefits.

Exclusions

The plan should not have any exclusions that are not specifically listed in the CT Paid Leave Act and policies. If there are future changes to the CT Paid Leave Act and policies, these exclusions should be consistent with those changes.

[Employers are allowed to indicate that receipt of Connecticut Unemployment Insurance, Connecticut Workers Compensation, or any other federal state program that provides wage replacement (except compensation provided by the Office of Victim Services) as an exclusion in this section, rather than the previous section. However, such payments shall only be an exclusion if paid concurrently with the period of time that paid leave benefits are requested.]

Claim Provisions

This section will inform Covered Employees how they may initiate claims for paid leave benefits.

The Employer may not impose requirements related to notice of the need for leave or the filing of a claim for benefits that are inconsistent with notice provisions in the CT Paid Leave Act and policies.

The Employer shall clearly explain any claim provisions for paid family and/or medical leave.

The Employer shall explain that the individual may be required to provide consent to the Carrier to share information with the Employer and with the health care provider in order to process the claim.

The Employer may require the Covered Employee to provide a notice of an intent to file a claim to the Employer not greater than maximum period allowed by statute prior to the date that the employee seeks to begin receiving benefits: 7 calendar days for safe leaves related to family violence or sexual assault and 30 calendar days for all other leaves.

If the Employer requires a notice period, it must allow an exception for circumstances beyond the reasonable control of a Covered Employee. In this case, the Employer may require that the notice be given as soon as practicable.

The Employer may indicate if notice is not given, and no good cause is provided for lack of notice, then the plan is allowed to wait until the notice period has expired before paying benefits, and further, that if the notice period extends beyond the end of the leave, then benefits may not be payable.

The Employer may require that in the case of medical leave when planning medical treatment, the Covered Employee must consult the Employer to schedule treatment that will not unduly disrupt the Employer's operations.

The Employer should clearly state that decisions on a claim for paid leave benefits will be made within 5 business days of receipt of a complete application, including complete and sufficient certifications, if required. If the application is incomplete or insufficient, the Employer shall notify the employee of the information necessary to complete the claim no later than 5 business days from the date of the request.

Certifications and Documentation Requests

This section will describe the permissible certifications and documentation that the Employer may request from Covered Employees. The Employer may require that claims for benefits be supported by a certification evidencing that the leave is for a qualifying reason. The Employer may not include certification or other proof requirements in the plan that exceed those permitted to employers under section 31-51mm of the Connecticut General Statutes and regulations promulgated by the Connecticut Department of Labor relating to such section.

The Employer may not require the Covered Employee to submit additional evidence unless it is specifically authorized in the CT Paid Leave Act and policies.

The Employer may describe the information that it will require, with the statement that if there is a conflict between the plan terms and the certification and documentation that employers may require pursuant to Section 31-51mm of the Connecticut General Statutes and related regulations, or pursuant to the CT Paid Leave Act and policies, the terms of the latter statutes, regulations or CT Paid Leave Act policies prevail.

The Employer may require submission of the following necessary information for the following types of paid family and medical leave. The Employer may require that claims for benefits be supported by a certification evidencing that the leave is for a qualifying reason.

For Medical Leave for the Individual's own Serious Health Condition:

The Employer may require a certification from a health care provider that includes:

- A statement that the Covered Employee has a serious health condition, including that they are an organ or bone marrow donor;
- The date on which the serious health condition commenced;
- The probable duration of the serious health condition;
- A certification by the health care provider that the Covered Employee is incapacitated from work due to the serious health condition, including due to organ or bone marrow donation;
- Information regarding the need for intermittent leave or reduced leave schedule, including a statement that such leave or schedule is medically necessary where the claim for benefits is for leave on an intermittent or reduced leave schedule and an estimate of the frequency and duration of leave needed; and

- Other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

For Leave to Care for Family Member with a Serious Health Condition:

The Employer may require a certification from a health care provider that includes:

- The name and address of the Family Member;
- A statement that the Family Member has a Serious Health Condition;
- The date on which the Family Member's Serious Health Condition commenced;
- The probable duration of the Family Member's Serious Health Condition;
- A statement that the Covered Employee is needed to care for the Family Member;
- An estimate regarding the frequency and anticipated duration of time that the Covered Employee is needed to care for the Family Member; and
- other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

The Employer may also ask the Covered Employee for:

- A statement confirming the relationship between the Covered Employee and the Family Member; and
- Information that proves to the satisfaction of the Employer the identity of the Family Member.

For Leave to bond with a newborn Child:

The Employer may require:

- The Child's birth certificate; or
- A statement from the Child's Health Care Provider stating the Child's birth date; or
- A statement from the Health Care Provider of the person who gave birth stating the Child's birth date.

The Employer may also require other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

For Leave for Placement of a Child for Adoption or Foster Care:

- The Employer may require a certification from the child's health care provider or from an adoption or foster care agency involved in the placement or the Connecticut Department of Children and Families that confirms the placement and the date of placement and other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

- The Employer may also require that the Covered Employee provide written notice of any change of status as an adoptive or foster parent while an application for benefits is pending or while the Covered Employee is receiving benefits. In this instance, the Covered Employee, within five business days of such change in status, may be required to provide written notice of the change

to the Employer.

For Leave for a Qualifying Exigency arising out a Family Member is on Active Military Duty or Has Been Notified of an Impending Call or Order to Active Duty in the Armed Forces:

The Employer may require:

- A copy of the Family Member's active duty order, a letter of impending activation from the Family Member's commanding officer, or other documentation in circumstances where, for good cause shown, the Covered Employee is unable to produce the active duty orders or letter of impending activation;
- A statement of the family relationship between the Covered Service Member and the Covered Employee requesting benefits;
- Information from the Covered Employee that proves to the satisfaction of the Carrier the identity of the family member;
- The name and address of the Family Member being cared for;
- The dates or period of time for which leave is requested, including frequency and duration of leave;
- A description of the reason for qualifying exigency;
- Any available written documentation which supports the need for leave (e.g., a document confirming the service member's Rest and Recuperation leave; a document confirming an appointment with a third party, copy of a bill for services for handling legal or financial affairs, etc.);
- If leave is needed to meet with a third party (e.g., childcare, financial advisor, military event, etc.), the name, address and contact of the individual/organization and a written description of the meeting; and
- Other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

Family Leave to Care for a Family Member who is a Covered Service Member:

The Employer may require a certification from the Covered Service Member's health care provider that includes:

- The date on which the Covered Service Member's Serious Health Condition commenced;
- The probable duration of the Serious Health Condition;
- A statement that the Covered Employee is needed to care for the Family Member;
- An estimate of the amount of time the Covered Employee will be needed to care for the Covered Service Member;
- An attestation by the Covered Service Member's Health Care Provider and the Covered Individual that the Serious Health Condition arises from the Covered Service Member's active duty in military service;
- A statement of the family relationship between the Covered Service Member and the Covered Employee ;

- Information from the Covered Employee that proves to the satisfaction of the Carrier the identity of the Family Member;
- The name and address of the Family Member being cared for; and
- Other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

The Employer must accept as an alternative form of certification an Invitational Travel Order (ITO), or Invitational Travel Authorization (ITA) issued by the Department of Defense to any family member to join an injured or ill service member at his or her bedside. An ITO or an ITA constitutes automatic certification of military status and serious health condition.

- The Employer must accept the ITO or ITA as complete and sufficient certification of the need for leave, even if the Covered Employee's own name is not on it.
- The Employer may require proof of a covered family relationship between the Covered Employee and service member.
- If the Covered Employee needs leave beyond the expiration date of the ITO or ITA, the Carrier may require certification of status via normal procedures.

For Leave arising out of Family Violence or Sexual Assault

The Employer may require the following documentation:

- A statement confirming family violence and/or sexual assault; and
- One of the following:
    - A police or court record related to the family violence and/or sexual assault; or
    - A signed written statement that the Covered Employee is a victim of family violence and/or sexual assault, provided such statement is from an employee or agent of a victim services organization, an attorney, an employee of the Judicial Branch's Office of Victim Services or the Office of the Victim Advocate, or a licensed medical professional or other licensed professional from whom the Covered Employee has sought assistance with respect to the family violence and/or sexual assault.

[**Overpayments**

If the plan includes a section regarding overpayments or subrogation, the Employer should state any provisions for recouping any overpayment of benefits.]

Claim Denials

The plan should indicate that if a claim is denied, in whole or in part, the employee will be provided with, at a minimum:

1. The specific reason for the denial;
2. The specific law or section of the policy that caused the denial;
3. What documentation was relied on for the denial;
4. What documentation can be provided, if any, to reconsider the denial; and
5. Reference to the reconsideration and appeals processes and timeframes.

Reconsideration and Appeals

The plan must include a section notifying the Covered Employee that upon notice of a preliminary determination that the Employer will deny a claim or make another adverse determination, the Covered Employee may request reconsideration of the determination via the plan's internal process before the Covered Employee exercises the right to appeal a denial of the claim to Connecticut Department of Labor ("CT DOL"). The Employer's reconsideration process shall not require the Covered Employee to submit a request for reconsideration less than ten calendar days from the receipt of notice of its preliminary determination.

The Employer's reconsideration process must extend the ten-calendar day filing period where an individual establishes to the satisfaction of the Employer that circumstances beyond the individual's control prevented the filing of a request for reconsideration within the prescribed filing period.

If the Employer denies the request for reconsideration, it must advise the Covered Employee in writing (or electronically, if the Covered Employee consents) that the Covered Employee may appeal to the CT DOL and identify how to contact the CT DOL.

The Employer shall be required to furnish the CT DOL all documentation requested by the CT DOL in accordance with CT DOL regulations.

Definitions

If it includes any of the following definitions, the plan shall include definitions that are no more restrictive than those required by the CT Paid Leave Act and policies:

From Conn. Gen. Stat. §§ 31-49e and 31-51kk:

- Base period
- Base Weekly Earnings
- Covered Employee
- Employ
- Family member
- Grandchild
- Grandparent
- Health care provider
- Parent
- Reduced leave schedule
- Serious health condition
- Sibling
- Son or daughter
- Spouse
- Subject earnings

From the CT Paid Leave Authority Glossary of Terms:

- Intermittent Leave (if distinguishing from Reduced Leave Schedule)
- Family Violence

- Incapacity
- Bonding Leave
- Caregiver Leave
- Armed Forces/Armed Services
- Health care provider (as applied to Armed Forces/Military Leave)
- Qualifying Exigency Leave
- Inpatient Care
- Continuing Treatment by Healthcare provider

EXHIBIT B

PLAIN LANGUAGE GUIDE
TEMPLATE

[INSTRUCTIONS TO EMPLOYERS

Employers shall provide employees a written description of the proposed private plan in plain language ("plain language guide") at least two weeks in advance of the vote. For purposes of this requirement, "plain language" shall be defined as reasonably capable of being understood by the recipients of the document.

The plain language guide shall include the information in the template below. An employer may add other information the employer wishes to provide to the employees about the plan, such as information about additional benefits and examples, provided such additional information is accurate, complete and non-coercive. Employers may be asked by the Authority for proof of the accuracy of any additional statements made.

Italicized text in the template indicates language that must be modified by the employer prior to providing to employees. Braces { } denote language that should be replaced or modified to fit the private plan design. Brackets [ ] denote additional instructions to the employer when completing the plain language guide.

Failure to provide the plain language guide with complete and accurate information can lead to a denial of the private plan, requiring the employer to conduct another vote of the Connecticut Employee population and reapply for the private plan.]

PLAIN LANGUAGE GUIDE

INTRODUCTION

An Act Concerning Paid Family and Medical Leave creates the Paid Family & Medical Leave Insurance Program to provide wage replacement benefits to eligible employees who need to take leave from work for reasons allowed under the Connecticut Family and Medical Leave Act (CT FMLA) or the CT family violence/sexual assault leave law, specifically:

- Because of their own serious health condition (Including pregnancy, organ or bone marrow donation);
- To care for a family member with a serious health condition;
- To bond with a newborn baby, newly adopted child or newly placed foster child;
- To address specific issues associated with a parent, spouse, or child's active duty in the military
- To care for a family member who became ill or was injured in the course of duty while on active duty in the military;
- To address specified needs associated with family violence and/or sexual assault.

The CT Paid Family & Medical Leave Insurance Program is run by the CT Paid Leave Authority and is funded by contributions of ½ of 1% of the wages of employees working in Connecticut. Effective January 1, 2022, employees may apply to the CT Paid Leave Authority for wage replacement benefits.

As an alternative to the CT Paid Family & Medical Leave Insurance Program, an employer can apply to the CT Paid Leave Authority for permission to offer its employees a private plan.

For a private plan to be approved, it must provide employees with all of the same rights, protections and benefits that are provided to employees under the Connecticut Paid Family & Medical Leave Insurance Program and comply with the requirements established by the Connecticut Paid Leave Authority. An employee's rights under the CT FMLA and the CT family violence/sexual assault leave law are the same, whether or not the employee receives income replacement benefits through the Paid Family & Medical Leave Insurance Program or through an employer-provided private plan.

In order to apply for permission to offer a private plan, the employer must show that a majority of its employees working Connecticut voted to approve the proposed private plan.

You are receiving this information because your employer wants to apply to the CT Paid Leave Authority for permission to offer its employees a private plan.

EXPLANATION OF THE PRIVATE PLAN

What does this Plan do?	The plan is a/an {*Employer*}-sponsored benefit plan that provides compensation to eligible employees who take leave from work for a "qualifying reason," as defined below. {*Employer*} is offering this Plan is as an alternative to the publicly administered Connecticut Paid Family & Medical Leave Insurance Program. {*Employer}* certifies that this Plan gives its employees all of the same rights, protections and benefits provided to employees under the CT Paid Family & Medical Leave Insurance program. *[If applicable, please use the following section to list the plan enhancements to the minimum CT PFML required benefits.]* {*Employer also certifies that this Plan provides the following rights, protections or benefits that are greater than those required by CT law:* • *}*
Who is covered by this Plan?	All employees of *{Employer}* working in Connecticut are covered by this Plan • The plan is **not** limited to certain segments of the *{Employer's}* workforce; *[if the Employer is a public school operator or a nonpublic elementary or seconday school, they may modify the above*

	provision to have the plan only cover employees who do not require certification under Chapter 166 of the Conn. Gen. Stat.] The plan covers future employees, not just employees who were working for {*Employer*} at the time of the vote. The plan covers former employees of {*Employer*} for up to 12 weeks from the date they separated from *{Employer}* or until they are eligible for coverage from the CT Paid Leave Authority or another private plan approved by the CT Paid Leave Authority, whichever comes first • Former employees are covered no matter why they left *{Employer}.*
What are the benefits provided under this plan?	An eligible employee who is unable to work because of one of the "qualifying reasons" listed below, will receive income replacement benefits from the plan to replace the lost wages. The Connecticut Paid Family and Medical Leave plan benefit calculation is: • If your base weekly earnings are less than or equal to the Connecticut minimum wage multiplied by forty, the weekly compensation offered to you will be 95% of your base weekly earnings. • If you earned more than that amount, your weekly compensation will also include 60% of the amount of your base weekly earnings that exceed the Connecticut minimum wage multiplied by forty. Base weekly earnings are determined from the first 4 of the last 5 quarters. • The total weekly compensation shall not exceed an amount equal to 60 times the Connecticut minimum wage. *[The employer may provide illustrative examples.]* [*If the plan provides income replacement benefits at higher levels than the minimum requirements, the employer may modify the above section accordingly. Under no circumstances can the employer provide income replacement benefits at a lower calculation.*] [*The employer must note whether accruals are required to be used or not required to be used. If the employer does not provide any paid time off to its employees, it may omit the following language:*] {*The Employer requires*}{*The Employer does not require*} you to use employer-provided accruals to supplement the income replacement benefits provided under this plan. • The combined total of income replacement benefits and employer-provided accruals cannot exceed 100% of the employee's wages.

	• You have the right to retain at least two weeks employer-provided accruals instead of using them during your leave.
Does this plan provide me with job-protected leave if I need time away from work?	An employee's rights to job protection under state and federal law are the same, whether the employee receives income replacement benefits through the Paid Family & Medical Leave Insurance Program or through an employer-provided private plan. While the plan itself does not provide job protection, in most cases, employees receiving income replacement benefits under this law will also be entitled to job protection under a separate law called the CT FMLA. For more information about the CT FMLA, please consult the Connecticut Department of Labor.
Who is an "eligible employee" to receive income replacement benefits under this Plan?	*[The plan may waive this earnings requirement, and replace with language that provides eligibility that is more generous than the minimum requirements. If the employer is a public school operator or nonpublic elementary or secondary school, they may add a requirement that the employee be working in a position requiring certification under Chapter 166 of the Conn. Gen. Stat.]* Any employee of {*Employer*} who is: • Working in Connecticut; or • Worked in Connecticut in the prior 12 weeks; • and has earned at least $2,325 while working with *{Employer}* in the highest earning quarter in the first 4 of the past 5 quarters is eligible to receive income replacement benefits from the plan
What are the "qualifying reasons" that I can receive income replacement benefits?	If you meet the eligibility requirements, you can receive income replacement benefits if you need to take time off from work for any of the following reasons: • To care for yourself because of your own serious health condition, including pregnancy and organ or bone marrow donation • To care for a family member with a serious health condition ○ "Family member" means your parent, spouse, son, daughter, sibling, grandparent, grandchild, or individual related to the employee by blood or affinity whose close association the employee shows to be the equivalent of those family relationships. • To bond with a newborn child, newly adopted child or newly placed foster child • To address specific issues associated with a parent, spouse or child's active duty in the military; • To care for a family member who became ill or was injured on active duty in the military; • To address specified needs associated with family violence and/or sexual assault.

What is the maximum amount of time I can receive income replacement benefits?	*[If the plan provides income replacement benefits for a longer period of time, the employer may modify this section accordingly. Under no circumstances can the employer limit income replacement benefits to a shorter period of time.]* The plan will provide up to 12 weeks of income replacement benefits within a 12-month period for the reasons listed above, with the following exceptions: • The plan provides for 2 additional weeks of income replacement benefits for a serious health condition resulting in incapacitation that occurs during a pregnancy. • An employee can receive income replacement benefits for a maximum of 12 days out of the 12 weeks if the reason for leave is to address specific needs associated with family violence and/or sexual assault. *[The intended method to calculate the 12-month period must be explained here:]* The private plan will use the following method in determining the 12-month period: • *{12-month period measured backward from date of leave}* • *{12-month period measured forward from first date of leave* • *Calendar year}* • *{Any fixed 12 month period; (e.g. fiscal year: mm/dd – mm/dd, or individual employee date of hire & yearly anniversary date)}*
Do I have to be out of work for a certain amount of time before I can receive income replacement benefits under the plan?	No. There is no waiting period. An eligible employee may receive income replacement benefits under this plan on the first day the employee is unable to work because of one of the "qualifying reasons" listed above.
Can I receive income replacement benefits for absences of less than a full week?	Yes. The plan provides income replacement benefits to employees who need to take time off from work for periods of time that are less than a full week. Benefits can be received on a pro-rated basis for absences that are less than a full day. Under the CT FMLA, there are rules regarding when an employee can take job-protected leave for less than a full week. This plan does not change those rules.
Do I have to pay for these benefits?	*[The employer will need to answer this question based upon the plan it has retained. However, the employee cannot be required to contribute more than 1/2 of 1% deducted from their wages up to the*

	defined Social Security wage base (using the same calculations for determining total wages as are used to calculate FICA), to coincide with each pay cycle. If the Authority changes our rate, the private plan contribution rate will be capped at the same amount.] *[Default response for employers following the statutory scheme:]* Employees contribute [½ of 1]% of their earnings up to the defined Social Security contribution and benefit base to pay for this plan.
How will I apply for income replacement benefits?	*[The employer will need to answer this question based upon the plan it has retained. At a minimum, the answer must include contact information for filing a claim or requesting information about the plan]*
What is a "serious health condition"	For the purpose of determining if you are entitled to income replacement benefits because of your own serious health condition or to care for a family member with a serious health condition, "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves (A) inpatient care in a hospital, hospice, nursing home or residential medical care facility; or (B) continuing treatment, including outpatient treatment, by a health care provider.
Who counts as a health care provider	In order to qualify for income replacement benefits because you need to take time away from work because of your own serious health condition or to care for a family member with a serious health condition, you may need to provide medical documentation from a health care provider. The plan shall accept any of the following as a "health care provider": • A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; • A podiatrist, dentist, psychologist, optometrist or chiropractor authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; • An advanced practice registered nurse, nurse practitioner, nurse midwife or clinical social worker authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; • A Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; • Any health care provider from whom an employer or a group health plan's benefits manager will accept certification of the

	existence of a serious health condition to substantiate a claim for benefits; • A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country; or • Such other health care provider as the Labor Commissioner determines, performing within the scope of the authorized practice.
Can I have income taxes deducted from any benefits I receive?	Yes, if you request to have income taxes deducted from the income replacement benefits you receive, the amount specified shall be deducted and withheld in a manner consistent with state law. Based on IRS guidance, under the public program, CT paid leave claims are subject to income taxes if they are for family leave. Medical leave benefits for your own health condition are not subject to income taxes. The IRS has not provided guidance related to taxability of benefits for private plans – employers and employees should consult their own tax advisors for more information.
My spouse and I work for the same employer. Will we have to share income replacement benefits?	No. Spouses working for the same employer are each entitled to compensation under this plan; they do not have to share the number of weeks of compensation. (It should be noted, however, that under the federal FMLA and state FMLA, employers may require spouses who work for the same employer to share their job-protected leave entitlements.)
Who is the claims administrator?	[*Identify the claims administrator based on the type of private plan utilized*] [*If Self-insured with the Employer administering claims:*] {*Employer name and contact info*} [*If Self-insured with a TPA administering claims:*] {*TPA name and contact info*} [*If Fully Insured by Carrier:*] {*Carrier name and contact info*}
What rights do I have if I am denied income replacement benefits?	You are entitled to request a reconsideration of any denial of benefits to *{the plan administrator}*. If you are not satisfied with the results of that reconsideration or prefer to not request reconsideration, you may file an appeal with the Connecticut Department of Labor.
Whom at my employer may I contact if I have questions about this plan?	*[The employer must complete this section based on its specific situation. The employer must provide employees with information on whom they should contact for more information and how to contact them.]*