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SAMPLE POLICY

Emergency Paid Sick Leave and FMLA- Public Health Emergency Leave

We appreciate and recognize all that our team of employees has done to continue to serve our customers during the ongoing public crisis. The COVID-19 (Coronavirus) pandemic has presented all of us with unprecedented challenges, in both our business and personal lives. As we face these challenges together, keep in mind that our strength is in our people. Protecting all of our employees' health and safety, and that of our families, is paramount.

Effective April 1, 2020, in order to assist our employees in meeting some of these challenges, the following leave policies will take effect in accordance with the Families First Coronavirus Response Act (FFCRA). These policies are temporary and will expire on December 31, 2020, or as otherwise dictated by law.

EMERGENCY PAID SICK LEAVE

The FFCRA created a new form of paid sick leave called Emergency Paid Sick Leave (EPSL) for certain leave events related to COVID-19. **[Exclusions apply for employees classified as health care providers and emergency responders.]**

Eligible Employees. Full-time and part-time employees are eligible to use EPSL immediately upon hire.

Reasons for Using Leave. EPSL may be used for the following reasons:

1. To comply with a federal, state, or local quarantine or isolation order related to COVID-19;
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. To care for an individual who is subject to an order as described in (1) above or has been advised as described in (2) above;
5. To care for the employee's son or daughter (as defined in the FMLA), if a school or place of care is closed, or the child care provider is unavailable, due to COVID-19 precautions; or
6. The employee is experiencing any other substantially similar condition as specified by the designated Federal agencies.

See **Workplace Closures, Furloughs, Schedule Reductions** below for further information.

Amount and Usage of Leave. Full-time employees (those scheduled to work at least 40 hours per week) are eligible for eighty (80) hours of EPSL. Part-time employees are eligible for EPSL based on the number of hours the employee is normally scheduled to work in a two-week period. A six-month average will be used if a part-time employee does not work a set schedule. If you are a part-time employee and have a question about your average hours, please contact Human Resources.

EPSL may be used only on a continuous basis, not intermittently or on a reduced schedule basis. Once an employee returns to work, if he/she has not exhausted the EPSL entitlement, the balance can be used at a later time for another qualifying reason. [OPTIONAL: Employers can elect to allow intermittent/reduced schedule usage and may set the increment. Employers also can elect to allow a combination of telework and intermittent usage.]

Other Paid Leave Policies. The Company provides other forms of paid leave, including [PTO, vacation, sick, floating holidays, and personal]. EPSL is in addition to those other forms of leave, and employees may opt to use EPSL and other leaves in the sequence of their choice. It is the employee's responsibility to inform Human Resources of the form of leave being requested.

Pay Rate. EPSL will be paid based on the employee's regular rate of pay, as determined under the Fair Labor Standards Act (FLSA), taking an average over a six-month period. For leave under paragraphs 1, 2, or 3 above, this rate will be the employee's full regular rate, capped at \$511 per day (\$5,110 in the aggregate). For leave under paragraphs 4, 5, or 6, this rate will be two-thirds (2/3) of the employee's regular rate, capped at \$200/day (\$2,000 in the aggregate).

[OPTIONAL: Employer will not receive the tax credit for supplement.] **Supplementing Pay Rate.** Although the FFCRA provides for caps on pay rates, the Company has opted to continue the employee's full regular rate of pay for each day of EPSL.

[OPTIONAL: Employer will not receive the tax credit for supplement.] **Supplementing Pay Rate.** An employee may elect to supplement the capped or two-thirds pay rate by using accrued and available paid time off concurrently with EPSL. For example, an employee may opt to use one-third (1/3) of a vacation day to increase the pay rate to the employee's full regular rate.

Termination of Leave. EPSL shall cease beginning with the employee's next scheduled work shift immediately following the termination of the need for EPSL as described above or when the employee has exhausted the EPSL entitlement, whichever is sooner. EPSL will not carryover from one year to the next or be paid out upon separation for any reason. See **Return to Work** below.

Notice and Certification Requirements. See below.

FAMILY AND MEDICAL LEAVE – PUBLIC HEALTH EMERGENCY

The FFCRA also added a new reason for employees to take FMLA leave in relation to the current COVID-19 pandemic. FMLA remains subject to the same twelve (12) workweek limit, counting any amounts of FMLA leave already used in the current leave year.

Eligible Employees. An employee who has been employed for at least thirty (30) calendar days may qualify for FMLA-Public Health Emergency Leave. Employees who were laid off after March 1, 2020, and rehired will also qualify, provided that they worked at least 30 calendar days of the 60 calendar days prior to layoff. [Exclusions apply for employees classified as health care providers and emergency responders.]

Reasons for Using Leave. FMLA-Public Health Emergency Leave can be used when an employee is unable to work, including telework, due to caring for the employee's son or daughter under age 18 (as defined in the FMLA), if the son or daughter's school or place of child care has been closed, or the child care provider is unavailable. This must be the result of a COVID-19 related emergency declared by a Federal, State, or local authority. See **Workplace Closures, Furloughs, Schedule Reductions** below for further information.

Amount and Usage of Leave. All employees will be entitled to twelve (12) weeks of leave with the first two (2) weeks being unpaid. The remaining ten (10) weeks will be paid as set forth below in the "Pay Rate" portion of this policy. Employees' pay will be based on their regularly scheduled work hours. For individuals who do not keep regular working

hours each week, a six-month average will be used. No premium for hours over forty (40) will be included. Exempt employees will be paid based on their regular weekly salary.

FMLA-Public Health Emergency Leave may be used only on a continuous basis, not intermittently or on a reduced schedule basis. Once an employee returns to work, if he/she has not exhausted the full entitlement, the balance can be used at a later time for another qualifying reason. [OPTIONAL: Employers can elect to allow intermittent/reduced schedule usage and may set the increment. Employers also can elect to allow a combination of telework and intermittent usage.]

Other Paid Leave Policies. The first ten (10) days of FMLA-Public Health Emergency Leave will be unpaid unless the employee has another form of paid leave available — [PTO, vacation, sick, floating holidays, and personal] — and elects to use that paid leave. Or, the employee may use EPSL for the first ten (10) days, if eligible.

Pay Rate. After the first ten (10) days, eligible employees taking FMLA-Public Health Emergency Leave will be entitled to pay at two-thirds (2/3) of their regular rate of pay, as determined under the FLSA, for the number of hours that the employee would normally be scheduled to work, capped at \$200/day and \$10,000 in the aggregate for the entire FMLA-Public Health Emergency Leave period. The regular rate of pay is based on the average rate over a six-month period.

[OPTIONAL: Employer will not receive the tax credit for supplement.] **Supplementing Pay Rate.** Although the FFCRA provides for caps on pay rates, the Company has opted to continue the employee's full regular rate of pay for each day of FMLA-Public Health Emergency Leave.

[OPTIONAL: Employer will not receive the tax credit for supplement.] **Supplementing Pay Rate.** An employee may elect to supplement the capped or two-thirds pay rate by using accrued and available paid time off concurrently with FMLA-Public Health Emergency Leave. For example, an employee may opt to use one-third (1/3) of a vacation day to increase the pay rate to the employee's full regular rate.

Termination of Leave. Paid FMLA-Public Health Emergency Leave will continue until the employee has exhausted his/her twelve (12) workweek entitlement or the reason for using leave ends. See **Return to Work** below.

FMLA Administration. All other administrative provisions of the Company's FMLA Policy apply to FMLA-Public Health Emergency Leave, unless modified herein.

Notice and Certification Requirements. See below.

WORKPLACE CLOSURES, FURLOUGHS, AND SCHEDULE REDUCTIONS

Workplace closures, furloughs, and schedule reductions, including due to public orders to cease operating, do not qualify as reasons for using EPSL or FMLA-Public Health Emergency Leave, even if they are related to COVID-19. In such event, either before or after April 1, 2020, leave under this policy is not available to cover the missed work hours. For employees already on leave, the leave benefits will cease as of the date of closure or furlough (employees on reduced schedule may still qualify for FFCRA leave if there is a qualifying reason). Employees affected by closures, furloughs, or reduced schedules may be eligible for Unemployment Insurance benefits.

NOTICE AND CERTIFICATION REQUIREMENTS

Employees should provide **written notice** of the need for leave. Notice may be given by way of e-mail or a telephone call to Human Resources. Notice must include: the employee's name; qualifying reason for leave; statement that the employee is unable to work, including telework, for that reason; and the date(s) for which leave is requested.

In addition, employees must provide **documentation** to substantiate the need for leave and the qualifying reason. For EPSL, documentation will depend on the reason for leave, but may be the health official's quarantine/isolation order for the employee; or written documentation from the employee's health care provider advising self-quarantine. For FMLA-Public Health Emergency Leave, documentation may consist of a notice published by the government, school or daycare of the closure, on a website or in the newspaper, or an email from the school or place of care. In addition, the usual FMLA medical certification requirements continue to apply for reasons such as the employee's own serious health condition or caring for a family member with a serious health condition.

RETURN TO WORK

Employees returning to work after using EPSL or FMLA-Public Health Emergency Leave will be restored to the same or an equivalent position, unless in the interim they would have been subject to an employment action, such as layoff and/or worksite closure regardless of leave usage.

QUESTIONS

Should an employee have any questions related to this policy or the benefits provided hereunder, he or she should contact [\[insert Human Resources contact or other designated representative\]](#).