

VMWARE, INC.

CALIFORNIA VOLUNTARY DISABILITY PLAN

PLAN DOCUMENT

**EFFECTIVE WITH RESPECT TO DISABILITIES COMMENCING ON OR
AFTER JANUARY 1, 2020**

VMWARE, INC.

NAME SHANNON DALY

TITLE SR DIRECTOR GLOBAL BENEFITS

DATE 12/19/2019

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JANUARY 1, 2020

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Acronyms

CFRA	California Family Rights Act
CUIC	California Unemployment Insurance Code
EDD	Employment Development Department
FMLA	Family and Medical Leave Act
PFL	Paid Family Leave
SDI	State Disability Insurance
VP	Voluntary Plan
VPDI	Voluntary Plan Disability Insurance (benefits)
VPFL	Voluntary Plan Paid Family Leave (benefits)
WBA	Weekly Benefit Amount

PLAN DOCUMENT

SELF-INSURED VOLUNTARY DISABILITY & PAID FAMILY LEAVE BENEFIT PLAN FOR CALIFORNIA EMPLOYEES OF **VMWARE, INC.**

FOR DISABILITY AND FAMILY LEAVES COMMENCING ON OR AFTER JANUARY 1, 2020

Effective with respect to disabilities commencing on or after January 1, 2020, VMware, Inc. hereby amends and restates, in its entirety, the VMware, Inc. California Voluntary Disability Plan so as to read as set forth below:

I. BENEFIT ENHANCEMENTS

The below element(s) constitute a greater benefit or right provided to the Employees covered under this Voluntary Plan.

- ❖ Amount of Benefits (Disability and Paid Family Leave) (Page(s): 1, 4
 - Disability benefits are 70% of the Employee's Wages or Regular Wages with No maximum for DI
 - There will be No maximum weekly benefit for Paid Family Leave benefits
- ❖ Claim Intake Process: (Page 6, 12)
 - Employee calls Sedgwick's Toll-Free line to report a claim.
 - Extended claim filing period beyond the 41st compensable day of disability or period of family care leave.

II. LEGISLATIVE DISCLOSURE

- ❖ **Senate Bill (SB) 83** was signed into law on June 27, 2019 and becomes effective July 1, 2020. Existing law establishes, within the state disability insurance program, a family temporary disability insurance program, also known as the paid family leave program, for the provision of wage replacement benefits for up to 6 weeks to workers who take time off work to care for a seriously ill family member or to bond with a minor child within one year of birth or placement, as specified.

This bill, beginning July 1, 2020, would instead provide for wage replacement benefits for up to 8 weeks to workers who take time off work to care for a seriously ill family member or to bond with a minor child within one year of birth or placement, as specified. By authorizing an increase in disbursements from the Disability Fund, this bill would make an appropriation.

VMware will increase the maximum Paid Family Leave duration from 6 weeks to 8 weeks effective January 1, 2020.

- This Plan is SB 83 Compliant. (See Page(s): 5
- ❖ Assembly Bill (AB) 908 remains in effect for claims on or after January 1, 2018 but before January 1, 2022.
 - This Plan is AB 908 Compliant. (See Page(s) 4

III. COVERAGE

A. **Eligibility**

All California Employees of the Employer are eligible for coverage under this Plan.

B. **Effective Date of Coverage**

Individuals employed prior to the effective date of the Plan will be eligible for coverage on the effective date of the Plan. Individuals employed on or after the effective date of the Plan are covered as of the date of their employment, unless coverage is rejected in writing. Any Employee who initially accepts coverage under this Plan may subsequently elect to withdraw from the Plan within ten (10) days following the effective date of any amendment to the Plan or, for any other reason, on the first (1st) day of the first (1st) Calendar Quarter following the date of such election, by notifying the Employer in writing. Any Employee who has rejected coverage, or who has withdrawn from the Plan and who subsequently elects,

in writing, to be covered under the Plan, will be covered on the first (1st) day of the second (2nd) Calendar Quarter next following the date of notifying the Employer in writing of such election. The original Plan effective date for VMware, Inc. is January 1, 2009.

IV. CONTRIBUTIONS

Employees covered under the Plan will make contributions to the Plan in an amount not to exceed that which is otherwise required by Sections 984 and 985 of the California Unemployment Insurance Code. In **2020**, Employees that participate in the Plan contribute, through payroll deduction, **1.0%** of the first **-\$122,909** of annual wages. The maximum contribution is **\$1,229.09** in 2020. An Employee will not be required to make contributions to the Plan, while he/she is on an approved Family or Medical Leave.

V. DISABILITY BENEFITS

Effective with respect to periods of Disability commencing on or after January 1, 2020, any Employee covered under this Plan who becomes disabled by any physical or mental illness, injury, including but not limited to pregnancy, childbirth, or related medical condition so as to prevent him or her from performing his or her regular or customary work, or who has been ordered not to work by written order from a State or local health officer because he/she is infected with, or suspected of being infected with, a communicable disease; or who has been referred or recommended by competent medical authority to participate as a resident in either an approved alcoholism recovery program or an approved drug free residential program; however, benefits for alcoholism recovery treatment will be paid for a period not to exceed thirty (30) days, and benefits for drug free residential facility participation will be paid for a period not to exceed forty-five (45) days in a Disability Benefit Period, unless the referring physician certifies to the need for continuing residential services, in which event benefits will be payable for up to sixty (60) additional days for alcoholism recovery treatment, and for up to forty-five (45) additional days for drug free residential facility participation.

The payment of all benefits is subject to the limitations and provisions hereinafter stated.

A. Disability Waiting Period

For each Disability Benefit Period, the claimant claiming benefits under the Plan will serve a seven (7) day non-payable waiting period. Benefits will commence on the eighth (8th) day of Disability. Any partial day of Disability during the waiting period will be counted as a full day for purpose of fulfilling the waiting period requirement.

B. Amount of Benefits

Commencing with the first (1st) compensable day of Disability, all eligible Employees will receive a weekly benefit of seventy (70%) percent of his or her Wages or Regular Wages, with **no maximum** and a minimum weekly benefit of fifty (\$50.00) dollars.

C. Benefits for Less Than One (1) Week

For each day of any period of Disability for which benefits are payable and which is less than a full week, the amount of benefit payable will be one-fifth (1/5th) of the applicable weekly benefit. Employees will receive their benefit on a semi-monthly basis.

D. Maximum Total Benefit

The maximum benefit payable for any one (1) period of Disability will be up to fifty-two (52) times the applicable amount of weekly benefit as determined in III.B. above, but in no case will exceed the maximum number of weeks the Employee would be paid by the State Plan.

E. Disability Benefit Determination

A covered Employee may be eligible for Disability benefits if he or she is unable to perform his or her regular customary work because of a physical or mental illness or injury. Any period of Disability must be supported by a Certificate from a treating Physician or Practitioner which contains a diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, where no diagnosis has yet been obtained, a detailed statement of symptoms. The Certificate must also contain a statement of medical facts, including secondary diagnoses when applicable, within the Physician's or Practitioner's knowledge, based on a physical examination and a documented medical history of the Employee by the Physician or Practitioner, indicating his or her conclusion as to the Employee's Disability, and a statement of his or her opinion as to the expected duration of the Disability. However, as to any Employee who is hospitalized in or under the care of any medical facility of the United States government, a Certificate as to the Employee's Disability, signed by any duly authorized medical officer of such facility, will be acceptable. With respect to an Employee who is hospitalized in a county hospital, or hospitalized by said county hospital in another hospital, a Certificate stating the date that the Physician or Practitioner ordered the confinement of the Employee and

the duration of such confinement, signed by the registrar of the hospital will satisfy the requirement of this part. However, such Certificate is not required:

1. If the Employee submits evidence of receipt of temporary disability benefits under a workers' compensation law for any day for which the Employee is entitled to receive Unemployment Compensation Disability (UCD) benefits.
2. If any Employee in good faith adheres to the teachings of any bona fide church, sect, denomination or organization which depends for healing entirely upon prayer or spiritual means, the Certificate of a duly authorized or accredited Practitioner of such bona fide church, sect, denomination or organization as to the Disability of the Employee and the estimated duration of such Disability, will be accepted.
3. If an Employee has been referred or recommended by competent medical authority to participate as a resident of any approved alcoholism recovery home, and an authorized representative of the facility certifies that the Employee is a resident participating in a State approved alcoholism recovery program.
4. If an Employee has been referred or recommended by competent medical authority to participate in an approved drug-free residential facility, and an authorized representative of the facility certifies that the Employee is a resident participating in a State approved drug-free residential facility.
5. If an Employee has been ordered not to work by written order from a state or local health officer because the Employee is infected with, or suspected of being infected with, a communicable disease.

F. Exclusions and Limitations for Disability Benefits

1. In the absence of any other disabling condition, benefits while receiving alcoholism recovery treatment, while a full-time resident in an approved recovery home, will be paid for a period not to exceed thirty (30) days, and will be eligible for Disability benefits for an additional period not in excess of sixty (60) days if the referring Physician or Practitioner certifies to the need for continuing resident services.
2. In the absence of any other disabling condition, benefits while receiving such drug recovery treatment will be paid for a period not to exceed forty-five (45) days and the Employee will be eligible for Disability benefits for an additional period not to exceed forty-five (45) days if the referring Physician or Practitioner certifies to the need for continuing resident services.
3. No benefits are payable:
 - a. If the Employee is confined, pursuant to commitment, court order, or certification, in an institution, or other place, as a dipsomaniac, drug addict, or sexual psychopath.
 - b. For any period of Disability for which benefits are paid or payable under any unemployment compensation act of the United States or of any state.
 - c. For any day for which the Employee receives Wages or Regular Wages from any Employer (excluding vacation pay), except that such benefits will be paid for any five (5) day week or partial week, in an amount not to exceed his or her maximum weekly amount provided by this Plan, which together with the Wages or Regular Wages received, does not exceed his or her weekly wage, exclusive of wages paid for overtime, immediately prior to the commencement of the Employee's Disability.
 - d. For any day of unemployment and Disability for which the Employee receives, or is entitled to receive benefits or cash payments for: a) temporary or permanent disability indemnity, under a workers' compensation or employer liability law of this state, or any other state, or the federal government. If such cash payments for a) temporary or b) permanent disability, are less than the amount the Employee would otherwise receive as benefits under this Plan.
 - e. If any individual has filed with the California Employment Development Department, and each of his or her employers, a statement declaring the Employee's adherence to the faith or teaching of any bona fide religious sect, denomination, or organization and in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion, and the Employee's statement disclaims any disability benefits based on Wages or Regular Wages paid while such statement is in effect. This limitation is applicable during the period when such exemption is in effect and for a period of three (3) months following rescission exemption certificate.
 - f. To an individual who is a) incarcerated, in any federal, state, or municipal penal institution, jail, medical facility, public or private hospital, or in any other place because of a criminal conviction of a federal, state, or municipal law or

ordinance or b) who commits a crime and is disabled due to an illness or injury, caused by, or arising out of the commission of, arrest, investigation, or prosecution of any crime that results in a felony conviction.

4. Disability benefits will be limited to the State Disability Plan Level of Benefits (as defined herein), payable from this Plan, under the following situations:
 - a. For disabilities for which the Employee is or may become entitled to benefits under any workers' compensation law.
 - b. For disabilities occurring before 12:00 midnight of the fifteenth (15th) day following the commencement of a temporary layoff without pay (when a definite rehire date is given) or an unapproved leave of absence without pay, whichever occurs first.
 - c. For disabilities which result in the Employee being unable to perform his or her regular or customary work, but such Employee is not Wholly Disabled, and the Employee has been offered alternative employment by the Employer that is of comparable status and compensation to his or her previous occupation and the Employee has declined the alternative employment offer.
 - d. If the Objective Medical Evidence provided by the attending Physician does not substantiate a finding of Disability due to the stated diagnosis and the Employee, in all other ways, is qualified for benefits under the Plan.

G. Reductions Due to Other Benefits Payable

Benefit payments from this Plan in excess of the State Plan Level of Benefits (weekly amount and maximum benefit) will be reduced by the amount of any benefits which are available to the Employee, the Employee's spouse, or the Employee's child (whether or not such benefits are applied for) from the following sources:

Primary and dependent disability or retirement benefits under the Federal Social Security Act; provided, however, that any increase in such benefits due to a cost-of-living adjustment pursuant to Section 230, Title II of the Act will not serve to further reduce the benefit payable under this Plan.

VI. PAID FAMILY LEAVE BENEFITS

Effective with respect to periods for Paid Family Leave (PFL) benefits commencing on or after January 1, 2020, any Employee covered under this Plan who takes PFL benefits to care for another's Serious Health Condition or to Bond with a Child, will be paid benefits for the period of such leave as follows, subject to the provisions of the "Exclusions and Limitations" listed in Section IV.F.

A. PFL Waiting Period

Pursuant to AB908, effective January 1, 2018, the waiting period for all PFL claims is eliminated. Benefits will commence on the first day of eligible PFL.

B. Amount of PFL Benefits

Pursuant to AB908 and for periods of Disability and Paid Family Leave commencing on or after January 1, 2018, but before January 1, 2022, the weekly benefit amount for which the Employee is covered under this Plan (subject to Limitations and Exclusions) will be no less than the weekly amount that would be paid by the State Plan.

1. Benefit Class 1 – The amount of weekly PFL benefit a Benefit Class 1 Employee will receive (subject to Limitations and Exclusions) is 60% of the Employee's Wages or Regular Wages, with no maximum and a minimum weekly benefit of \$50.
2. Benefit Class 2 The amount of weekly PFL benefit a Benefit Class 2 Employee will receive (subject to Limitations and Exclusions) is 70% of the Employee's Wages or Regular Wages, with no maximum and a minimum weekly benefit of \$50.

C. Benefits for Less Than One (1) Week

For each day of any **full-time** continuous period of PFL for which benefits are payable and which is less than a full week, the amount of benefit payable will be one-fifth (1/5th) of the amount of the weekly benefit for each full day during which an Employee is unable to work due to caring for a seriously ill or injured Family Member or Bonding with a minor Child within one year of the birth or Placement of the new Child in connection with Foster Care or adoption. Employees will receive their benefit on a semi-monthly basis.

If Family Care Leave is taken intermittently or part-time, benefits will be calculated and paid on a wage loss basis, per CUIIC 2656.

D. Maximum Total Benefit

Pursuant to AB 83, effective July 1, 2020, the maximum Paid Family Leave duration will increase from six weeks to eight (8) weeks.

Effective January 1, 2020, the VMware Voluntary Plan will increase the maximum Paid Family Leave duration to eight (8) weeks.

The maximum benefit payable for any one (1) PFL benefit period will be the applicable amount as determined under the State Disability Plan Level of Benefits. The program provides up to eight (8) times the applicable weekly benefit amount during a consecutive Twelve (12) Month Period of time.

E. Paid Family Leave Determination

A covered Employee may be eligible for PFL benefits if he or she is unable to perform his or her regular or customary work because he or she is providing care for the Serious Health Condition of a Family Member or Bonding with a new minor Child. PFL benefits for Bonding claims is limited to the first (1st) year after the birth, adoption, or Foster Care Placement of the Child and must be taken in a minimum of two (2) week increments.

The Serious Health Condition of the Family Member that warrants the care of the Employee must be established by a Certificate from a Physician or Practitioner or from an inpatient care facility in accordance with the California Unemployment Insurance Code Section 2706.2. The information provided must be within the Physician's or Practitioner's knowledge and will be based on a physical examination and documented medical history of the Family Member.

The supporting documentation that provides satisfactory evidence of the birth, adoption, or Foster Care Placement of the Child and that verifies the relationship of the Claimant to the Child must be provided in accordance with Section 2708(c) -1 of the California Unemployment Insurance Code.

F. Exclusions and Limitations for Paid Family Leave

PFL benefits are not payable under the following conditions:

1. For any period for which the Employee is eligible for unemployment insurance in California or any other state or the federal government.
2. For any days for which the Employee receives Wages or Regular Wages. However, Wages or Regular Wages plus benefits may be paid in an amount, which does not exceed the Employee's regular weekly wage, exclusive of overtime, immediately prior to the commencement of the Family Care Leave. Wages or Regular Wages includes paid time off (or any non-specific leave provided by the Employer) if it is used for purposes of Family Care Leave.
3. For any period for which benefits are payable under a workers' compensation or employer liability law of California or any other state, or for the federal government, for temporary disability in an amount equal to or in excess of the PFL weekly benefit amount for this Plan. Note: PFL benefits are payable for any difference between the PFL weekly benefit amount and the temporary disability weekly benefit amount.
4. For any period for which benefits are payable under a disability insurance act of California or any other state, or any company plan established in lieu of a state plan.
5. For the same period of time in a day for which another Family Member is ready, willing, able, and available to provide the required care.
6. For any day for which Employee receives vacation pay.
7. For any day for which Employee receives pay under the Company Paid Paternity/Adoption Time off program.

VII. SIMULTANEOUS COVERAGE

A. Simultaneous Coverage for Disability Claims

In case of any period of Disability for which an Employee entitled to benefits hereunder is simultaneously covered by one (1) or more other plans (including Voluntary Plans and the State Disability Plan) and accordingly is entitled to other Unemployment Compensation Disability (UCD) benefits on account of the same Disability or PFL, the amount payable under this Plan for such period will be:

1. The amount, if any, by which the basic benefits to which the Employee otherwise would have been entitled under this Plan exceeds the benefits to which he or she would have been entitled under the California Unemployment Insurance Code if the Employee were not covered by any Voluntary Plan; plus
2. The quotient of the amount of basic benefits to which the Employee would have been entitled under the California Unemployment Insurance Code if he or she were not covered by any Voluntary Plan, divided by the number of plans (including Voluntary Plans and the State Disability Plan), under which the Employee is simultaneously entitled to benefits.

B. Simultaneous Coverage for Paid Family Leave Claims

Simultaneous coverage exists when a Claimant is covered by and eligible from one (1) or more plans (including Voluntary Plan and the State Disability Plan) at the time he or she establishes a Care Recipient Period. The plan(s) under which the Care Recipient Period is established in PFL remain liable for all claims associated with the same Care Recipient through the end of the Twelve (12) Month Period, regardless of any change in employment. Liability for PFL benefits remain with the plan(s) that covered the Claimant when the Care Recipient Period was established.

Under simultaneous coverage, each Voluntary Plan is counted as one (1) plan. State Disability Insurance is counted as one (1) plan, even if the Employee works for more than one (1) State Disability Insurance covered Employer. The plans equally divide the State Disability Insurance weekly and maximum benefit rates. Additionally, each Voluntary Plan pays the difference, if any, between the full State Disability Insurance rate and the amount of benefit entitlement under that Voluntary Plan.

VIII. TERMINATION OF INDIVIDUAL EMPLOYEE COVERAGE

An Employee's coverage will terminate:

- A. At midnight of the date of termination of employment by Termination of the Employer-Employee Relationship, or at midnight of the fifteenth (15th) day following the commencement of a layoff without pay (a permanent termination of the employment relationship is not a layoff for purposes of this provision regardless of the term used to designate it).
- B. On the date the Employee ceases to be an eligible Employee.
- C. As of the beginning of the next Calendar Quarter following the date the Employee has given written notice of his or her intention to withdraw from the Plan.
- D. On the date of termination of the Plan.
- E. Termination of approval of the VP by the Director of EDD.
- F. Withdrawal of the VP by the Employer or a majority of its Employees employed in the State covered by the Plan.

IX. COMPLIANCE

The Employer hereby guarantees that: (1) each Employee covered by this Plan will in all respects be afforded rights at least equal to those afforded by the State Disability Plan and will receive a weekly rate and maximum amount and duration of benefits at least equal to those which the Employee would have received from the State Disability Plan but for coverage by this Plan. (2) No Employee will be excluded or restricted from this Plan due to age, sex, income, or pre-existing health condition.

Except as otherwise provided, this Plan will be administered in conformity with all applicable rules and regulations governing the State Disability Plan. If an invalid State Disability Plan award is received due to insufficient qualifying earnings, the Employee may be entitled to further benefit considerations under the benefit rights of the long-term unemployed.

If during the Base Period the Employee was in military service, received workers' compensation benefits, or did not work due to a trade dispute, the Employer may be able to substitute Wages or Regular Wages paid in prior Calendar Quarters to establish or increase the Employee's benefit amount. The Employee may contact the Claims Administrator or the State Disability Insurance field office in his or her local area for further information.

X. CLAIM INTAKE PROCESS

To claim benefits under this Plan for Disability or PFL, Employees can call the Claims Administrator at (866) 251-1749. Except for good cause, a claim must be filed no later than forty-nine (49) days from the first (1st) day of compensable Disability or Paid Family Leave.

An individual eligible to receive benefits under this Plan may choose to redirect a portion of his or her weekly benefit to cover all or part of the cost of Employee paid benefits. In order to allow the Employer to redirect a portion of the Voluntary Plan benefit,

the Employee must give permission, in writing, for the weekly amounts to be redirected for payment of the Employee paid benefits. This redirection may be initiated at the time the Employee applies for Voluntary Plan benefits or at any time while receiving Voluntary Plan benefits. The Employee may terminate or change the terms of the Voluntary Plan redirection of benefits at any time while receiving benefits under this Voluntary Plan.

An Employee who files a claim will receive a Notice of Computation (DE 429D) from the State, which shows the minimum amount, he or she should be paid. If an Employee was in the military service, received Workers' Compensation benefits, or did not work because of a trade dispute during his or her Base Period, he or she may be able to substitute wages paid in prior quarters to make the claim valid or increase the benefit amount. If the claim is invalid because of extended unemployment during his or her Base Period, the Employee may also be able to substitute wages paid in prior quarters to make the claim valid. An Employee may appeal the accuracy of the computation or re-computation to the California Employment Development Department within thirty (30) days after the notice of computation or re-computation was mailed. Written appeals must be signed by the Employee and include the Employee's name and Social Security number, as well as the name of the Employer and the reason for filing the appeal. Voluntary Plan appeals related to Disability benefits may be sent to any Employment Development Department office.

The Employee must establish medical eligibility for each uninterrupted period of Disability or Paid Family Leave by filing a first claim for benefits supported by the Certificate of a treating Physician or Practitioner that establishes the sickness, injury, or pregnancy of the Employee or that warrants the care of the Care Recipient. For subsequent periods of uninterrupted Employee Disability or care of the Care Recipient after the period covered by the initial Certificate or any preceding continued claim, the Employee must file a continued claim for those benefits supported by the Certificate of a treating Physician or Practitioner. A Certificate filed to establish medical eligibility for the Employee's own sickness, injury, or pregnancy or that warrants the care of the Care Recipient must contain a diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, if no diagnosis has yet been obtained, a detailed statement of symptoms.

A Certificate filed to establish medical eligibility of the Employee's own sickness, injury, or pregnancy or care of the Care Recipient must also contain a statement of medical facts, including secondary diagnoses when applicable, within the Physician's or Practitioner's knowledge, based on a physical examination and a documented medical history of the Employee or Care Recipient by the Physician or Practitioner, indicating the Physician's or Practitioner's conclusion as to the Employee's Disability or Care Recipient's need for care, and a statement of the Physician's or Practitioner's opinion as to the expected duration of the Disability or need for care.

Under the provisions of the California Unemployment Insurance Code, the Employer or its authorized Claims Administrator will have the right to (A) require supplemental forms from the Physician or Practitioner or those authorized to certify the Employee's Disability or Care Recipient's Serious Health Condition as often as deemed necessary, and (B) have a Physician or Practitioner examine any Employee or Care Recipient while the Employee is claiming benefits under this Plan. This may be done as often as may be reasonably required during the period payment may be due under this Plan. Continued medical certification, signed by a certified Physician or Practitioner, must be submitted within twenty (20) days of the date the Employee is issued a notice of final payment or the Employee receives a request for additional medical certification, whichever is later. Additional medical certification may be requested as often as may be reasonably required during the period payment may be due under this Plan.

XI. OVERPAYMENTS

In the event that the calculation of a benefit under this Plan results in an overpayment to the Employee for any reason, the Employee will be required to repay such overpayment to the Plan only to the extent permitted under the California Unemployment Insurance Code and the California Code of Regulations. The Employer will make reasonable arrangements with the Employee or his/her legal representative for the repayment to the Plan of such overpayment, including but not limited to, reduction of future benefits under the Plan or the reduction of future pay from the Employer as allowed under the California Unemployment Insurance Code and the California Code of Regulations. An Employee may appeal the overpayment determination to the California Employment Development Department within thirty (30) days from the date the notice of overpayment was mailed. Written appeals must be signed by the Employee and include the Employee's name and Social Security number, as well as the name of the Employer and the reason for filing the appeal. Voluntary Plan appeals related to Disability benefits may be sent to any Employment Development Department office.

XII. APPEALS

A. Appeal of Denial of Disability or PFL Benefits

An Employee who is denied benefits under the terms of this Plan may appeal the denial within thirty (30) days after service of the denial. An Employee may also appeal if he or she does not receive notice denying benefits within thirty (30) days after

the claim was sent to the VP. In such cases, the Employee must file the appeal after thirty (30) days and within sixty (60) days from the date the claim was sent to the Voluntary Plan. In both cases of denial and lack of notice of denial, the Employee must send the appeal to the Employment Development Department for processing. The EDD, although a party to any appeal, generally does not attend this type of hearing. Written appeals must be signed by the Employee and include the Employee's name and Social Security number, as well as the name of the Employer and the reason for filing the appeal. Disability appeals may be sent to any EDD office. Voluntary Plan appeals related to PFL benefits must be sent to:

Paid Family Leave
 PO Box 997017
 Sacramento, CA 95799-7017

B. Payment of Benefits Pending Appeal

As provided in California Code of Regulations, an Employee may elect to continue to receive Disability or PFL benefits pending the outcome of an appeal to an administrative law judge when the Voluntary Plan had determined the Employee initially eligible and subsequently found the Employee to be ineligible.

C. Disputed Coverage Appeals

An Employee, the EDD, or the VP may appeal a denial of coverage for Disability or PFL within thirty (30) days of the date the notice of denial was mailed.

In disputed coverage cases in which a denial of coverage is not furnished, an appeal will be filed after twenty-five (25) days and within fifty-five (55) days from the date the appellant sends a request for payment of benefits to the Department or VP. If eligible, the Employee will be paid benefits by the plan that initially received the claim, pending disposition of the Disputed Coverage appeal.

XIV. DEFINITIONS

- A. Base Period** means the following:

	The "Base Period" is the twelve (12) months
If the claim begins in:	which ended the preceding:
January, February, or March.....	September 30
April, May, or June.....	December 31
July, August, or September.....	March 31
October, November, or December	June 30
- B. Base Salary** means the rate of pay paid to the Employee by the Employer (excluding overtime, shift differential pay, bonuses, etc.) during the last pay period immediately prior to the date of Disability.
- C. Benefit Class 1 Employee** means an Employee who earns 1/3 or more of the State Average Quarterly Wage during the Base Period.
- D. Benefit Class 2 Employee** means an Employee who earns less than 1/3 of the State Average Quarterly Wage during the Base Period.
- E. Bond or Bonding** means to develop a psychological and emotional attachment between a Child and his or her primary care giver(s). This involves being in one another's physical presence.
- F. Calendar Quarter** means a period of three (3) consecutive months commencing with the first (1st) day of January, April, July or October.
- G. Care Provider** means the Family Member who is providing the required care for a Serious Health Condition of the Care Recipient or the Family Member who Bonding with a new Child.
- H. Care Recipient** means the Family Member who is receiving care for a Serious Health Condition, or the new Child with whom the Care Provider is Bonding.
- I. Care Recipient Period** means all periods of Family Care Leave that an Employee takes within a Twelve (12) Month Period to care for the same Care Recipient.

- J. **Certificate** means the signed statement of a Physician or Practitioner, or a registrar of a county hospital of this State, on a form prescribed by the EDD, except that a Certificate signed by a physician licensed by and practicing in a state other than California or in a foreign country, or in a territory or possession of a country, except a duly authorized medical officer of any medical facility of the United States Government, will be accompanied by a further certification that such physician holds a valid license in the state or foreign country, or in the territory or possession of the country, in which he or she is practicing.
- K. **Child** means a biological, adopted, or foster son or daughter, a stepson, a stepdaughter, a legal ward, a son or daughter of a Domestic Partner, or the person to whom the Employee stands In Loco Parentis. This definition of a Child is applicable regardless of age or dependency status.
- L. **Claimant** means an individual who has filed a claim for benefits from the Voluntary Plan or the State Disability Insurance Plan for Disability or PFL benefits.
- M. **Claims Administrator** means Sedgwick, an independent claims administrator. Claims are sent to Sedgwick - Calabasas at P.O. Box 9830, Calabasas, CA 91372-0830.
- N. **Disability** means a physical or mental illness or injury that renders an Employee unable to perform his or her regular or customary work. Disability refers to claims for unemployment disability compensation for an Employee's own illness or injury. Disability always applies to the Employee's own condition and not to PFL claims.

An individual is unable to perform his or her customary work if he or she is ordered not to work by written order from a State or local health officer because he or she is infected with, or suspected of being infected with, a communicable disease

- O. **Disability Benefit Period means for Disability purposes** a continuous period of unemployment and Disability beginning with the first (1st) day an Employee files a valid claim for Disability benefits. Two (2) consecutive periods of Disability due to the same or related cause or condition and separated by a period of not more than sixty (60) days is considered to be one (1) Disability Benefit Period and does not require the Employee to serve an additional 7 day Waiting Period.

Disability Benefit Period for purposes of PFL means the period of unemployment beginning with the first (1st) day an Employee establishes a Valid Claim for PFL to care for the Serious Health Condition of a Family Member, or to Bond with a new minor Child during the first (1st) year after the birth or Placement of the new Child in connection with Foster Care or adoption.

Periods of Family Care Leave for the same Care Recipient within a Twelve (12) Month Period will be considered one (1) Disability Benefit Period.

Periods of a mother's Disability for pregnancy and periods of Family Care Leave for Bonding associated with the birth of that Child will be considered one (1) Disability Benefit Period.

- P. **Domestic Partner** has the same meaning as defined in **Section 297 of the California Family Code**.
- Q. **Employee** means any individual whose service with the Employer is considered employment within the meaning of the California Unemployment Insurance Code.
- R. **Employer or Company** means VMware, Inc.
- S. **Family Care Leave** means either of the following:
 1. Leave to Bond with a new minor Child within the first (1st) year of the Child's birth or Placement in connection with Foster Care or adoption.
 2. Leave to care for a Child, Grandchild, Grandparent Parent, Parent-In-Law, Sibling, Spouse, or Domestic Partner who has a Serious Health Condition.
- T. **Family Member** means Child, Grandchild, Grandparent Parent, Parent-In-Law, Sibling, Spouse, or Domestic Partner as defined in these definitions.
- U. **Foster Care** means twenty-four (24) hour care for children in substitution for, and away from, their Parents or guardian. Such Placement is made by or with the agreement of the State as a result of a voluntary agreement between the Parent or guardian that the Child be removed from the home, or pursuant to a judicial determination of the necessity for Foster Care, and involves agreement between the State and foster family that the foster family will take care of the Child. Although Foster Care may be with relatives of the Child; States action is involved in the removal of the Child from parental custody.

- V. **Grandchild** means Child of the Employee's Child.
- W. **Grandparent** means a Parent of the Employees' Parent.
- X. **In Loco Parentis** exists when a person undertakes care and control of a child in the absence of such supervision by the natural parents and in the absence of formal legal approval. This includes persons with day to day responsibilities to care for and financially support a child. It also includes the person who had such responsibilities to care for and financially support a child. A biological or legal relationship is not necessary.
- Y. **Objective Medical Evidence** means medical demonstration of anatomical, physiological, or psychological abnormalities manifested by signs or laboratory findings, apart from Participant's perception of mental or physical impairments. These signs are observed through medically acceptable clinical techniques such as medical history, physical examination, and laboratory tests
- Z. **Paid Family Leave or PFL** means the program that provides up to six (6) weeks of partial wage replacement to workers who take time off to care for the Serious Health Condition of a Child, Grandchild, Grandparent, Parent, Parent-In-law, Sibling, Spouse, registered Domestic Partner, or to Bond with a new Child.
- AA. **Parent** means a biological, foster, or adoptive parent, a Parent-In-Law, a Stepparent, a legal guardian, or other person who stood In Loco Parentis to the Employee when the Employee was a Child.
- BB. **Parent-In-Law** means the Parent of a Spouse or Domestic Partner.
- CC. **Physician or Health Care Provider (H.C.P)** means physicians and surgeons holding an M.D. or D.O. degree, psychologists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law. Psychologist means a licensed psychologist with a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, and who either has at least two (2) years of clinical experience in a recognized health setting or has met the standards of the National Register of the Health Service Providers in Psychology.
- DD. **Placement** means a change in physical custody of a Child from a public agency or adoption agency into the custody of Foster Care or adoptive Parents.
- EE. **Plan** means the Voluntary Plan described in this document.
- FF. **Practitioner** means a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, a nurse practitioner, or physician assistant and in the case of a nurse practitioner or physician assistant, after performance of a physical examination by a nurse practitioner or physician assistant and in collaboration with a physician and surgeon, or as to normal pregnancy or childbirth, a midwife or nurse midwife, or nurse practitioner.
- GG. **Serious Health Condition** means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision by a Health Care Provider, as defined in Section 12945.2 of the California Government Code.
- HH. **Sibling** means a person related to another person by blood, adoption, or affinity through common legal or biological parent.
- II. **Spouse** means a partner to a lawful marriage.
- JJ. **State** means the State of California.
- KK. **State Disability Plan Level of Benefits** means the amount of benefits as determined by the Employment Development Department (EDD). The EDD uses the highest quarter of earnings within the Base Period (as defined herein), divided by 13 and multiplied by .55 to determine the average weekly benefit. The benefit is subject to a weekly maximum, which is established by the EDD.
- LL. **State Disability Plan Benefits or State Disability Insurance Plan of SDI Plan** means the benefits payable from the State Disability Fund pursuant to Part 2 of Division 1 of the California Unemployment Insurance Code (CUIC).
- MM. **Stepparent** means a person who is a party to the marriage with respect to a minor child of the other party to the marriage.
- NN. **Termination of the Employer-Employee Relationship** means that employment ceases with no mutual expectation or intention to continue the employment relationship. Reasons for Termination of the Employer-Employee Relationship include, but are not limited to, separation, dismissal, resignation, and retirement.

- OO.** *Twelve (12) Month Period* means the three-hundred and sixty-five (365) consecutive days that begin with the first (1st) day an Employee first establishes a Valid Claim for PFL.
- PP.** *Valid Claim* means any claim for PFL benefits made in accordance with the provisions of the **California Unemployment Insurance Code Section 3302**, and any rules and regulations adopted there under, if the individual claiming benefits is unemployed and has been paid the necessary wages in employment for Employees to qualify for benefits under Section 2652 and is caring for the Serious Health Condition of a Family Member, or Bonding with a new minor child during the first (1st) year after the birth or Placement of the Child in connection with Foster Care or adoption.
- QQ.** *Voluntary Plan or VP* means a Voluntary Plan established pursuant to Part 2 of the California Unemployment Insurance Code (CUIC).
- RR.** *Wages or Regular Wages* for the purposes of Disability benefit determination means:
1. For non-commissioned Employees, the Employee's Base Salary.
 2. For all other Employees whose compensation is determined in whole or in part on a commission or other sales related basis, wages will be determined by the Employee's On-Target Earnings (OTE). (On-Target Earnings equal base salary and targeted commissions.)
- SS.** *Week* means the five (5) consecutive day period beginning with the first (1st) day with respect to which a Valid Claim is filed for benefits and thereafter the five (5) consecutive day period commencing with the first (1st) day immediately following such week or subsequent continued weeks of PFL.
- TT.** *Wholly Disabled* means the Employee's inability to perform the duties of any occupation for which he or she has experience, training or education.

XV. OTHER REQUIREMENTS

- A.** Security, as required by the Employment Development Department, will be deposited to secure the operation of the Plan. The amount of the deposit will be determined by the Employment Development Department and will be deposited with the State Treasurer for the purpose herein specified.
- B.** The Employer agrees to furnish to the Employment Development Department the information, reports, and records as are required for the proper administration of the Plan.
- C.** The Employer agrees to pay all valid assessments or charges levied by the Employment Development Department in accordance with the California Unemployment Insurance Code. All State assessments and administrative expenses may be paid for directly from the Voluntary Plan Fund established for this Plan.
- D.** The Plan will continue in effect for a period of one (1) year from the effective date and continuously thereafter unless thirty (30) days advance written notice is given to the State of the termination of the Plan. Termination will be effective only on the anniversary of the effective date of the Plan next following the filing of the notice; except that the Plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contribution as determined by Section 984, if notice of the termination of the Plan is transmitted to the Director of Employment Development not less than thirty (30) days prior to the operative date of such law or change. If the Plan is not terminated on such thirty (30) days' notice because of the enactment of a law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the Plan will be amended to conform to such increase or change on the operative date of the increase or change.