

DEFINED BENEFIT PLAN MODEL

(This model is for informational purposes only. It does not represent all of the alternatives available for preparing a QDRO. The parties to the order should consult with their attorneys to ensure that their intentions are accurately reflected in any order and that the order complies with applicable State law.)

In the _____ Court of _____,
State of _____

_____, Plaintiff,)
)
vs.) Case No. _____
)
_____, Defendant)

QUALIFIED DOMESTIC RELATIONS ORDER

In accordance with the agreement of the parties, the following disposition is made of the Plan Participant's pension benefit through his/her participation in the pension plan named below:

1. Plan Participant Information: The Plan Participant is:

Name _____
Address _____

Social Security # _____
Date of Birth _____

2. Alternate Payee Information: The Alternate Payee is:

Name _____
Address _____

Social Security Number _____
Date of birth _____

3. Date of Marriage and Divorce: The Plan Participant and Alternate Payee were married on _____, and were granted a divorce on _____.

4. Award of Benefits to Alternate Payee: The Alternate Payee is hereby entitled to receive a portion of the pension benefit that would otherwise be payable to the Plan Participant. The Plan is to make payment of the Alternate Payee's benefit directly to him/her.

5. Formula for Determining Alternate Payee's Benefit: The Plan shall determine the Alternate Payee's portion of the Participant's benefit as follows:

Instructions for Paragraph 5: The following are examples of formulae that are commonly used in domestic relations orders. To be qualified, the order must contain ONE formula that will instruct the Plan how to determine the Alternate Payee's portion of the Participant's benefit. The parties are NOT required to use any of the sample formulas nor must the percentage awarded to the Alternate Payee be 50%. This is provided for illustrative purposes only. The parties may devise their own formula.

$$50\% \quad \times \quad \frac{\text{Participant's Credited Service accrued under the Plan during the marriage}}{\text{Participant's total Credited Service accrued under the Plan as of the Alternate Payee's Effective Date}} \quad \times \quad \text{Participant's total benefit accrued as of the Alternate Payee's Effective Date}$$

OR

$$50\% \text{ of the benefit accrued by the Participant from the date of marriage to the date of divorce}$$

OR

$$50\% \text{ of the benefit accrued by the Participant as of the Alternate Payee's Effective Date}$$

6. Form of Payment to Alternate Payee: The Alternate Payee shall receive his/her benefit as...

Instructions for Paragraph 6: There are two commonly used methods for allocating the Participant's benefit between the Participant and the Alternate Payee. The parties must decide whether they wish to award the Alternate Payee a Separate Interest or Entitlement to a portion of the Participant's benefit (Separate Interest Method) or a Share of each benefit payment (Shared Payment Method) made to the Participant's.

Separate Interest: If the Alternate Payee is awarded a portion of the Participant's benefit as a **Separate Interest**, the parties must decide whether the Alternate Payee should receive cost-of-living

increases. If this is the parties' intention, the appropriate language must be added to the order. Since the Alternate Payee's benefit may commence before the Participant's benefits commence or even before the Participant separates from service, the order should give the Alternate Payee the right to select the time for his/her benefits to commence and the form of benefit payment. The form of payment selected by the Alternate Payee will fulfill the requirement that the order specify the time period and number of payments covered by the order.

Shared Payments: If the Alternate Payee is awarded a portion of the Participant's benefits using the **Shared Payment method**, he/she must wait until the Participant retires to receive his/her benefit. Please refer to paragraph 8 of this sample order. If the Alternate Payee is to be treated as the Spouse for purposes of the Qualified Joint and Survivor Annuity (QJSA) or the Qualified Pre-retirement Survivor Annuity (QPSA), the order must specify whether the survivor benefits are to be computed based on all or a portion of the Participant's benefits.

...a Separate Interest, payable for his/her lifetime. The Alternate Payee will be paid a monthly amount actuarially adjusted for the Alternate Payee's life expectancy. The Alternate Payee may elect to have his/her portion of the benefit paid in any form available under the Plan, except for a joint and survivor pension with a subsequent spouse of the Alternate Payee. The Alternate Payee shall be entitled to receive cost-of-living increases based on his/her proportionate share of the Participant's benefit. [See instructions above]

OR

... a share of each monthly benefit payment to which the Participant is entitled. The Alternate Payee's portion will be paid to the Alternate Payee from the monthly amounts otherwise payable to the Participant in the form of a 50% joint and survivor pension with the Alternate Payee treated as the spouse for this purpose, based on the portion of the Participant's benefit awarded to the Alternate Payee. If the Alternate Payee predeceases the Participant after the commencement of payments, the Alternate Payee's portion will revert back to the Participant. [See instructions above].

7. Form of Payment for Participant: The Participant may elect any form of payment available to him/her under the Plan for the portion of his/her benefit not assigned to the Alternate Payee under this order. This includes the right to elect a joint and survivor annuity with a subsequent spouse.

Instructions for Paragraph 7: This paragraph is technically not required by the statute but may be included for clarification. This paragraph would apply if the Alternate Payee is awarded a Separate Interest. If the Alternate Payee is awarded a portion of the Participant's benefit under the Shared Payment Method, the Alternate Payee's shared payments will stop upon the Participant's death. If the parties provide that the Alternate Payee is to be treated as the Participant's spouse for purposes of the survivor benefits based on the Participant's full accrued benefit, this Paragraph 7 will not apply because the Participant may not elect another form of payment with respect to a subsequent spouse. However, if some portion of the Participant's benefit is available to provide a survivor benefit to a subsequent spouse of the Participant (or is not to be provided to the Alternate as a survivor benefit) the order must clear explain the portion of the Participant's benefit on which the Alternate Payee's survivor benefit is based and the remaining portion of the Participant's benefit.

8. Period of Payment of the Alternate Payee's Benefits: [Separate Interest] The Alternate Payee may, upon submission to the Benefit Office of such forms and information as the Plan may require, elect to begin receiving his/her portion of the Participant's benefit at any time after the Participant attains the earliest retirement age under the Plan as defined in §206(d)(3)(E)(ii).

[Shared Payment] The Alternate Payee may, upon submission to the Benefit Office of such forms and information as the Plan may require, begin receiving his/her portion of the Participant's benefit at any time after the Participant's benefit has commenced.

[Both] If the Alternate Payee dies before establishing an Effective Date, the Alternate Payee's portion will revert back to the Participant.

Instructions for Paragraph 8: The award to the Alternate Payee must be in the form of a Separate Interest if the Alternate Payee may commence his/her portion of the Participant's benefit prior to the Participant's retirement. If the award to the Alternate Payee is in the form of Shared Payments, the Alternate Payee must wait until the Participant's payments have commenced to commence the Alternate Payee's share of the Participant's benefit payments. Therefore, if applicable, the language in paragraph 8 must be revised to provide that the Alternate Payee, who is receiving her benefit as a share, will commence her portion of the Participant's benefit upon the Participant's benefit commencement. The statute does not require the plan to notify the Alternate Payee that the Participant's benefits have commenced and some plans will not agree to do so. Other plans will either notify the Alternate Payee that the Participant has submitted a benefit application or will pay the Alternate Payee's benefits retroactive to the Participant's benefit commencement date.

9. Early Retirement Subsidy: [Separate Interest only] If the Alternate Payee's benefit should commence prior to the commencement of the Participant benefit, the Alternate Payee will not be entitled to any early retirement subsidy to which the Participant may be entitled. However, if the Participant's benefits subsequently commence prior to the Participant's Normal Retirement Age, the Alternate Payee's benefit shall be recalculated to include a pro rate portion of any early retirement subsidy granted to the Participant.

Instructions for Paragraph 9: Under the statute, the Alternate Payee is not be entitled to receive any employer subsidy for early retirement if the Alternate Payee's benefits commence before the Participant's benefits commence. However, the parties may agree that the Alternate Payee's benefit will be recalculated to include a portion of the subsidy if the Participant retires prior to Normal Retirement Age with a subsidized benefit. Please note that this is voluntary and must be agreed upon by the parties.

10. Pre-retirement Spouse Benefit: **[Shared Payment]** In the event the Participant predeceases the Alternate Payee before the Alternate Payee's Effective Date of benefits and before the Participant's Effective Date of benefits, the Plan shall treat the Alternate Payee as the surviving spouse of the Participant for purposes of the Pre-retirement Spouse Benefit determined under the formula above.

Important Information about Paragraph 10: Neither the Retirement Equity Act nor the terms of the plan require that an Alternate Payee must be treated as the surviving spouse of the Participant for purposes of pre-retirement surviving spouse benefits. Thus, Paragraph 10 of this order is not required. If this order does not provide that the Alternate Payee is treated as the surviving spouse for this purpose, the Alternate Payee would have no entitlement to benefits from this defined benefit plan if the Participant dies prior to the commencement of the Participant's and the Alternate Payee's benefits. In the case of a Separate Interest order, the award to the Alternate Payee may still be implemented after the death of the Participant. If the award to the Alternate Payee was a share of each payment received by the Participant, the death of the Participant terminates the possibility of benefit payments to the Alternate Payee unless survivor benefits have been provided. The order may be modified after the Participant's death to include survivor benefits but if payments have commenced to a subsequent spouse of the Participant before the revised order is entered, the survivor benefits will not be changed.

11. Savings Clause: This Order is not intended, and shall not be construed in such a manner as, to require the Plan:

- a) to provide any type or form of benefit or any option not otherwise provided under the terms of the Plan;

- b) to require the Plan to provide increased benefits determined on the basis of actuarial value; or
- c) to require the payment of any benefits to the Alternate Payee which are required to be paid to another Alternate Payee under another order which was previously deemed to be a Qualified Domestic Relations Order.

12. Federal Tax Reporting: For Federal income tax purposes, the Alternate Payee shall be treated as the distributee of any distribution or payments made to the Alternate Payee by the Plan under the terms of this Order, and as such, will be required to pay the appropriate Federal income taxes on such distribution.

13. Continued Jurisdiction: The Court shall retain jurisdiction over this matter to amend this order, if necessary, to establish or maintain its qualification as a Qualified Domestic Relations Order.

SO ORDERED, this _____ day of _____, 20 ____.

JUDGE

Plan Participant

Attorney for Participant/Address

Alternate Payee

Attorney for Alternate Payee/Address

Important Additional Notes:

It is important to obtain copies of the current Plan and Summary Plan Description as well as the Procedures adopted by the Plan for determining the qualified status of domestic relations orders. Contact the Benefit Office for this information.

If the Participant's benefits have already commenced when the order is entered, the award to the Alternate Payee must be in the form of Shared Payments unless the Plan specifically authorizes benefit forms in pay status to be revised.

If the Participant and Alternate Payee were married at the time the Participant's benefits commenced, the Alternate Payee may be spouse for purposes of the joint and survivor benefit. If so, this typically cannot be revised. If the Participant and Alternate Payee/Spouse waived the automatic joint and survivor benefit at the time the Participant's benefits commenced, the domestic relations order cannot reinstate the survivor benefit unless the plan specifically permits this.