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**International Union of Operating Engineers Local 4
and Its Branches Pension Plan**

**Procedures and Policies for the Qualification and Interpretation
of Domestic Relations Orders**

Adopted by the Board of Trustees

September, 2006
(As revised February, 2016)

The Trustees of the International Union of Operating Engineers Local 4 and Its Branches Pension Plan (the “Plan”) have adopted the following procedures and policies concerning the interpretation and qualification of Qualified Domestic Relations Orders (QDROs).

These procedures and policies are intended to clarify the current legislative requirements relating to QDROs, the steps the Fund will follow in qualifying and administering QDROs, and the way various QDRO provisions will be interpreted with respect to the Plan’s provisions.

These policies shall become a part of the Plan and shall be incorporated therein by reference.

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SECTION 1: DEFINITIONS

Actuarially Adjusted

In order to assign a portion of a Participant's benefit to an Alternate Payee under a separate interest QDRO, the Plan's actuary may need to determine the actuarial present value of the benefits. The benefits assigned to an Alternate Payee then may be actuarially adjusted (increased or reduced) to reflect that payments will be made over the Alternate Payee's life rather than over the Participant's life, that payments may commence to the Alternate Payee prior to the time the Participant begins receiving payments, etc. Actuarial adjustments will be made in accordance with the actuarial factors set forth in the Plan.

Alternate Payee

An Alternate Payee, as that term is used in ERISA, means a spouse, former spouse, child, or other dependent of a Participant who is named in a QDRO and given the right to receive all or a portion of the Participant's pension benefits. A QDRO may name multiple and successor Alternate Payees. To qualify as an Alternate Payee, a child must be a dependent of the Participant. A child who is a dependent of the Participant's former spouse therefore would not qualify, nor would a child who is claimed as someone else's dependent for federal income tax purposes, including a child who claimed him- or herself as a dependent.

Domestic Relations Order (DRO)

A DRO is a judgment, decree, or order, including a court approval of a property settlement agreement, that provides child support, alimony, or property rights to a spouse, former spouse, child, or other dependent of a Participant. It must be made pursuant to state domestic relations law.

Earliest Retirement Age

For purposes of this Plan, this is the earlier of: 1) the date on which the Participant is entitled to a distribution under the Plan; or 2) the date on which the Participant reaches age 52 and has earned at least 5 Pension Credits, or 10 Pension Credits if the Participant has not completed one hour of service on or after January 1, 1998.

Participant

A Participant is a person who is receiving or has received Pension Credits under the International Union of Operating Engineers Local 4 and Its Branches Pension Plan.

Participant and Spouse Pension

The Participant and Spouse Pension is a form of payment that provides a monthly pension for the life of the Participant and, after the Participant's death, a reduced monthly pension amount for the life of his or her Qualified Surviving Spouse. If the Participant earned Pension Credit after 1998, the monthly amount paid to the Qualified Surviving Spouse will be 80% of the monthly pension amount the Participant received during his or her life. If the Participant did not earn any Pension Credit after 1998, the monthly amount paid to the Qualified Surviving Spouse will be 66 $\frac{2}{3}$ % of the monthly pension amount the Participant received.

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Normal Retirement Date

For a Participant who has earned at least $\frac{1}{4}$ Pension Credit on or after January 1, 2000, "Normal Retirement Date" means age 62. For a Participant who has not earned at least $\frac{1}{4}$ Pension Credit on or after January 1, 2000, "Normal Retirement Date" means age 62 with at least 5 years of Plan participation.

Qualified Domestic Relations Order (QDRO)

A QDRO is a DRO that creates, recognizes, or assigns to the Alternate Payee the right to receive some portion of a Participant's benefits under the Plan, and that the Plan Administrator has determined meets the specific requirements contained in ERISA §206(d)(3) (29 USC §1056(d)(3)), and the Internal Revenue Code §414(p) (26 USC §414(p)). A DRO must be executed by a court before the Plan Administrator can formally deem it qualified.

Qualified Surviving Spouse

The Qualified Surviving Spouse of a Participant is the spouse to whom the Participant was married for at least the 12 months immediately preceding the Participant's death. An Alternate Payee may also be a Qualified Surviving Spouse if the QDRO provides that the Alternate Payee shall be treated as the Qualified Surviving Spouse (provided the Alternate Payee and the Participant were married for at least one year).

Required Beginning Date

The Required Beginning Date is April 1 of the calendar year following the calendar year in which the Participant reaches age $70\frac{1}{2}$. This is the date by which the Participant must begin receiving pension benefits.

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SECTION 2: GENERAL INFORMATION FOR LEGAL COUNSEL, PARTICIPANTS, AND ALTERNATE PAYEES

Introduction

For many married Participants, their retirement plan benefits may represent a significant part of the couple's assets. If a Participant and his or her spouse are separating or divorcing they must divide up their marital property and reach a settlement. When retirement plan assets become part of a separation, divorce, or other domestic relations proceeding, a court may order that a share of a Participant's retirement benefits be awarded to an Alternate Payee. Under federal law this order is called a Qualified Domestic Relations Order (QDRO). A QDRO is a judgment, decree, or order (including the approval of a property settlement agreement) relating to child support, alimony, or marital property rights that is made under a state domestic relations law and that creates, recognizes, or assigns to an Alternate Payee the right to receive all or a portion of a Participant's benefits under a qualified pension, profit sharing, or stock bonus plan. ERISA §206(d)(3); IRC §414(p).

The International Union of Operating Engineers Local 4 and Its Branches Pension Plan (the "Plan") may pay benefits directly to an Alternate Payee only in accordance with a Domestic Relations Order (DRO) that has been determined by the Plan Administrator to be qualified, i.e., a QDRO.

Legal Authority

A retirement plan generally cannot pay retirement benefits to anyone other than a plan participant unless the participant dies, or unless there is a QDRO. ERISA §206(d)(3) and IRC §414(p) provide the legal authority at the federal level for the assignment of pension benefits to an Alternate Payee under a QDRO. Compliance with a QDRO is not a prohibited assignment or alienation of benefits under ERISA or the Internal Revenue Code.

Role of the Plan Administrator

The Plan Administrator is responsible for administering the Plan. The Plan Administrator is the only individual who can approve and qualify a QDRO. The Plan Administrator is not a mediator in marital property disputes and will not give legal advice regarding domestic relations law or the division of marital property. The Plan Administrator will provide only factual information concerning a Participant's benefits and the terms of the Plan. Although a court will determine how to divide a Participant's retirement benefit, the Plan Administrator is responsible for reviewing a DRO and determining if it is qualified. The Plan Administrator will determine whether a DRO satisfies the requirements of a QDRO according to ERISA, the Internal Revenue Code, and the Plan. The Plan Administrator may communicate with the Participant, the Alternate Payee, or either party's attorney during this determination process. Because a QDRO is a legal document, the Plan Administrator may also request that the Plan's advisors review a DRO.

Plan Procedures Regarding a Domestic Relations Order

The Plan will comply with the following procedural rules upon notice or receipt of a DRO.

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I. Determination

A. If the Alternate Payee or his or her attorney contacts the Plan Administrator for Plan information by phone or mail without submission of a DRO:

Step 1. Provide the requesting party with a QDRO Inquiry Packet, which includes the following:

- Summary Plan Description (SPD), also available on the Fund's website at www.local4funds.org (included upon request only)
- QDRO Procedures, which include answers to commonly-asked questions
- Model QDROs

B. If the Plan Administrator receives a draft (i.e., unsigned) DRO for review:

Step 1. Provide the following information to the Participant and Alternate Payee:

(a) Written notice of receipt (within 30 days of receipt of draft DRO)

(b) QDRO Inquiry Packet (if not previously sent), which includes the following:

- Summary Plan Description (SPD), also available on the Fund's website at www.local4funds.org (included upon request only)
- QDRO Procedures, which include answers to commonly-asked questions
- Model QDROs

Step 2. (a) Set up a separate file for each Alternate Payee.

(b) Add a notation on and include a copy of the DRO in the Participant's file.

Step 3. Determine within a reasonable time frame whether or not the DRO would be qualified if it were a signed order.

(a) Review the benefit calculation language in the DRO and determine if it is sufficiently specific.

(b) If the drafting attorney used one of the model orders, forward a copy to Fund Counsel and determine whether or not you will forward a copy to the Pension Consultant for review. If the attorney has drafted their own order, forward a copy to both Fund Counsel and the Pension Consultant for review.

Step 4. Segregate or separately account for the portion of the Participant's benefit that would be immediately payable to the Alternate Payee if the DRO were qualified.

If the Participant is in pay status when the Fund Office receives the DRO, segregate the portion of the Participant's benefit that would be payable to the Alternate Payee if the DRO were qualified and hold such portion in trust until the earlier of the date a final determination regarding the qualified status of the

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DRO is made on the date the 18-month period beginning on the date the DRO was received expires.

If the Participant has not yet retired, but has reached Earliest Retirement Age or will reach Earliest Retirement Age at any point while the determination regarding the qualified status of the DRO is pending, separately account for amounts the Plan would be required to immediately pay to the Alternate Payee if the DRO were qualified. In other words, ensure that amounts that would be immediately payable to the Alternate Payee if the DRO were qualified are not paid to anyone else while the QDRO determination is pending. This separate accounting should begin on the first date a payment to the Alternate Payee would be required under the DRO if it were qualified, and should continue until the earlier of the date a final determination is made regarding the qualified status of the DRO or the date that is 18 months from the date such separate accounting began.

If no amount would be immediately payable to the Alternate Payee if the DRO were immediately qualified (e.g., because the Participant has not yet reached Earliest Retirement Age and will not at any point while the determination regarding the qualified status of the DRO is pending), it is not necessary to segregate or separately account for any amounts.

The Participant may not apply for a pension during the period a determination regarding a DRO is pending regardless of whether it is a Shared Payment or Separate Interest DRO.

If the Plan Administrator makes a final determination that the DRO is qualified within the applicable 18-month period described above, then all of the payments withheld from the Participant that would have been due to the Alternate Payee if the DRO had been immediately qualified must be paid retroactively to the first payment.

If a final determination is made that an order is not a QDRO or if the issue cannot be resolved within the applicable 18-month period described above, then any segregated benefits must revert back to the Participant and any separate accounting of shall cease.

A final determination made after the end of the applicable 18-month period described above that an order is a QDRO can be applied only prospectively.

- Step 5. Provide the Participant and Alternate Payee with written notice of the Fund's initial determination as to whether the DRO is qualified.

If the Fund initially determines a draft DRO is not qualified, the Participant and Alternate Payee will be given a period of 90 days from the date of the initial determination in which to submit an appeal, a modified DRO, or a written request for additional time in which to respond for good cause shown (assuming the 18-month segregation period has not expired). The Fund will continue to segregate any benefits payable to the Alternate Payee for a period of 90 days from the date written notice of the determination is issued by the Fund Office (but not beyond the end of the 18-month period described in Step 4 above). If

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at the end of this 90-day period the parties have not appealed the Fund's determination, submitted a modified order, or requested additional time in which to respond, the Fund's initial determination shall become final and any segregated amounts shall be released to the appropriate party.

If the Fund initially determines a draft DRO is conditionally qualified (i.e., would be qualified, if signed), the Participant and Alternate Payee will be given a period of 90 days from the date of the initial determination in which to submit an appeal, a modified DRO (e.g., if an interpretation stated in the Fund's interpretation demonstrates a provision in the order does not properly reflect the parties' intent), a court-executed (i.e., signed) copy of the DRO, or a written request for additional time in which to respond for good cause shown (assuming the 18-month segregation period has not expired). The Fund will continue to segregate benefits payable to the Alternate Payee for a period of 90 days from the date written notice of the determination is issued by the Fund Office (but not beyond the end of the 18-month period described in Step 4 above). If at the end of this 90-day period the parties have not appealed the Fund's determination, submitted a modified order, submitted a court-executed (i.e., signed) copy of the order, or requested additional time in which to respond, the Fund's initial determination pre-approving the draft DRO will expire, and will have the effect of a final determination that the DRO is not qualified.

C. If the Plan Administrator receives a final court-executed (i.e., signed) DRO:

- Step 1. Provide written notice of receipt to the Participant and the Alternate Payee within 30 days of receipt.
- Step 2. Determine whether the Plan Administrator has previously reviewed a draft of this DRO.
 - If the DRO was not previously reviewed in draft form, follow Steps 1-4 of Part I.B and then go to Step 3B below.
 - If the DRO was previously reviewed in draft form, review the final DRO to verify that any requested changes were made. Determine whether the DRO is a QDRO. Send the DRO to Fund Counsel for approval, unless Fund Counsel previously reviewed the DRO and all changes have been made. Place a copy of the QDRO in the Participant's and each Alternate Payee's files. Go to Step 3A below.
- Step 3A. Provide the Participant and the Alternate Payee with notice of the Fund's determination as to whether the DRO is qualified.

The Participant and Alternate Payee will be advised of the Fund's determination, and the parties will be given a period of 90 days from the date of the determination in which to appeal, submit a modified DRO, or request in writing additional time in which to respond for good cause shown (assuming the 18-month segregation period has not expired). The Fund will continue to segregate benefits payable to the Alternate Payee for a period of 90 days from the date the determination letter is issued by the Fund Office (but not beyond

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the end of the 18-month period described in Step 4 of Part I.B. above). If at the end of this 90-day period, the parties have not appealed the Fund's determination, submitted a modified order, or requested additional time in which to respond, the Fund's determination shall become final and any segregated amounts shall be released to the appropriate party. If the DRO is determined to be a QDRO, payment to the Alternate Payee can commence before the end of the 90-day period only upon the written consent of both parties to the Fund's interpretation of the order.

Step 3B. Provide the Participant and Alternate Payee with written notice of the Fund's initial determination as to whether the DRO is qualified.

If the Fund initially determines a court-executed (i.e., signed) DRO is not qualified, the Participant and Alternate Payee will be given a period of 90 days from the date of the initial determination in which to submit an appeal, a modified DRO, or a written request for additional time in which to respond for good cause shown (assuming the 18-month segregation period has not expired). The Fund will continue to segregate any benefits payable to the Alternate Payee for a period of 90 days from the date written notice of the determination is issued by the Fund Office (but not beyond the end of the 18-month period described in Step 4 above). If at the end of this 90-day period the parties have not appealed the Fund's determination, submitted a modified order, or requested additional time in which to respond, the Fund's initial determination shall become final and any segregated amounts shall be released to the appropriate party.

If the Fund initially determines a court-executed (i.e., signed) DRO is qualified, the Participant and Alternate Payee will be given a period of 90 days from the date of the initial determination in which to submit an appeal, a modified DRO (e.g., if an interpretation stated in the Fund's determination letter demonstrates a provision in the order does not properly reflect the parties' intent), or a written request for additional time in which to respond for good cause shown (assuming the 18-month segregation period has not expired). The Fund will continue to segregate benefits payable to the Alternate Payee for a period of 90 days from the date written notice of the determination is issued by the Fund Office (but not beyond the end of the 18-month period described in Step 4 above). If at the end of this 90-day period the parties have not appealed the Fund's determination, submitted a modified order, or requested additional time in which to respond, the Fund's initial determination shall become final and any segregated amounts shall be released to the appropriate party. If the DRO is determined to be a QDRO, payment to the Alternate Payee can commence before the end of the 90-day period only upon the written consent of both parties to the Fund's interpretation of the order.

Step 4. If there has been a final determination that the DRO is qualified, go to Parts II and III.

II. Benefit Calculations

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

- Step 1. Gather information and send a request to the Pension Consultant for a benefit calculation estimate once a court-executed (i.e., signed) order is received.
- Step 2. Include information regarding the calculation estimate, if any, in a letter to the Participant and Alternate Payee. To the extent the Alternate Payee's benefit is to be calculated based on the Participant's accrued benefit as of his or her retirement date, and the Participant has not yet retired, a calculation estimate may not be available.

III. Benefit Payment

- Step 1. Once a DRO is determined to be a QDRO, forward change of address forms and a copy of the QDRO to the Alternate Payee.
- Step 2. When the Alternate Payee returns the completed forms, follow the same administrative process for the Participant.

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SECTION 3: PREPARATION OF A QDRO

Information Requests

Upon written or oral request made in connection with a domestic relations proceeding, the Plan Administrator will provide prospective Alternate Payees with the QDRO Inquiry Packet, which includes the Summary Plan Description (if specifically requested, otherwise available on the Fund's web site at www.local4funds.org), QDRO Procedures, Model QDROs.

Upon written request made in connection with a domestic relations proceeding, the Plan Administrator will provide one present value calculation at no charge, and one benefit estimate as of the Participant's Normal Retirement Date or such other date as requested. The cost of preparing any additional present value calculation requested in connection with the same proceeding will be charged to the requesting party.

Testimony

Neither the Plan Administrator nor its designee will serve as an expert witness with regard to the value of retirement benefits provided under the Plan.

Form of Order

Section 5 includes Model QDROs prepared to assist the Alternate Payee's and/or the Participant's legal counsel in drafting DROs that will be acceptable to the Plan. The Model QDROs shall be provided to the appropriate parties in accordance with the procedures outlined in Section 2. They are not intended to provide legal advice nor do they cover all situations. Additionally, the parties are not required to follow any of the models.

Allocating a Portion of a Participant's Benefit

For a DRO to meet the requirements for a QDRO, it must clearly specify which benefits are subject to the order. Possibilities include, but are not limited to: all benefits accrued during the marriage; all benefits accrued from the beginning of the Participant's participation in the Plan through the date of divorce; all benefits accrued through the date the Participant retires or, if earlier, the date the Alternate Payee starts receiving benefits.

Requirements for a QDRO

To be qualified by the Plan Administrator (and meet the terms of ERISA and the Internal Revenue Code), a DRO must satisfy the following requirements:

1. The DRO must be a judgment, order, decree, or approval of a property settlement agreement made pursuant to state domestic relations law.
2. The DRO must relate to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or dependent of the Participant.
3. The DRO must create or recognize the existence of the eligible Alternate Payee's right, or must assign to the Alternate Payee the right, to receive all or part of the Participant's benefits under the Plan for a specified period of time.
4. The DRO may not require the payment of any type, form, option, or amount of benefit other than that allowed under the Plan.

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5. The DRO must not require the Plan to provide increased benefits (determined on the basis of actuarial value).
6. The DRO must not require the payment of benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another DRO previously determined to be a QDRO.
7. The DRO must specify:
 - a. the name and last known mailing address of the Participant and the name and last known mailing address of each Alternate Payee;
 - b. the amount or percentage of the Participant's benefits to be paid to the Alternate Payee, or the formula by which that amount is to be determined, including, if applicable, how benefits will be affected in the event of the Participant's or Alternate Payee's death both before and after payments to either party have commenced;
 - c. the number of payments or period to which the order applies; and
 - d. each retirement plan to which the order applies.
8. The DRO must not allow an Alternate Payee to receive his or her share of benefits in the form of a joint and survivor annuity with a subsequent spouse.
9. The DRO must not allow the Alternate Payee to receive an early retirement subsidy if the Participant has not first become entitled to such subsidy by retiring early.
10. The DRO must not allow or require a Participant to change his or her benefit elections if he or she is in pay status at the time the DRO is accepted as a QDRO.

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SECTION 4: QUESTIONS AND ANSWERS – UNDERSTANDING A QDRO

What is a Domestic Relations Order (“DRO”)?

A DRO is a finalized executed judgment, decree, order, or approval of a property settlement agreement issued by a state court in a domestic relations matter (typically a dissolution of marriage), which grants rights to an Alternate Payee in the pension benefits of a Participant. The Alternate Payee may be a spouse, former spouse, child, or other dependent of the Participant. The law is very strict in protecting the benefits of Participants from creditors, bankruptcy, and other third parties. A DRO is one of the very few situations under which a Participant’s pension benefits may be assigned to someone other than the Participant.

What is a Qualified Domestic Relations Order (“QDRO”)?

A QDRO is a DRO that creates, recognizes, or assigns to the Alternate Payee the right to receive some portion of a Participant’s benefits under the Plan, and that the Plan Administrator has determined meets the specific requirements contained in ERISA §206(d)(3) (29 USC §1056(d)(3)) and the Internal Revenue Code §414(p) (26 USC §414(p)). The law requires that a plan administrator “qualify” the DRO before it can become effective.

What is the First Step in Drafting a QDRO? Why is Understanding the Type of Pension Plan Important in Deciding How to Divide the Participant’s Pension Benefits?

The first step in drafting a QDRO is to identify the type of retirement plan in which the Participant is participating. The International Union of Operating Engineers Local 4 and Its Branches Pension Plan is a multiemployer, defined benefit pension plan that is funded exclusively by employer contributions under a collective bargaining agreement. A defined benefit plan provides participants with a fixed benefit at retirement, which is calculated using a formula. The Plan does not maintain individual accounts into which contributions are made and Participants do not make contributions to the Plan.

Participants accumulate Pension Credits under the Plan based upon their hours worked each year in employment with an employer contributing to the Plan. Eligibility for benefits and the amount of those benefits are determined by a Participant’s Pension Credits and years of Vesting Service under the Plan, his or her age at retirement, and the accrual rate per Pension Credit in effect when he or she retires or last worked and earned credit under the Plan.

Because the Plan is a defined benefit plan, a QDRO does not divide money held in an individual account. Rather, a QDRO allocates portions of the Participant’s accrued benefit (based on the Participant’s Pension Credits and the accrual rate in effect on the valuation date, generally the date of dissolution) between the Participant and the Alternate Payee. QDROs use either the Shared Payment Method or Separate Interest Method to allocate the Participant’s benefit, which are discussed below.

It is strongly suggested that prior to formulating a Domestic Relations Order, the parties and their legal counsel review the Participant’s pension status and eligibility for benefits with the Fund Office. The Participant or his or her legal counsel is advised to make a written request to the Fund Office for information about his or her pension status. Specific information about a Participant, such as his or her benefit amount, cannot be provided by telephone. The Fund

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Office will provide the Alternate Payee or his or her legal counsel with one present value calculation at no charge, and one benefit estimate as of the Participant's Normal Retirement Date, or such other date as requested, but only upon written request. The cost of preparing any additional present value calculation will be passed along to the requesting party.

If the Fund is on notice that a QDRO may be issued or submitted concerning a particular Participant, and within a reasonable period (not to exceed 90 days) after the Participant's death the Fund Office has not received a DRO with regard to the Participant, the Fund will pay any benefits that are payable with respect to the deceased Participant in accordance with the terms of the Plan. Thereafter, notwithstanding the receipt of any DRO with regard to the Participant, the Fund will not modify or reverse any payments made as a result of the Participant's death.

How May the Participant's Retirement Benefit Be Divided?

There are two primary methods of dividing a Participant's pension benefit.

A QDRO must specify how a Participant's accrued benefits are to be apportioned between the Participant and the Alternate Payee. There are two primary methods of dividing the Participant's pension benefits: the *Shared Payment Method* and the *Separate Interest Method*. There are a number of ways under either method to determine the benefits payable to the Alternate Payee.

Description of the Shared Payment Method

The Shared Payment Method gives the Alternate Payee a share of the Participant's monthly benefit, which can be expressed either as a monthly flat dollar amount or a percentage of the Participant's monthly benefit. The Alternate Payee will actually receive his or her assigned benefit as a "share" of the Participant's benefit, which will remain actuarially based on the Participant's lifetime. If the Participant is already receiving a benefit from the Fund at the time the QDRO is established, the order MUST use the Shared Payment Method. If the Participant has not yet begun to receive a benefit from the Fund when the QDRO is established, then the order may use either the Shared Payment Method or the Separate Interest Method.

ERISA requires that a QDRO specify the period of time or number of payments to which it applies. Therefore, the order must state when the Alternate Payee may begin to receive his or her designated share of the Participant's pension and when such payments will cease. Under a Shared Payment QDRO, the Alternate Payee will begin to receive his or her share of the Participant's benefit when the Participant's benefit commences, but no later than the Participant's Required Beginning Date (April 1 following the Calendar Year in which the Participant attains age 70½). If the Participant is already receiving benefits at the time the QDRO is established, the Alternate Payee will begin to receive his or her share of the Participant's benefit as soon as administratively feasible. (If the final determination that the order is a QDRO occurs within the segregation period, the Alternate Payee will also receive any amounts that were withheld from the Participant's payments on his or her behalf while the determination was pending, with interest.) The order can provide the Alternate Payee with a benefit payable for the Alternate Payee's lifetime, until a date certain, or until the occurrence of a triggering event (e.g., until a child reaches maturity or until the Alternate Payee remarries), provided, however, that in any case the shared payment to the Alternate Payee will cease upon the Participant's death. If payments to the Alternate Payee are to cease based on a triggering event, notice must be provided to the Fund Office of the event's occurrence before the Fund

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will be required to act.

Under the Shared Payment Method, the Alternate Payee does not have the right to choose the form in which the benefit will be paid. The Alternate Payee's benefit will be paid in the form elected by the Participant. The order may, however, require the Participant to elect a specific form of payment (e.g., 80% Participant and Spouse Pension), provided payments to the Participant have not already begun when the QDRO is established.

A Shared Payment QDRO may also treat the Alternate Payee as the Participant's Qualified Surviving Spouse for purposes of any pre- and/or post-retirement surviving spouse benefits. Being designated as a Qualified Surviving Spouse under the QDRO means that the Alternate Payee may continue to receive a benefit for life if the Participant dies before him or her, subject to certain restrictions.

With respect to pre-retirement surviving spouse benefits (available only if the Participant has not yet retired), the order can designate the Alternate Payee as the Participant's Qualified Surviving Spouse to receive the benefit payable if the Participant dies prior to receiving a benefit. This benefit is known as the Preretirement Surviving Spouse Pension, and it provides the Participant's Qualified Surviving Spouse with a lifetime annuity equal to 100% of the benefit that the Participant would have received if he or she had retired and elected an 80% (or 66 $\frac{2}{3}$ %, if applicable) Participant and Spouse Pension on the day before he or she died.

With respect to post-retirement surviving spouse benefits, the order can designate the Alternate Payee as the Participant's Qualified Surviving Spouse to receive any surviving spouse benefit payable under the Participant and Spouse Pension if the Participant dies after beginning to receive a benefit from the Plan. Note, however, that if the Participant is already in pay status when the QDRO is established, and the Participant did not elect a form of payment that provides surviving spouse benefits, then this option would not be available.

If the Participant is not yet retired, the order can recognize the Alternate Payee as the Participant's Qualified Surviving Spouse for both purposes.

The parties should note that if the Alternate Payee is named as the Qualified Surviving Spouse for the Participant's entire benefit, any subsequent spouse of the Participant will receive no benefits upon the Participant's death. The parties should also note that if the Alternate Payee under a Shared Payment QDRO is not designated as a Qualified Surviving Spouse for at least some portion of the Participant's benefit, nothing will be payable to the Alternate Payee after the Participant's death. For example, if the QDRO does not provide that the Alternate Payee is to be the Participant's Qualified Surviving Spouse for purposes of the Preretirement Surviving Spouse Pension, and if the Participant dies before he or she has retired and begun receiving a benefit, no benefits will be paid to the Alternate Payee under the QDRO.

Under the Shared Payment Method, an Alternate Payee has no right to name a surviving beneficiary. If the Alternate Payee dies before the Participant, then the Alternate Payee's share will revert to the Participant unless the order names a successor Alternate Payee. Individuals qualified to be successor Alternate Payees include a spouse, former spouse, child, or other dependent of the Participant. The Alternate Payee's estate cannot be named in the QDRO as a successor Alternate Payee. To name a successor Alternate Payee, the order must state his or her name, address, date of birth, and relationship to the Participant. A successor Alternate Payee may not, however, be named for any survivor benefits that are payable to the Alternate

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Payee as a Qualified Surviving Spouse under the order.

Description of the Separate Interest Method

The Separate Interest Method awards a portion of the Participant's expected lifetime benefits to the Alternate Payee, to be paid over the Alternate Payee's lifetime. The Separate Interest Method essentially takes the whole benefit that the Participant accrues over a specific period of time as described in the Domestic Relations Order, such as the duration of the parties' marriage, and creates two separate benefits. In contrast to the Shared Payment Method (discussed above), the Separate Interest Method grants the Alternate Payee a separate entitlement to a benefit under the Plan. Likewise, the Participant then receives the remaining portion of his or her accrued benefit as a separate entitlement. On an actuarial basis, the two separate benefits cannot have a greater total value than the Participant's accrued benefit before the division. This means that the Alternate Payee's assigned benefit must be actuarially adjusted to his or her life expectancy, commencement date, and elected form of payment. The Separate Interest Method is NOT available if the Participant is already receiving a benefit from the Fund.

ERISA requires that a QDRO specify the time period or number of payments to which it applies. When the Separate Interest Method is used, this requirement may be satisfied by stating when payments to the Alternate Payee are to begin and end. To the extent permitted by the QDRO, the Alternate Payee may elect to receive benefits at any time after the Participant has reached the Plan's Earliest Retirement Age (age 52, provided the Participant has earned 5 Pension Credits, or 10 Pension Credits if he has not worked at least one hour of service on or after January 1, 1998), even if the Participant has not yet retired. The Alternate Payee's benefits will continue until his or her benefits are exhausted under the form of payment he or she elected. Once the Separate Interest QDRO is established, the Participant's death will have no effect on the Alternate Payee's right to his or her assigned benefit.

It is not necessary that the order indicate the specific form in which benefits are to be paid to the Alternate Payee; however, if the order does not so indicate, it should contain language stating that the Alternate Payee can elect to receive his or her portion of the benefit in any form available under the Plan, with the exception of a joint and survivor annuity payable with a subsequent spouse. Likewise, the Participant retains all rights to elect any form of payment available under the Plan, including a joint and survivor annuity with a subsequent spouse, if applicable. It is important to remember that under the Separate Interest Method the Alternate Payee is only entitled to his or her portion of the benefit.

One consequence of using the Separate Interest Method is that if the Alternate Payee dies after his or her Pension Effective Date (the date he or she begins receiving benefits), the Alternate Payee's share will not revert to or otherwise increase the amount of the Participant's benefit unless the order so specifies. Any benefits payable upon the death of the Alternate Payee based on the benefit form he or she elected would be payable to the Alternate Payee's designated beneficiary.

If the Alternate Payee dies before his or her Pension Effective Date, however, the Alternate Payee's share will revert to the Participant, unless the order names a successor Alternate Payee. Individuals qualified to be Successor Alternate Payees include a spouse, former spouse, child, or other dependent of the Participant. The Alternate Payee's estate cannot be named in the QDRO as a successor Alternate Payee. To name a successor Alternate Payee, the order must

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state his or her name, address, date of birth, and relationship to the Participant. A successor Alternate Payee may not be named, however, for benefits that are payable to the Alternate Payee as a Qualified Surviving Spouse. Further, the Alternate Payee may not name a beneficiary to receive his or her benefits in the event he or she dies prior to his or her Pension Effective Date.

How Are Benefits Allocated?

For a Domestic Relations Order to be qualified, it must clearly specify how benefits are to be apportioned between the Participant and the Alternate Payee. This is most commonly done by use of an allocation formula. It can also be done by awarding a specific monthly dollar amount or percentage of the benefit to the Alternate Payee. However, since the Participant often will not know his or her benefit entitlement at the time a DRO is entered by the court, a specific dollar amount is not often used.

In creating a formula by which to calculate the Alternate Payee's benefit, several factors are generally considered, such as the length of the marriage and the number of years of service under the Plan or the amount of the Participant's pension benefit earned during the marriage. The following are examples of some basic formulas that could be used to calculate the Alternate Payee's benefit:

- The Alternate Payee is entitled to receive a monthly benefit from the Fund equal to 50% of the "marital portion" of the Participant's benefit. The "marital portion" is a fraction, the numerator of which is the number of Pension Credits the Participant accumulated in the Plan during the marriage, and the denominator of which is the total number of Pension Credits the Participant has accumulated under the Plan at the time of the Participant's retirement, or at the time the Alternate Payee elects to receive a benefit, if earlier.
- The Alternate Payee shall receive a monthly benefit equal to 50% of the monthly benefit payable to the Participant based upon the Participant's accrued benefits earned as of the date of the dissolution of marriage, calculated as of that date.
- The Alternate Payee shall receive a monthly benefit equal to 50% of the monthly benefit payable to the Participant, without regard for the length of marriage, as accumulated at the time of the Participant's retirement, or at the time the Alternate Payee elects to receive a benefit, if earlier.

While the above formulas use an apportionment of 50% of the Participant's benefit as a means to determine the Alternate Payee's benefit, any percentage is acceptable so long as the Alternate Payee's percentage is greater than 0% and not greater than 100% of the Participant's benefit. It is up to the parties, together with their counsel and subject to the approval of the court, to choose an appropriate percentage of the Participant's benefit to be paid to the Alternate Payee.

The above formulas represent examples of possible ways to prepare a QDRO. It should be recognized that these formulas may not suit the particular needs of the parties. The parties are free to write a QDRO to suit their particular needs, as long as it satisfies the requirements of ERISA and the Internal Revenue Code, and is consistent with the provisions of the International Union of Operating Engineers Local 4 and Its Branches Pension Plan. In order for a Separate Interest QDRO to satisfy the requirements of ERISA and the Internal Revenue

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Code, the benefit assigned to the Alternate Payee will generally need to be actuarially adjusted to reflect payment over his or her lifetime rather than the Participant's. (See Section 8 of Model QDRO 3 for sample language regarding actuarial adjustment.)

The Plan Administrator's job is to determine whether the formula in the order is specific and clear enough that the Plan can calculate the amount to be paid to the Alternate Payee. Orders that do not provide for a definitely determinable amount to be paid to the Alternate Payee will be rejected. The Plan is NOT a defined contribution plan, 401(k) plan, profit sharing plan, or money purchase plan into which specified amounts are paid into separate accounts by or on behalf of each Participant. Therefore, language such as "account," "account balance," "amounts held," "interest accrued," or "net gains and losses" is inappropriate when referring to a defined benefit plan like the Plan and should not be used. Similarly, the order cannot grant any party the right to direct the investment of funds in the Plan. The assets of the Plan are invested on a pooled basis subject only to the direction of the Board of Trustees of the Plan and the various investment managers who are fiduciaries to the Plan. The order cannot grant any party the right to transfer assets or have the Plan transfer assets to an Individual Retirement Account (IRA) or to another plan that the party would not otherwise have under the terms of the Plan and applicable law.

When Can an Alternate Payee Begin to Receive Benefits?

To understand when an Alternate Payee may begin receiving benefits under Shared Payment and Separate Interest QDROs, it is important that the parties understand a few key terms related to the Participant's eligibility for a pension.

- **Normal Retirement Pension.** Benefits may be paid when the Participant reaches his or her Normal Retirement Date if the Participant has not had an unrepaired Break in Service (in other words, he or she was credited with at least 250 hours of service in the last calendar year). A Participant may also receive benefits when he or she reaches age 62 with 5 Pension Credits, or 10 Pension Credits if the Participant has not worked at least one hour of service on or after January 1, 1998.
- **Early Retirement Pension.** Benefits may be paid when the Participant reaches age 52 with 5 Pension Credits, or 10 Pension Credits if the Participant has not worked at least one hour of service on or after January 1, 1998.
- **Disability Pension.** Benefits may be paid when the Participant has a Total and Permanent Disability (as defined by the Plan) before age 62, and has at least 10 Pension Credits, and has earned at least ¼ Pension Credit in the 30-month period immediately preceding the date of his disability. Even if the Participant becomes eligible for a Disability Pension, the Alternate Payee may not receive benefits under a Separate Interest QDRO until the Participant reaches his or her Earliest Retirement Age.

Shared Payment QDRO (Participant in Pay Status)

As described above, if a Participant is already in pay status, the QDRO must be a Shared Payment QDRO, and benefits to the Alternate Payee will be payable as soon as administratively feasible after the DRO has been qualified.

In accordance with federal law, if a Domestic Relations Order is received concerning a Participant who is already receiving benefits, that portion of his or her benefit which is

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specified in the order for payment to the Alternate Payee will be withheld. Withholding begins as of the first day of the month after the month in which the order is received. Even if the order is initially determined not to be a QDRO, the Fund will continue to withhold the specified portion of the Participant's benefit for a period as set forth below, but not to exceed 18 months from the date withholding began. This period gives the parties sufficient time to appeal the Fund's initial determination, submit an amended order which can be determined to be a QDRO, or request in writing additional time in which to respond for good cause shown (assuming the 18-month segregation period has not expired). Should an acceptable order be submitted within the withholding period, the month in which withholding began will become the Alternate Payee's Pension Effective Date and amounts withheld while the determination was pending will be paid to the Alternate Payee with interest, unless the order says otherwise.

Upon the Fund's determination that the order is not a QDRO, the Alternate Payee and Participant will be advised, and the parties will be given a period of 90 days from the date of the determination in which to appeal that determination. The Fund will continue to withhold the specified portion of the Participant's benefit for a period of 90 days from the date the determination letter is issued by the Fund Office. If at the end of this 90-day period, the parties have neither appealed the Fund's determination, nor amended the order or requested additional time in which to respond, the amount withheld shall be released to the Participant with interest.

Upon the Fund's determination that the order is a QDRO, the Alternate Payee and Participant will be advised, and the parties will be given a period of 90 days from the date of the determination in which to appeal that determination. The Fund cannot commence payment to the Alternate Payee for a period of 90 days from the date of the determination letter without the written consent of both parties to the Fund's interpretation of the order.

Shared Payment QDRO (Participant Not in Pay Status)

Under a Shared Payment QDRO where the Participant is not yet in pay status, payments to the Alternate Payee will not begin until the Participant starts receiving benefits. The Alternate Payee is not required to submit a separate application for benefits, as his or her benefits will commence at the same time the Participant's benefits commence. In accordance with the Plan's rules and federal law, a Participant's pension benefits may not be deferred later than the April 1 following the Calendar Year in which the Participant attains age 70½ (the Participant's Required Beginning Date).

Separate Interest QDRO (Participant Not in Pay Status)

Under a Separate Interest QDRO, the Alternate Payee may elect to start receiving benefits as soon as the Participant reaches Earliest Retirement Age (age 52, provided the Participant has earned 5 Pension Credits, or 10 Pension Credits if he has not worked at least one hour of service on or after January 1, 1998), even if the Participant has not yet retired. The Alternate Payee is not required to start receiving his or her benefits when the Participant commences benefits. The Alternate Payee must, however, commence his or her benefits no later than the Participant's Required Beginning Date (April 1 following the Calendar Year in which the Participant attains age 70½).

The Alternate Payee must submit a separate application before he or she will begin receiving benefits. The Fund will make a determination of the Alternate Payee's entitlement to benefits, advise him or her in writing, and forward the documents necessary to commence payment of

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benefits. The Alternate Payee's Pension Effective Date will be determined to be the first day of the month after the month in which his or her completed Application form is received. However, in accordance with federal regulations, the actual payment of benefits shall generally commence no sooner than 30 days from the date of the notification letter.

When Do Payments to the Alternate Payee Stop?

Shared Payment QDRO

Under a Shared Payment QDRO, benefit payments to the Alternate Payee may cease upon a stated date or event or after a specified number of payments under the terms of the QDRO, or when the Participant's benefit payments cease, if earlier. A Participant's benefit may cease due to: 1) death of the Participant; 2) suspension of the Participant's benefit payments; or 3) distribution of the Participant's entire pension benefit. In no event may benefit payments to the Alternate Payee continue beyond the death of a Participant, unless the Participant has elected a form of payment that provides a survivor benefit to the Alternate Payee, including a form of payment that provides a surviving spouse benefit if the QDRO requires the Plan to treat the Alternate Payee as the Participant's Qualified Surviving Spouse.

Separate Interest QDRO

Under a Separate Interest QDRO, the Alternate Payee may be given the right to elect any benefit option available under the Plan, except for a joint and survivor annuity with a subsequent spouse. Once the Alternate Payee has elected the form in which benefits are to be paid, payments will continue in accordance with the terms of the benefit option he or she has chosen.

The Fund will treat the Alternate Payee's assigned benefit under a Separate Interest QDRO as completely severed from the Participant's benefit, meaning the Participant's death will not affect the Alternate Payee's right to the assigned benefit, regardless of whether the Alternate Payee has begun to receive payments at that time.

What Happens to the Alternate Payee's Benefits if the Participant's Benefits are Suspended?

Shared Payment QDRO

Under a Shared Payment QDRO, the Alternate Payee's payments will cease and resume with the Participant's payments. When the Participant's re-retirement pension calculations are made, they will be based on the Participant's age and service without regard to the Alternate Payee. When the Participant's benefit payments resume, the Alternate Payee will receive his or her apportioned share of the Participant's re-retirement monthly benefit amount.

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Separate Interest QDRO

Under a Separate Interest QDRO, regardless of whether a Participant's benefits are suspended, the Alternate Payee's benefit payments will continue in the amount specified in the QDRO and in accordance with the form of payment the Alternate Payee has elected.

Is the Alternate Payee Entitled to a Share of Any Early or Delayed Retirement Subsidy Payable to the Participant?

Shared Payment QDRO

The Plan currently provides a subsidized early retirement benefit to Participants, which means that the actuarial reductions for retiring early are lower than the full actuarial adjustment that would otherwise apply if the Participant retires early. Under a Shared Payment QDRO, the Alternate Payee will automatically be entitled to such early retirement subsidies to the extent consistent with the order.

The Plan also currently provides a subsidized delayed retirement benefit to Participants who postpone retirement beyond their Normal Retirement Date and do not work in employment covered by the Plan or related "suspendible service," which means that the actuarial increases for retiring late are more than the full actuarial adjustment that would otherwise apply if the Participant retires late. Under a Shared Payment QDRO, the Alternate Payee will automatically be entitled to such delayed retirement subsidies to the extent consistent with the order.

Separate Interest QDRO

Under a Separate Interest QDRO, the Alternate Payee is not entitled to receive adjustments to his or her assigned benefit based on any early retirement subsidies for which the Participant later becomes eligible if the Alternate Payee has an earlier Pension Effective Date than the Participant (meaning the Alternate Payee starts receiving benefits before the Participant). However, if the Alternate Payee begins receiving benefits on or after the date the Participant retires, then the Alternate Payee will receive his or her apportioned share of the subsidized early retirement benefit, if applicable, subject to the terms of the QDRO.

Under a Separate Interest QDRO, the Alternate Payee is not entitled to receive adjustments to his or her assigned benefit based on any delayed retirement subsidies for which the Participant later becomes eligible regardless of when the Alternate Payee begins receiving benefits.

Will the Alternate Payee Receive Any Post-Retirement Benefit Supplements?

Shared Payment or Separate Interest QDRO

From time to time, the Trustees may at their discretion set forth objective standards under which they will pay a one-time post-retirement benefit supplement to pensioners, Surviving Spouses, Alternate Payees, and/or beneficiaries. The terms of any such supplement (including eligibility standards, form, and amount) will be stated in a resolution. These discretionary, one-time benefit supplements are not a part of the Plan and are not to be relied upon.

What Happens in the Event of the Alternate Payee's Death?

Shared Payment QDRO

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

After the Alternate Payee's death, regardless of whether the Alternate Payee and the Participant have commenced benefits, the Alternate Payee's share of the Participant's benefit payments shall revert to the Participant, unless the QDRO names a successor Alternate Payee (see pages 13-14).

Separate Interest QDRO

➤ Prior to commencement of Alternate Payee's benefits

If the Alternate Payee dies before benefits have begun, and there is no successor Alternate Payee named in the QDRO, the Alternate Payee's portion of the benefit will revert to the Participant. Pre-retirement death benefits are only available to active Participants.

➤ After commencement of Alternate Payee's benefits

If the Alternate Payee dies after commencing benefits, any death benefits provided under the form of payment elected by the Alternate Payee will be payable to his or her designated beneficiary.

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SECTION 5: MODEL ORDERS

The models set forth below are provided to assist practitioners in drafting a Domestic Relations Order that is qualified within the meaning of Section 206(d)(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and Section 414(p) of the Internal Revenue Code of 1986, as amended (the “Code”). They are not intended to be used as forms and will not apply in every situation.

Where text appears underlined and in brackets, it is intended to act as a placeholder for specific information, e.g., [date]. Where text appears in brackets only, it is intended to represent an alternative option, e.g., whether a different gender pronoun is appropriate or whether to include a particular substantive provision. In some places, optional substantive provisions are marked in italics, e.g., *Option #1*, although the options shown do not represent the universe of possibilities. The models also include explanations with cross-references to relevant sections of the QDRO Procedures to assist the drafter.

Model QDRO 1 is intended to be used as a model where the Participant is already receiving benefits, in which case the Shared Payment Method is required. Model QDRO 2 is a Shared Payment QDRO intended to be used as a model where the Participant is not yet receiving retirement benefits. Model QDRO 3 is a Separate Interest QDRO intended to be used as a model where the Participant is not yet receiving benefits.

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**Model QDRO 1 – For Participants in Pay Status
(Shared Payment Method Required)**

IN THE _____ COURT OF _____
STATE OF _____

_____, Plaintiff)
)
)
v.)
)
_____, Defendant)
)
_____)

Case No. _____
Judge _____

**QUALIFIED DOMESTIC
RELATIONS ORDER**

IT IS HEREBY ORDERED AS FOLLOWS:

- 1. Effect of This Order as a Qualified Domestic Relations Order:** This Order creates and recognizes the existence of an Alternate Payee’s right to receive a portion of the Participant’s benefits payable under a defined benefit pension plan that is covered by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and qualified under the Internal Revenue Code of 1986, as amended (the “Code”). It is intended to constitute a Qualified Domestic Relations Order (“QDRO”) as that term is defined in Section 206(d)(3) of ERISA and Section 414(p) of the Code.
- 2. Authority:** This Order is granted in accordance with [citation(s) to applicable state domestic relations law(s)]. This Order relates to the provision of marital property rights, child support, and/or spousal support.
- 3. Plan Information:** This Order applies to benefits under the International Union of Operating Engineers Local 4 and Its Branches Pension Plan (the “Plan”). The name and address of the Plan Administrator are:

Board of Trustees
International Union of Operating Engineers Local 4
and Its Branches Pension Fund
16 Trotter Drive
P.O. Box 680
Medway, MA 02053-0680

- 4. Participant Information:** The name, last known mailing address, date of birth, and last four digits of the social security number of the “Participant” are:

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Name: [_____]
Address: [_____]

The Participant's Date of Birth and Social Security Number appear in a separate addendum.

- 5. Alternate Payee Information: The name, last known mailing address, date of birth, and last four digits of the social security number of the "Alternate Payee" are:

Name: [_____]
Address: [_____]

The Alternate Payee's Date of Birth and Social Security Number appear in a separate addendum.

The Alternate Payee has the duty to notify the Plan Administrator in writing of any changes to his [her] mailing address subsequent to the entry of this Order.

- 6. Dates of Marriage and Divorce: The Participant and the Alternate Payee were married on [date] and were granted a divorce on [date].
- 7. Assignment of Benefits to Alternate Payee: This Order assigns a share of the pension benefit that the Participant is currently receiving to the Alternate Payee. Payment of the Alternate Payee's share of the benefit will be made directly to the Alternate Payee, and will remain actuarially based on the Participant's lifetime.
- 8. Formula for Determining Alternate Payee's Benefit:

NOTE: The sample formulas presented below are those commonly used in Domestic Relations Orders. The parties are not required to use any of the sample formulas below. To be qualified, however, the Order must contain one clear formula that instructs the Plan Administrator how to determine the Alternate Payee's portion of the Participant's benefit.

Option #1: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____] Percent ([XX]%) of the total benefit accrued by the Participant, calculated as of the date of this Order.

Option #2: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____] Percent ([XX]%) of the benefit accrued by the Participant from the date of marriage to the date of divorce, calculated as of the date of divorce.

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Option #3: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____]([XX]%) of the benefit accrued by the Participant as of the date of divorce, calculated as of the date of divorce.

Option #4: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____] Percent ([XX]%) of the marital portion of such monthly pension benefits. The marital portion shall be calculated by multiplying the Participant's accrued benefit by a fraction, the numerator of which is the number of Pension Credits the Participant accrued during the marriage, and the denominator of which is the total number of Pension Credits accrued by the Participant as of the date the Participant retired.

Option #5: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____] Dollars (\$[XXX.XX]).

9. **Form of Payment to Alternate Payee:** The Alternate Payee shall receive his [her] benefit as a share of each payment to which the Participant is entitled. The Alternate Payee shall receive his [her] benefit in the same form of payment elected by the Participant under the Plan, which will be based actuarially on the Participant's lifetime.
10. **Duration of Payments to Alternate Payee:** The Alternate Payee shall begin to receive his [her] share of the benefits in the month following the month in which the Plan Administrator determines that the Order is qualified and receives a court-certified copy of the Order.

NOTE: In order to be qualified, the Order must specify when the Alternate Payee may begin to receive his or her assigned benefit and when such payments will cease. If the Participant is already receiving benefits at the time the QDRO is established (as is the case under this Model QDRO), the Alternate Payee will begin to receive his or her share of the Participant's benefit as soon as administratively feasible. As set forth in the above QDRO Procedures, the Alternate Payee may in some circumstances receive a retroactive payment of amounts withheld from the Participant while the QDRO determination was pending. The shared payment to the Alternate Payee must cease upon the Participant's death (see *Option #1* below), or earlier if the Order so specifies (see *Options #2 and #3*, below). Upon the Participant's death, the Alternate Payee will receive no further payments unless he or she is designated as the Qualified Surviving Spouse for purposes of any surviving spouse benefit payable under the form of payment elected by the Participant or as the Participant's beneficiary under an optional form of payment that provides a survivor benefit.

Option #1: The Alternate Payee shall continue to receive his [her] share of the benefits for the remainder of his [her] lifetime, or until the death of the Participant, if earlier.

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Option #2: The Alternate Payee shall continue to receive his [her] share of the benefits until [date], or until his [her] death or the death of the Participant, if earlier.

Option #3: The Alternate Payee shall continue to receive his [her] share of the benefits until [contingent event, e.g., the Alternate Payee remarries], or until his [her] death or the death of the Participant, if earlier.

11. Post-Retirement Benefit Supplements:

NOTE: From time to time, the Trustees may at their discretion set forth objective standards under which they will pay a one-time post-retirement benefit supplement to pensioners, Surviving Spouses, Alternate Payees, and/or beneficiaries. The terms of any such supplement (including eligibility standards, form, and amount) will be stated in a resolution. These discretionary, one-time benefit supplements are not a part of the Plan and are not to be relied upon.

The Alternate Payee shall receive any post-retirement benefit supplement for which he [she] may become eligible pursuant to a resolution adopted by the Board of Trustees.

[12. Treatment of Alternate Payee as Qualified Surviving Spouse for Purposes of a Qualified Joint and Survivor Annuity as Such Term is Defined in Section 417 of the Code:

NOTE: If the Participant was married to the Alternate Payee at the time the Participant entered pay status, and if the Participant elected to have his or her benefit paid in a form that provides surviving spouse benefits, and if the Participant and Alternate Payee were married for at least a year in total, the Alternate Payee retains his or her right to be treated as the Participant's Qualified Surviving Spouse for purposes of such benefits should the Participant predecease the Alternate Payee. You may include this provision to specify whether the Alternate Payee will be treated as the Participant's Qualified Surviving Spouse for purposes of the 80% or 66 $\frac{2}{3}$ % Participant and Spouse Pension, whichever is applicable (see Definitions).

However, if the Participant elected to have his or her benefit paid in a form that does not provide surviving spouse benefits, the Order may not provide the Alternate Payee with such benefits because the Participant's election may not be changed post-retirement. In that case, do not include this provision.

In the event that the Participant predeceases the Alternate Payee, such Alternate Payee shall [not] be treated as the Qualified Surviving Spouse of the Participant for purposes of establishing the Alternate Payee's entitlement to receive benefits under the 80% [66 $\frac{2}{3}$ %] Participant and Spouse Pension. [For purposes of determining eligibility for such Qualified Surviving Spouse benefits, the Alternate Payee and the Participant have [not] satisfied the

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one year marriage requirement under Sections 401(a)(11) and 417(d) of the Code and as required under the terms of the Plan.]]

12. [13.] **Death of the Alternate Payee:** If the Alternate Payee predeceases the Participant, the Alternate Payee's portion of the Participant's benefits shall revert to the Participant.
13. [14.] **Federal Tax Reporting:** For purposes of federal income tax reporting, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution. The Plan Administrator will issue a Form 1099-R to the Alternate Payee at the end of each calendar year and report such income to the Internal Revenue Service under the Alternate Payee's name and social security number.
14. [15.] **Inadvertent Payment(s) to Plan Participant or Alternate Payee:** In the event that the Plan Administrator inadvertently pays to the Participant any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant shall immediately return such payments to the Plan Administrator. Upon receipt of repayment, the Plan Administrator shall issue an amended Form 1099-R to the Participant so that the Participant is not liable for any income taxes associated with the Alternate Payee's assigned share of the benefits. In the event that the Plan Administrator inadvertently pays to the Alternate Payee any benefits that are to remain with the Participant pursuant to the terms of this Order, the Alternate Payee shall immediately return such payments to the Plan Administrator. Upon receipt of repayment, the Plan Administrator shall issue an amended Form 1099-R to the Alternate Payee so that the Alternate Payee is not liable for any income taxes associated with the Participant's share of the benefits.
15. [16.] **Savings Clause:** This Order is not intended to, and shall not be construed in such a manner as to require the Plan:
 - (a) to pay any benefits not permitted under the Code or ERISA;
 - (b) to provide any type or form of benefit or option not otherwise provided under the terms of the Plan;
 - (c) to require the Plan to provide increased benefits, determined on the basis of actuarial value; or
 - (d) to require the payment of any benefits to the Alternate Payee that are required to be paid to another alternate payee under another order that was previously deemed to be a QDRO.
16. [17.] **Right to Amend:** It is the intention of the parties that this Order continue to qualify as a QDRO under the Code and ERISA, as either may be amended from time to time, and that the Plan Administrator reserve the right to reconfirm the qualified status of the Order

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at the time benefits become payable hereunder. The Court shall retain jurisdiction to establish and/or maintain the status of this Order as a QDRO.

SO ORDERED, this ____ of _____, 20__.

JUDGE

Plan Participant

Counsel for Plan Participant
Name/Firm _____
Address _____

Alternate Payee

Counsel for Alternate Payee
Name/Firm _____
Address _____

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ADDENDUM

The Participant's Date of Birth is _____.

The Participant's Social Security Number is ____-__-_____.

The Alternate Payee's Date of Birth is _____.

The Alternate Payee's Social Security Number is ____-__-_____.

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**Model QDRO 2 – For Participants Not Yet in Pay Status
Shared Payment Method (Optional)**

IN THE _____ COURT OF _____
STATE OF _____

)
_____, Plaintiff) Case No. _____
)
)
) Judge _____
)
v.)
)
)
)
_____, Defendant) **QUALIFIED DOMESTIC**
) **RELATIONS ORDER**
)
_____)

IT IS HEREBY ORDERED AS FOLLOWS:

- 1. Effect of This Order as a Qualified Domestic Relations Order:** This Order creates and recognizes the existence of an Alternate Payee’s right to receive a portion of the Participant’s benefits payable under a defined benefit pension plan that is covered by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and qualified under the Internal Revenue Code of 1986, as amended (the “Code”). It is intended to constitute a Qualified Domestic Relations Order (“QDRO”) as that term is defined in Section 206(d)(3) of ERISA and Section 414(p) of the Code.
- 2. Authority:** This Order is granted in accordance with [citation(s) to applicable state domestic relations law(s)]. This Order relates to the provision of marital property rights, child support, and/or spousal support.
- 3. Plan Information:** This Order applies to benefits under the International Union of Operating Engineers Local 4 and Its Branches Pension Plan (the “Plan”). The name and address of the Plan Administrator are:

Board of Trustees
International Union of Operating Engineers Local 4
and Its Branches Pension Fund
16 Trotter Drive
P.O. Box 680
Medway, MA 02053-0680

- 4. Participant Information:** The name, last known mailing address, date of birth, and last four digits of the social security number of the “Participant” are:

Name: [_____]

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

Address: [_____]

The Participant's Date of Birth and Social Security Number appear in a separate addendum.

5. **Alternate Payee Information:** The name, last known mailing address, date of birth, and last four digits of the social security number of the "Alternate Payee" are:

Name: [_____]

Address: [_____]

The Alternate Payee's Date of Birth and Social Security Number appear in a separate addendum.

The Alternate Payee has the duty to notify the Plan Administrator in writing of any changes to his [her] mailing address subsequent to the entry of this Order.

6. **Dates of Marriage and Divorce:** The Participant and the Alternate Payee were married on [date] and were granted a divorce on [date].
7. **Assignment of Benefits to Alternate Payee:** This Order assigns a share of the Participant's accrued benefit to the Alternate Payee. Payment of the Alternate Payee's share of the benefit will be made directly to the Alternate Payee, and will be based actuarially on the Participant's lifetime.
8. **Formula for Determining Alternate Payee's Benefit:**

NOTE: The sample formulas presented below are those commonly used in Domestic Relations Orders. The parties are not required to use any of the sample formulas below. To be qualified, however, the Order must contain one clear formula that instructs the Plan Administrator how to determine the Alternate Payee's portion of the Participant's benefit.

With respect to the formulas described in *Options #1, #2, #3, and #4*, the resulting benefit payable to the Alternate Payee will be based actuarially on the Participant's lifetime, which means any early or delayed retirement factor and/or optional form of annuity factor that applies at the Participant's Pension Effective Date will also apply to the Alternate Payee's share of the Participant's benefit.

Option #1: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____] Percent ([XX]%) of the benefit accrued by the Participant from the date of marriage to the date of divorce, calculated as of the date of divorce.

Option #2: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____] Percent

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

(~~XX~~)% of the benefit accrued by the Participant as of the date of divorce, calculated as of the date of divorce.

Option #3: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____] Percent (~~XX~~)% of the benefit accrued by the Participant, calculated as of the Participant's Pension Effective Date.

Option #4: From the pension benefits otherwise payable to the Participant each month, this Order assigns to the Alternate Payee an amount equal to [_____] Percent (~~XX~~)% of the marital portion of the Participant's accrued benefit as of the Participant's Pension Effective Date. The marital portion shall be a fraction, the numerator of which is the number of Pension Credits the Participant accrued during the marriage, and the denominator of which is the total number of Pension Credits accrued by the Participant as of the Participant's Pension Effective Date.

9. **Form of Payment to Participant and Alternate Payee:** The Alternate Payee shall receive his [her] benefit as a share of each payment to which the Participant is entitled.

NOTE: If the parties choose, the Order can give the Alternate Payee the right to post-retirement surviving spouse benefits under the 80% or 66 $\frac{2}{3}$ % Participant and Spouse Pension, whichever is applicable (see Definitions), as reflected in *Option #1* below.

Option #1: The Participant's benefit will be paid to him [her] in the form of an 80% [66 $\frac{2}{3}$ %] Participant and Spouse Pension with the Alternate Payee treated as the Participant's Qualified Surviving Spouse for purposes of entitlement to the Spouse Pension should the Participant die prior to the Alternate Payee. For purposes of determining eligibility for such Qualified Surviving Spouse benefits, the Alternate Payee and the Participant have satisfied the one year marriage requirement under Sections 401(a)(11) and 417(d) of the Code and as required under the terms of the Plan. At the Alternate Payee's death, no further benefits will be payable on his [her] behalf.

Option #2: The Participant's benefit will be paid to him [her] in the form of payment elected by the Participant. Payments to the Alternate Payee shall cease upon the death of the Participant unless the Alternate Payee was named as the Participant's beneficiary under an optional form of payment providing for a survivor benefit.

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

10. **Duration of Payments to Alternate Payee:** The Alternate Payee shall commence his [her] benefits under the Plan on the date the Participant commences his [her] benefits.

NOTE: In order to be qualified, the Order must specify when the Alternate Payee may begin to receive his or her assigned benefit and when such payments will cease. Under a Shared Payment QDRO, the Alternate Payee must begin to receive his or her assigned benefit when the Participant commences his or her benefits. The shared payment to the Alternate Payee must cease upon the Participant's death (see *Option #1* below), or earlier if the Order so specifies (see *Options #2* and *#3*, below). Upon the Participant's death, the Alternate Payee will receive no further payments unless he or she is designated as the Qualified Surviving Spouse for purposes of any surviving spouse benefit payable under the form of payment elected by the Participant or as the Participant's beneficiary under an optional form of payment that provides a survivor benefit.

Option #1: The Alternate Payee shall continue to receive his [her] share of the benefits for the remainder of his [her] lifetime, or until the death of the Participant, if earlier.

Option #2: The Alternate Payee shall continue to receive his [her] share of the benefits until [date], or until his [her] death or the death of the Participant, if earlier.

Option #3: The Alternate Payee shall continue to receive his [her] share of the benefits until [contingent event, e.g., the Alternate Payee remarries], or until his [her] death or the death of the Participant, if earlier.

11. **Post-Retirement Benefit Supplements:**

NOTE: From time to time, the Trustees may at their discretion set forth objective standards under which they will pay a one-time post-retirement benefit supplement to pensioners, Surviving Spouses, Alternate Payees, and/or beneficiaries. The terms of any such supplement (including eligibility standards, form, and amount) will be stated in a resolution. These discretionary, one-time benefit supplements are not a part of the Plan and are not to be relied upon.

The Alternate Payee shall receive any post-retirement benefit supplement for which he [she] may become eligible pursuant to a resolution adopted by the Board of Trustees.

- [12. **Death of Participant Before Benefit Commencement: Treatment of Alternate Payee as Qualified Surviving Spouse for Purposes of a Qualified Preretirement Survivor Annuity as Such Term is Defined in Section 417 of the Code:**

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

NOTE: The parties should be aware that if the Participant dies before the Alternate Payee begins to receive his or her assigned benefit, the Alternate Payee will have no entitlement to any benefits unless the Order provides that the Alternate Payee is to be treated as the Qualified Surviving Spouse of the Participant for purposes of all or a portion of the Preretirement Surviving Spouse Pension. The following is an example of such a provision.

In the event that the Participant predeceases the Alternate Payee, and neither the Participant nor the Alternate Payee has commenced their benefits under the Plan, the Alternate Payee shall be treated as the Qualified Surviving Spouse of the Participant for purposes of establishing the Alternate Payee's entitlement to surviving spouse benefits under the Preretirement Surviving Spouse Pension. Should such a benefit become payable to the Alternate Payee, upon application, he [she] shall be entitled to receive a lifetime annuity equal to 100% of the benefit that the Participant would have received if he [she] had retired and elected an 80% [66 $\frac{2}{3}$ %] Participant and Spouse Pension on the day before he [she] died, based on that portion of the Participant's benefit assigned to the Alternate Payee under this Order. For purposes of determining eligibility for such Qualified Surviving Spouse benefits, the Alternate Payee and the Participant have satisfied the one year marriage requirement under Sections 401(a)(11) and 417(d) of the Code and as required under the terms of the Plan.]

12. [13.] **Death of the Alternate Payee:** If the Alternate Payee predeceases the Participant, the Alternate Payee's portion of the Participant's benefits shall revert to the Participant.
13. [14.] **Federal Tax Reporting:** For purposes of federal income tax reporting, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution. The Plan Administrator will issue a Form 1099-R to the Alternate Payee at the end of each calendar year and report such income to the Internal Revenue Service under the Alternate Payee's name and social security number.
14. [15.] **Inadvertent Payment(s) to Plan Participant or Alternate Payee:** In the event that the Plan Administrator inadvertently pays to the Participant any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant shall immediately return such payments to the Plan Administrator. Upon receipt of repayment, the Plan Administrator shall issue an amended Form 1099-R to the Participant so that the Participant is not liable for any income taxes associated with the Alternate Payee's assigned share of the benefits. In the event that the Plan Administrator inadvertently pays to the Alternate Payee any benefits that are to remain with the Participant pursuant to the terms of this Order, the Alternate Payee shall immediately return such payments to the Plan Administrator. Upon receipt of repayment, the Plan Administrator shall issue an amended Form 1099-R to the Alternate Payee so that the Alternate Payee is not liable for any income taxes associated with the Participant's share of the benefits.

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

15. [16.] **Savings Clause:** This Order is not intended to, and shall not be construed in such a manner as to require the Plan:

(a) to pay any benefits not permitted under the Code or ERISA;

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

(c) to require the Plan to provide increased benefits, determined on the basis of actuarial value; or

(d) to require the payment of any benefits to the Alternate Payee that are required to be paid to another alternate payee under another order that was previously deemed to be a QDRO.

16. [17.] **Right to Amend:** It is the intention of the parties that this Order continue to qualify as a QDRO under the Code and ERISA, as either may be amended from time to time, and that the Plan Administrator reserve the right to reconfirm the qualified status of the Order at the time benefits become payable hereunder. The Court shall retain jurisdiction to establish and/or maintain the status of this Order as a QDRO.

SO ORDERED, this ____ of _____, 20__.

JUDGE

Plan Participant

Counsel for Plan Participant

Name/Firm _____

Address _____

Alternate Payee

Counsel for Alternate Payee

Name/Firm _____

Address _____

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ADDENDUM

The Participant's Date of Birth is _____.

The Participant's Social Security Number is ____-__-_____.

The Alternate Payee's Date of Birth is _____.

The Alternate Payee's Social Security Number is ____-__-_____.

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

Name: [_____]
Address: [_____]

The Participant's Date of Birth and Social Security Number appear in a separate addendum.

- 5. Alternate Payee Information: The name, last known mailing address, date of birth, and last four digits of the social security number of the "Alternate Payee" are:

Name: [_____]
Address: [_____]

The Alternate Payee's Date of Birth and Social Security Number appear in a separate addendum.

The Alternate Payee has the duty to notify the Plan Administrator in writing of any changes to his [her] mailing address subsequent to the entry of this Order.

- 6. Dates of Marriage and Divorce: The Participant and the Alternate Payee were married on [date] and were granted a divorce on [date].
- 7. Assignment of Benefits to Alternate Payee: This Order assigns a portion of the Participant's accrued benefit to the Alternate Payee as a separate entitlement payable for the Alternate Payee's lifetime. Payment of the Alternate Payee's portion of the benefit will be made directly to the Alternate Payee.
- 8. Formula for Determining Alternate Payee's Benefit:

NOTE: The sample formulas presented below are those commonly used in Domestic Relations Orders. The parties are not required to use any of the sample formulas below. To be qualified, however, the Order must contain one clear formula that instructs the Plan Administrator how to determine the Alternate Payee's portion of the Participant's benefit.

Option #1: This Order assigns to the Alternate Payee an amount equal to [_____] Percent ([XX]%) of the benefit accrued by the Participant from the date of marriage to the date of divorce, calculated as of the date of divorce. This assigned benefit shall be actuarially adjusted to reflect the Alternate Payee's life expectancy, commencement date, and elected form of payment.

Option #2: This Order assigns to the Alternate Payee an amount equal to [_____] Percent ([XX]%) of the benefit accrued by the Participant as of the date of divorce, calculated as of the date of divorce. This assigned benefit shall be actuarially adjusted to reflect the Alternate Payee's life expectancy, commencement date, and elected form of payment.

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Option #3: This Order assigns to the Alternate Payee an amount equal to [_____] ([XX]%) of the benefit accrued by the Participant, calculated as of the earlier of the Participant's Pension Effective Date or the Alternate Payee's Pension Effective Date. This assigned benefit shall be actuarially adjusted to reflect the Alternate Payee's life expectancy, commencement date, and elected form of payment.

Option #4: This Order assigns to the Alternate Payee an amount equal to [_____] Percent ([XX]%) of the marital portion of the Participant's accrued benefit as of the Participant's Pension Effective Date, or the Alternate Payee's Pension Effective Date, if earlier. The marital portion shall be a fraction, the numerator of which is the number of Pension Credits the Participant accrued during the marriage, and the denominator of which is the total number of Pension Credits accrued by the Participant at the Participant's Pension Effective Date, or the Alternate Payee's Pension Effective Date, if earlier. This assigned benefit shall be actuarially adjusted to reflect the Alternate Payee's life expectancy, commencement date, and elected form of payment.

9. **Form of Payment to Alternate Payee:** The Alternate Payee may elect to receive his [her] assigned benefit in any one of the benefit distribution options permitted under the terms of the Plan, other than a joint and survivor annuity with a subsequent spouse. Any actuarial adjustment necessary to convert the Alternate Payee's benefit to his [her] own life expectancy will be applied to his [her] share of the benefits.

10. **Duration of Payments to Alternate Payee:**

NOTE: In order to be qualified, the Order must specify when the Alternate Payee may begin to receive his or her assigned benefit and when payments will cease. Under a Separate Interest QDRO, the Alternate Payee may elect to start receiving his or her assigned benefit at any time on or after the date the Participant is eligible to start receiving benefits, i.e. the Participant's "earliest retirement age." The Alternate Payee will continue to receive his or her assigned benefit based on the terms of the form of payment elected by the Alternate Payee, and the Participant's death will have no effect on the Alternate Payee's assigned benefit.

The Alternate Payee may, upon written application, elect to begin receiving his [her] assigned benefit at any time on or after the date the Participant reaches the "earliest retirement age" as such term is defined in accordance with Section 414(p) of the Code, even if the Participant has not separated from service at that time. Code Section 414(p) defines "earliest retirement age" as the earlier of (i) the date on which the Participant is entitled to a distribution under the Plan or (ii) the later of (I) the date the participant attains age 50, or (II) the earliest date on which the participant could begin receiving benefits under the Plan if the Participant separated from service. Notwithstanding the above, the Alternate Payee shall commence his [her] share of the benefits no later than the Participant's Required Beginning Date. The Alternate Payee shall continue to receive his [her] benefits

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until the Alternate Payee's entire benefit has been distributed under the terms of the benefit option elected by the Alternate Payee.

11. **Early or Delayed Retirement Subsidies:** Should the Alternate Payee elect to begin receiving his [her] assigned benefit before the Participant's Pension Effective Date, the Alternate Payee shall not be entitled to any early retirement subsidies to which the Participant later becomes entitled. If the Alternate Payee has not begun receiving his [her] assigned benefit before the Participant's Pension Effective Date, the Alternate Payee shall be entitled to a pro rata share of any early retirement subsidies to which the Participant is otherwise entitled.

Should the Alternate Payee elect to begin receiving his [her] assigned benefit after the Participant's Normal Retirement Date, the Alternate Payee shall not be entitled to any delayed retirement subsidies to which the Participant has or may later become entitled.

12. **Post-Retirement Benefit Supplements:**

NOTE: From time to time, the Trustees may at their discretion set forth objective standards under which they will pay a one-time post-retirement benefit supplement to pensioners, Surviving Spouses, Alternate Payees, and/or beneficiaries. The terms of any such supplement (including eligibility standards, form, and amount) will be stated in a resolution. These discretionary, one-time benefit supplements are not a part of the Plan and are not to be relied upon.

The Alternate Payee shall receive any post-retirement benefit supplement for which he [she] may become eligible pursuant to a resolution adopted by the Board of Trustees.

13. **Death of the Participant:** The death of the Participant, either before or after commencement of payment to the Alternate Payee, shall have no effect on the Alternate Payee's assigned benefit.
14. **Death of the Alternate Payee:** If the Alternate Payee predeceases the Participant before commencement of the Alternate Payee's benefits, the Alternate Payee's portion of the Participant's benefits shall revert to the Participant. In the event the Alternate Payee dies after his [her] benefits commence, survivor benefits, if any, will be paid in accordance with the form of payment elected by the Alternate Payee and will be payable to his [her] designated beneficiary[ies].
15. [15. [16.] **Federal Tax Reporting:** For purposes of federal income tax reporting, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution. The Plan Administrator will issue a Form 1099-R to the Alternate Payee

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at the end of each calendar year and report such income to the Internal Revenue Service under the Alternate Payee's name and social security number.

16. [17.] **Inadvertent Payment(s) to Plan Participant or Alternate Payee:** In the event that the Plan Administrator inadvertently pays to the Participant any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant shall immediately return such payments to the Plan Administrator. Upon receipt of repayment, the Plan Administrator shall issue an amended Form 1099-R to the Participant so that the Participant is not liable for any income taxes associated with the Alternate Payee's assigned share of the benefits. In the event that the Plan Administrator inadvertently pays to the Alternate Payee any benefits that are to remain with the Participant pursuant to the terms of this Order, the Alternate Payee shall immediately return such payments to the Plan Administrator. Upon receipt of repayment, the Plan Administrator shall issue an amended Form 1099-R to the Alternate Payee so that the Alternate Payee is not liable for any income taxes associated with the Participant's share of the benefits.
17. [18.] **Savings Clause:** This Order is not intended to, and shall not be construed in such a manner as to require the Plan:
- (a) to pay any benefits not permitted under the Code or ERISA;
 - (b) to provide any type or form of benefit or option not otherwise provided under the terms of the Plan;
 - (c) to require the Plan to provide increased benefits, determined on the basis of actuarial value; or
 - (d) to require the payment of any benefits to the Alternate Payee that are required to be paid to another alternate payee under another order that was previously deemed to be a QDRO.
18. [19.] **Right to Amend:** It is the intention of the parties that this Order continue to qualify as a QDRO under the Code and ERISA, as either may be amended from time to time, and that the Plan Administrator reserve the right to reconfirm the qualified status of the Order at the time benefits become payable hereunder. The Court shall retain jurisdiction to establish and/or maintain the status of this Order as a QDRO.

SO ORDERED, this ____ of _____, 20__.

JUDGE

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

Plan Participant

Counsel for Plan Participant

Name/Firm _____

Address _____

Alternate Payee

Counsel for Alternate Payee

Name/Firm _____

Address _____

The following is provided for helpful informational purposes only and should not be construed or relied on as legal advice provided by the Fund or the Board of Trustees.

ADDENDUM

The Participant's Date of Birth is _____.

The Participant's Social Security Number is ____-__-_____.

The Alternate Payee's Date of Birth is _____.

The Alternate Payee's Social Security Number is ____-__-_____.