

**QUALIFIED DOMESTIC RELATIONS ORDERS
AND THE NATIONAL PENSION FUND****INTRODUCTION**

The following supplies information concerning the allocation of benefits from the Plumbers and Pipefitters National Pension Fund ("National Pension Fund" or "Fund") in a divorce or other domestic relations proceeding. The Employee Retirement Income Security Act ("ERISA") provides that benefits may be allocated to a non-employee spouse, former spouse, child or other dependent of a Fund Participant by a "Qualified Domestic Relations Order" ("QDRO"). The individual who may receive such benefits is called an "Alternate Payee." The National Pension Fund may pay benefits directly to an Alternate Payee only in accordance with a Domestic Relations Order which has been determined by the Fund to be a QDRO. **It is the legal responsibility of the Fund to determine if a Domestic Relations Order is a QDRO. Therefore, any domestic relations order must be submitted to the Fund for review.**

There are many options to consider and many decisions that must be made by the parties in establishing a QDRO. To achieve your goals, it is strongly recommended that you read this entire booklet.

A Domestic Relations Order is any court order under a state domestic relations law which concerns separation, divorce, marital property rights, alimony or child support. A Domestic Relations Order is a QDRO with regard to the National Pension Fund if it creates or recognizes an Alternate Payee's right to receive all or a portion of the benefits payable to a Participant under the Fund's Plan of Benefits ("Plan"), contains the information required by ERISA, and does not alter the amount or form of benefits otherwise provided under the Plan. The Participant is the employee who is eligible to receive a benefit under the Plan. The Alternate Payee is a spouse, former spouse, child or other dependent of the Participant who is recognized by a Domestic Relations Order as having the right to receive all or a portion of the benefits payable under the Plan to the Participant.

A Domestic Relations Order must meet the following standards to qualify under ERISA:

- The Participant and any Alternate Payee to whom benefits may be payable must be specifically named and their last known mailing addresses must be included. Social Security Numbers of each party should be included as available.
- The order must clearly specify the Fund or Funds to which it applies.
- The order must require the Fund, or if more than one, each Fund separately, to make payments directly to the Alternate Payee.
- The order must clearly state *what amount or portion* the Fund, or if more than one, each Fund separately, is to pay to the Alternate Payee and *when* and *for how long* it is to be paid.
- The order may not require benefits to be paid to the Alternate Payee in a form not otherwise provided by the Fund in accordance with the Plan.
- The order may not require benefits, determined on the basis of actuarial equivalence, to be paid to the Alternate Payee which are greater than the total benefit which the Participant has earned.
- The order may not require benefits to be paid to the Alternate Payee which are already required to be paid to another Alternate Payee under a prior QDRO.

The Fund is not allowed to pay benefits to an Alternate Payee unless required to do so by a QDRO. Compliance with a QDRO is not a prohibited assignment or alienation of benefits under ERISA. A copy of

the ERISA provisions on Qualified Domestic Relations Orders [Section 206(d)] is provided as Addendum 1. The language in this addendum is identical to that found in Section 414(p) of the Internal Revenue Code.

There are two commonly used methods recognized by the National Pension Fund under which a QDRO can allocate benefits to an Alternate Payee: a "sharing" method providing a designated portion of the Participant's benefit to the Alternate Payee, and a "dividing" method providing a separate entitlement to the Alternate Payee. A description of each of these methods of allocation and a comparison between them are set out below.

Whether or not the Participant is in pay status—that is, has begun to receive a benefit from the Fund—at the time an order is submitted to the National Pension Fund will determine which of these methods should be used. Either method may be used prior to the Participant entering pay status, but **only the "sharing" method may be used after the Participant enters pay status.** To assist the parties in drafting a Domestic Relations Order that may be determined by the National Pension Fund to be a QDRO, two model QDROs are set out below, one for use prior to the Participant entering pay status, and one for use after the Participant enters pay status.

These models as presented herein represent examples of possible ways to prepare a QDRO. It should be recognized that these models include provisions for which other options are available to the parties as set out below, and thus may not suit the particular needs of the parties. The parties are free to write a QDRO to suit their particular needs, but it must satisfy the requirements of ERISA and be consistent with the provisions of the National Pension Fund's Plan of Benefits.

In accordance with ERISA, the Fund will review any adjudicated order received to determine whether it meets the requirements for a QDRO. We suggest that the parties consider sending the National Pension Fund a copy of any order in proposed form before it is entered by the court. The Fund's experience has been that many orders entered without prior review by the Fund Office are not qualified orders under ERISA. Orders that are not qualified will be rejected by the Fund and will have to be amended by the court. **No benefits can be paid in accordance with the provisions of a Domestic Relations Order until the Fund has determined that the order is "qualified."**

This information is designed to assist attorneys in the drafting of a Domestic Relations Order that will be qualified under ERISA and the National Pension Fund. A copy of the Fund's Procedures For Processing Domestic Relations Orders is provided as Addendum 2.

The Fund would like to point out that the information contained herein is not intended to be nor should it be construed as legal advice to Participants or prospective Alternate Payees. The National Pension Fund urges that the parties to a Domestic Relations Order consult their attorneys to ensure that their intentions and interests are accurately reflected in any order.

SENDING A DOMESTIC RELATIONS ORDER TO THE FUND OFFICE

An adjudicated Domestic Relations Order is an order which has been acted upon and entered in the court. A proposed domestic relations order is an order not yet entered in the court. The National Pension Fund reviews any original or court-certified copy of an adjudicated order. The Fund will also review proposed orders that have been submitted, provided that the proposed orders represent the intentions of both parties attested to by the signatures of their respective attorneys. If either party [or both] is not so represented by independent counsel, their acceptance must be represented by their own signature(s). Proposed orders which are not signed by both parties or their representatives will not be reviewed by the Fund.

Whenever an adjudicated Domestic Relations Order or an Application For Benefits is received while the other is in process, a determination on the Participant's application must be delayed until a final determination has been made on the "Qualified" status of the Domestic Relations Order. Thus, the

Participant's ability to elect the form of payment, as well as the actual payment of your benefits, will be delayed in order to determine the effect of the Qualified Domestic Relations Order on the Participant's benefits.

If an adjudicated Domestic Relations Order is received after the Participant is already in pay status, the portion of the Participant's benefit to be paid to the Alternate Payee will be withheld and separately accounted for with interest beginning with the first payment following receipt of the order. Such withholding will be for the earlier of a maximum period of 18 months, or until a final determination has been made on the "Qualified" status of the Domestic Relations Order. The Alternate Payee's portion will be calculated according to the form of payment received by the Participant. The balance of the Participant's benefit will continue to be paid to the Participant during this determination period.

If a proposed domestic relations order is received after the Participant is already in pay status, it will have no effect on the Participant's receipt of benefits. The Fund will continue to pay the Participant's total benefit until an adjudicated Domestic Relations Order is received.

If the Fund receives a proposed order or notice of divorce or separation proceedings and notice that a domestic relations order is proposed or pending, the Fund shall freeze the Participant's pending benefit application for 30 days to determine if an adjudicated domestic relations order is forthcoming and to what extent such an order may affect the Participant's benefit. If no adjudicated order is received within 30 days, the Fund may proceed with processing the application for benefits, or, if the Fund determines that an adjudicated order may be forthcoming, it may extend the freeze on the Participant's benefit application for up to an additional 60 days. If there is any reasonable doubt or conflicting claims about the existence of or the effect of a domestic relations order or a proposed domestic relations order, the Fund may freeze the Participant's benefit for such time as is necessary to resolve any outstanding legal issues or interests of affected parties.

If the Fund makes a final determination that a domestic relations order is a Qualified Domestic Relations Order, and the parties submit a new adjudicated domestic relations order at a time before benefits have been paid under the order first submitted, the newly submitted order shall serve to nullify the existence of the order previously submitted and found to be a Qualified Domestic Relations Order. If a Qualified Domestic Relations Order has been established and the parties have gone into pay status, a newly submitted order can serve only to change the apportionment between the parties of the amounts payable under the order. For a newly submitted order to have such effect, it must satisfy the requirements for a Qualified Domestic Relations Order.

Adjudicated orders and proposed orders bearing the necessary signatures should be sent to:

Fund Administrator
Plumbers and Pipefitters National Pension Fund
103 Oronoco Street
Alexandria, VA 22314-2047

THE NATIONAL PENSION FUND IS A MULTIEMPLOYER, DEFINED BENEFIT PLAN

The first step in drafting a QDRO is to identify the type of pension plan in which the employee is participating. The National Pension Fund maintains a multiemployer, defined benefit plan that is funded exclusively by employer contributions. A defined benefit plan provides a formula for calculating an individual's pension at retirement. It does not maintain individual accounts into which contributions are made.

The National Pension Fund provides retirement benefits to employees who work for employers that contribute to the Plan. Employers make contributions for each hour worked by the employees under a collective bargaining agreement. Coverage is not based on union membership; rather, it is based on

hours worked in employment covered by the Plan. Covered employees do not make contributions to the Fund themselves, and they do not have individual accounts in the Fund.

Employees accumulate credited service under the Plan based upon their years of employment covered by the Plan. Eligibility for benefits and the amount of those benefits are determined by an employee's credited service under the Plan, his or her age at retirement, and the contribution rate of his or her employers.

Because the National Pension Plan is a defined benefit plan, the QDRO will not be dividing money held in an individual account. Rather, the QDRO will allocate portions of the Participant's accrued benefit (based on years of service under the Plan) between the Participant and the Alternate Payee. QDROs use either the Sharing or Dividing Method to allocate the Participant's benefit. Both methods are discussed below, after an explanation of the use of formulas to apportion benefits. Finally, an explanation is provided as to when benefits to the Alternate Payee can commence.

It is strongly suggested that prior to formulating a Domestic Relations Order, the parties and their legal counsel review the Participant's pension status with the Fund. The Participant or his legal counsel is advised to make a written request to the Fund Office for information about his status. Specific information about a Participant, such as benefit amount, cannot be provided by telephone. Additionally, such information cannot be provided to the Alternate Payee or her legal counsel without the written authorization of the Participant. Should the Alternate Payee or her legal counsel be unable to obtain the consent of the Participant, the Fund could release specific information about pension status only by court order through a subpoena.

On the date of the Participant's death, rights to benefits vest immediately in individuals other than the Participant. If within 60 days after the death of the Participant, the Fund has not received a Qualified Domestic Relations Order that was entered prior to the date of the Participant's death, 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 order entered prior to the death of the Participant, the Fund will not modify or reverse any payments made as a result of the Participant's death. Generally, the Fund will not honor any domestic relations orders that are entered after the date of the Participant's death.

BENEFIT ALLOCATION FORMULAS

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 dollar amount to the Alternate Payee. However, since the Participant often will not know his benefit entitlement at the time a Domestic Relations Order is entered by the court, use of a specific dollar amount is often not 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 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 fraction of the Participant's benefit at retirement based on the credited service accumulated by the Participant during the term of the marriage. The fraction shall be computed by using as the numerator, the amount of credited service accumulated in the Plan during the marriage, and as the denominator, the total amount of credited service under the Plan at the time of the Participant's retirement, or at the time the Alternate Payee elects to receive a benefit.

- The Alternate Payee shall receive a monthly benefit equal to 50% of the monthly benefit payable to the Participant based upon the Participant's years of service in the Plan as accumulated as of the date of the order.
- 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.

While the above formulas use an apportionment of 50% of the Participant's benefit as a means to determine the Alternate Payee's benefit, this percentage is not mandated. 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. For an order to be a Qualified Domestic Relations Order, the Alternate Payee's percentage must be greater than 0%, but no greater than 100%.

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 is consistent with the provisions of the National Pension Fund's Plan of Benefits.

The Fund's job is to determine if the formula in the order is specific and clear enough that the Fund 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.

Language such as "account," "account balance," "amounts held," "interest accrued," or "present value" is inappropriate when referring to a defined benefit plan and should not be used. As noted above, the National Pension Plan is *NOT* a thrift or savings plan, an individual account plan, a profit sharing plan, a money purchase plan or a defined contribution plan into which specified amounts are paid into separate accounts by or on behalf of each Participant.

The order cannot provide for a lump sum payout or a loan. Orders that do provide for a lump sum payout or a loan will be rejected. Lump sum payments under the Plan are limited to those where the actuarial present value of the Participant's full defined benefit at the time of the distribution is \$10,000 or less, regardless of the amount awarded to either party under the terms of the QDRO.

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.

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 National Pension Fund's Board of Trustees and the various investment managers who are fiduciaries to the Plan.

DESCRIPTION OF THE SHARING METHOD

The Sharing Method gives the Alternate Payee a share of the Participant's benefit, which can be expressed either as a flat dollar amount monthly or a percentage of the Participant's monthly benefit. Under the Sharing Method, the Alternate Payee does not have the right to choose the form in which the benefit will be paid. Rather, the Alternate Payee is entitled to receive a portion of the benefit payable in the form selected by the Participant.

If the Participant is already receiving a benefit from the Fund at the time the QDRO is established, the order **must** use the Sharing method. If the Participant has not yet begun to receive a benefit from the Fund when the QDRO is being established, then either the Sharing Method or the Dividing Method (discussed below) can be used in the QDRO.

ERISA requires that to be a QDRO, an order must 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 the designated share of the Participant's pension and when such payments will cease. For example, the order can provide the Alternate Payee with a benefit payable for the Participant's lifetime, or for a specific period, such as until a child reaches maturity or until the Alternate Payee remarries.

If the order allows the Alternate Payee to begin receipt of the designated portion of the Participant's benefit at any time once the Participant reaches the Plan's earliest retirement age, the order must also state the form in which the benefit is to be paid.

The shared payment to the Alternate Payee ceases upon the Participant's death, unless the Alternate Payee also has a share of the Participant's lifetime pension based upon being recognized as the Participant's Surviving Spouse. Designation as a Surviving Spouse means that if the Participant dies before the Alternate Payee, the Alternate Payee will continue to receive a benefit for life, provided that the Participant's benefit is being paid in a form providing survivor benefits.

There are several options concerning the Alternate Payee's status as a Surviving Spouse. The order can provide that the Alternate Payee is the Surviving Spouse for the purposes of the joint-and-survivor benefit payable if the Participant dies after beginning to receive a benefit from the Plan. This option is known as the Post-Retirement Surviving Spouse Pension. Alternatively, the Alternate Payee can be recognized as the Surviving Spouse for the benefit payable if the Participant dies prior to receiving a benefit. This option is known as the Preretirement Surviving Spouse Pension. Finally, the Alternate Payee can be recognized as the Surviving Spouse for both purposes. The order should specifically state for what purpose the Alternate Payee is designated as the Surviving Spouse, and whether for the portion payable to the Alternate Payee under the order, or for the Participant's entire benefit.

The parties should note that if the Alternate Payee is named as the 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 is not designated as a 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 surviving spouse for the Preretirement Surviving Spouse Pension, and if the Participant dies before the Alternate Payee has begun receiving a benefit, no benefits will be paid under the QDRO.

Under the Sharing 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 reverts to the Participant unless the order names a successor Alternate Payee from a category of individuals qualified to be an Alternate Payee under the law. Individuals qualified to be successor Alternate Payees include a spouse, former spouse, child or dependent of the Participant. However, a successor Alternate Payee may not be named for joint and survivor benefits payable to the Alternate Payee as Surviving Spouse.

DESCRIPTION OF THE DIVIDING METHOD (SEPARATE ENTITLEMENT)

The Dividing 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 Dividing Method essentially takes the whole benefit which a Participant accrues for a specific period of time, such as the duration of the parties' marriage, and creates two separate benefits. In contrast to the Sharing Method, under the Dividing Method the Alternate Payee is granted a separate entitlement to a benefit under the Plan. Likewise, the Participant then receives the remaining portion 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. The dividing method is NOT available if the Participant is already receiving a benefit from the Fund.

ERISA requires that to be a QDRO, an order must specify the time period or number of payments to which it applies. When the Dividing Method is used, this requirement may be satisfied by stating when

payments to the Alternate Payee are to begin. While it is not necessary that the order indicate the specific form in which benefits are to be paid, the order should contain language stating that the Alternate Payee can elect to receive her portion of the benefit in any form available under the Plan, with the exception of a joint-and-survivor benefit payable with a subsequent spouse. Likewise, unless the parties intend for the Alternate Payee to receive survivor benefits from the Participant's benefit, the Participant retains all rights to elect any form of payment available under the Plan, including a joint-and-survivor benefit, if applicable.

The order can also permit the Alternate Payee to elect to receive benefits at any time after the Participant has reached the Fund's earliest retirement age, even if the Participant has not yet chosen to retire. With the Dividing Method, when the Alternate Payee goes into pay status, a beneficiary may be named to receive the survivor benefit provided under the form of the benefit elected by the Alternate Payee. The Alternate Payee's estate may be designated as a beneficiary. However, as noted above, the Alternate Payee cannot select a joint-and-survivor benefit with a subsequent spouse.

It is important to remember that the source of the Alternate Payee's benefit under the Dividing Method is derived from the Participant's accrued benefit. Thus, if the Participant dies before any payments have begun to the Alternate Payee under the Dividing Method, *i.e.*, before the benefit is "divided," the Alternate Payee will be entitled to a benefit only if named as a Surviving Spouse for purposes of the Preretirement Surviving Spouse Pension. The benefit received by the Alternate Payee in this situation will not be the portion of the divided pension allocated to the Alternate Payee under the order. Rather, the Alternate Payee will receive a Preretirement Surviving Spouse Pension payable for life based on the portion of the benefit assigned by the order, determined as the spousal portion of the 100% Husband and Wife Pension.

The order can also provide that the Alternate Payee be treated as a Surviving Spouse for limited purposes under the Plan. If the Dividing Method is used, the Alternate Payee may *not* receive a Surviving Spouse benefit based on the portion of the accrued benefit used to calculate the Alternate Payee's lifetime benefit. However, if the parties intend for the Alternate Payee to be provided with survivor benefits from the Participant's benefit, the order may require the Participant's benefit to be paid in a joint-and-survivor form so that the Alternate Payee may receive a Surviving Spouse benefit based on the portion of the benefit that is divided and allocated to the Participant. The parties should note that if the Alternate Payee is the Surviving Spouse based on the entire portion of the benefit that is divided and allocated to the Participant, any subsequent spouse of the Participant will not receive a benefit upon the Participant's death.

One consequence of the use of the Dividing Method is that if the Alternate Payee dies after commencement of 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 or the Alternate Payee names the Participant as a beneficiary. Any benefits payable upon the death of the Alternate Payee based on the benefit form elected would be payable to the Alternate Payee's designated beneficiary. On the other hand, if the Alternate Payee dies before receiving any benefits, then the Alternate Payee's share will revert to the Participant, unless the order names a Successor Alternate Payee from a category of individuals qualified to be an Alternate Payee under ERISA. Individuals qualified to be Successor Alternate Payees include a spouse, former spouse, child or dependent of the Participant. For a QDRO to name a successor Alternate Payee, it must state their name, address, date of birth and relationship to the Participant. The Alternate Payee's estate cannot be named in the QDRO as a Successor Alternate Payee.

COMMENCEMENT OF BENEFITS TO THE ALTERNATE PAYEE

With the exception of benefits payable in accordance with a determination of disability, benefits to the Alternate Payee may not begin until the Participant attains the earliest retirement age under the Plan, which is age 55. After that time, in accordance with the requirements of the order, they may begin at any

of the below noted times. In addition, except as noted below, payments to the Alternate Payee will not commence until the required application process has been completed.

When Participant Retires

If the Alternate Payee is not entitled to benefits prior to the Participant's Effective Date of Benefits, or has chosen not to submit an application prior to the Participant's Effective Date of Benefits, she automatically becomes entitled to benefits on the Effective Date of the Participant's Pension. In such a situation, she is not required to submit a separate application. When the Participant's application is processed she will be advised and will be sent the documents necessary to commence payment of her portion of the benefit. If the QDRO uses the Sharing Method, the Alternate Payee's benefit will commence simultaneously with the Participant. However, as noted below, if the QDRO uses the Dividing Method, the Alternate Payee may delay payment of her benefit until a date that is not later than the April 1st following the Calendar Year that the Alternate Payee reaches age 70½.

When Participant is in Pay Status

In accordance with federal law, if a Domestic Relations Order is received concerning a Participant who is already receiving benefits, that portion of his benefit which is specified in the order for payment to the Alternate Payee will be withheld with interest. Withholding begins as of the first payment following receipt of the order. Even if the order is later determined not to be a QDRO, the Fund will continue to withhold the specified portion of the Participant's benefit for a period not to exceed 18 months from the date withholding began. This period gives the parties sufficient time to amend and submit an order which can be determined to be a QDRO. Should an acceptable order be submitted within the withholding period, the month in which withholding began becomes the Alternate Payee's Effective Date of Benefits, unless the order says otherwise.

Upon the Fund's determination that the order is not a QDRO, the Alternate Payee and Participant (and their legal representatives) 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 sent to the parties. If at the end of this 90-day period, the parties have neither appealed the Fund's determination nor amended the order, 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 (and their legal representatives) 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's DRO Determination Response Form will be sent to both parties (and their legal representatives). The Fund cannot commence payment to the Alternate Payee for a period of 90 days from the date of the determination letter without the consent of both parties. Payment to the Alternate Payee will commence upon the occurrence of the earlier of the Fund's receipt of a signed Response form from both parties, or upon the expiration of this 90-day period.

When Participant Has Attained Early Retirement Age But Has Not Retired

An Alternate Payee who has been awarded an entitlement to benefits may submit an Alternate Payee Application form at any time after the Participant attains the Fund's earliest retirement age of 55, even if the Participant has not yet retired, provided that the QDRO gives her the right to begin receiving benefits at that time and identifies the benefit form in which she is to share. In such a case, the Fund will make a determination of the Alternate Payee's entitlement to benefits, advise her in writing, and forward the documents necessary to commence payment of benefits to her. The Alternate Payee's Effective Date of Benefits will be determined to be the first day of the month after the month in which 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 Participant Has Attained Mandatory Retirement Age But Has Not Retired

In accordance with 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 Required Beginning Date. If a Qualified Domestic Relations Order provides that the Alternate Payee will share in the benefit payable to the Participant, then payment of benefits to the Alternate Payee will commence no later than the Participant's Required Beginning Date. If the Qualified Domestic Relations Order provides that the Alternate Payee will have a separate entitlement to a portion of the benefit otherwise payable to the Participant, then payment of benefits to the Alternate Payee will commence no later than the Alternate Payee's Required Beginning Date.

EARLY RETIREMENT SUBSIDY

Normal Retirement Age for Participants under the Plan is age 65. An Alternate Payee may elect to receive benefits prior to the time the Participant has elected to retire if this is provided by the QDRO. However, except when the Participant receives a Disability Pension, the Alternate Payee's benefits may *NOT* be paid prior to the Participant's earliest retirement age (age 55). Furthermore, any benefit paid to an Alternate Payee prior to the Participant's retirement will not include an Early Retirement subsidy. In such cases, if the Participant subsequently retires and receives an Early Retirement subsidy and if as stated below the Alternate Payee is to receive a portion of the subsidy, the Alternate Payee's benefit will be recalculated accordingly.

If the QDRO uses the Sharing Method, then the Alternate Payee will have an entitlement to a portion of any early retirement subsidy payable to the Participant, unless the QDRO states otherwise. If the QDRO uses the Dividing Method, then the Alternate Payee will **not** have an entitlement to the subsidy, unless the QDRO expressly provides this right.

The amount of the Alternate Payee's entitlement will be proportionate to the portion of the benefit assigned to the Alternate Payee by the order, unless the order otherwise expressly states a different percentage or amount of subsidy. When the Alternate Payee's benefit is paid in the form of a separate entitlement, any early retirement subsidy received will be actuarially adjusted.

PENSIONER INCREASES

From time to time the Plan's Board of Trustees provides increases to benefit recipients in pay status. If the QDRO uses the Sharing Method, then the Alternate Payee will have an entitlement to a portion of any future benefit increases payable to the Participant, unless the QDRO states otherwise. If the QDRO uses the Dividing Method, then the Alternate Payee will **not** have an entitlement to any future benefit increases, unless the QDRO expressly gives her this right.

The amount of the Alternate Payee's entitlement to a portion of any future benefit increases payable to the Participant will be proportionate to the portion of the benefit assigned to the Alternate Payee by the order, unless the order otherwise expressly states a different portion of such increases. When the Alternate Payee's benefit is paid in the form of a separate entitlement, any future benefit increase received will be based on the actuarially adjusted payment received by the Alternate Payee.

SUMMARY COMPARISON OF THE "SHARING" VERSUS THE "DIVIDING" METHODS

Sharing

1. Alternate Payee will receive a portion of the Participant's benefit and cannot choose to receive a benefit in a separate form.
2. The order may designate the Alternate Payee as the Surviving Spouse for either or both the Preretirement and Post-Retirement Surviving Spouse Pensions. The order must specify which applies and for what portion of the benefit payable.
3. The order may designate the Alternate Payee as the Surviving Spouse for the Post-Retirement Surviving Spouse Pension based upon Participant's entire benefit.
4. If the Alternate Payee dies before the commencement of benefits to either party, the Alternate Payee's benefit reverts to the surviving Participant unless the order names a successor Alternate Payee.
5. If the Alternate Payee dies after the commencement of benefits to either party, the Alternate Payee's benefit reverts to the surviving Participant unless the order names a successor Alternate Payee.
6. Alternate Payee's benefit may be for the lesser of the life of the Participant or the Alternate Payee or for a specified time, such as remarriage or a child reaching majority.
7. The Alternate Payee's benefit may, upon application, begin prior to the Participant's benefit provided the order identifies the benefit form in which the Alternate Payee is to share; otherwise, it will begin on the date the Participant's benefit begins.

NOTE: THE SHARING METHOD MAY BE USED FOR ALL PARTICIPANTS, REGARDLESS OF PAY STATUS.

Dividing (Separate Entitlement)

1. The Alternate Payee has the right to choose the form of benefit, other than a joint-and-survivor form with a subsequent spouse.
2. The order may designate the Alternate Payee as the Surviving Spouse for the Preretirement Surviving Spouse Pension based upon Participant's entire benefit if the Participant dies before the effective date of the Alternate Payee's benefits. If the Participant dies after the effective date of the Alternate Payee's benefits, the Preretirement Surviving Spouse Pension must be based only on the portion of the pension remaining to Participant.
3. The order may designate the Alternate Payee as Surviving Spouse for the Post-Retirement Surviving Spouse Pension, but only for the portion of the benefit remaining to the Participant after the whole benefit is divided.
4. If the Alternate Payee dies before the commencement of benefits to either party, the Alternate Payee's benefit reverts to the Participant unless the order names a successor Alternate Payee.
5. If the Alternate Payee dies after the commencement of benefits to the Alternate Payee, any survivor benefits payable on behalf of the Alternate Payee will be made to the Alternate Payee's designated beneficiary.
6. Alternate Payee's benefit is payable for Alternate Payee's life.
7. The Alternate Payee's benefit may, upon application, begin prior to the Participant's benefit; otherwise, it will begin on the date the Participant's benefit begins. However, the Alternate Payee may also elect to receive her benefits at a time later than the Participant does, but no later than after attaining age 70½.

NOTE: THE DIVIDING METHOD CANNOT BE USED FOR PARTICIPANTS WHO ARE ALREADY IN PAY STATUS.

MODEL QDRO — PARTICIPANT NOT YET IN PAY STATUS

In the _____ Court of _____,
State of _____

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

QUALIFIED DOMESTIC RELATIONS ORDER

THIS MATTER comes on for hearing this _____ day of _____, 20_____, in accordance with the agreement of the parties herein. The following disposition is made of the Participant's pension benefit through his/her participation in the pension plan named below:

**Plumbers and Pipefitters National Pension Fund
103 Oronoco Street
Alexandria, VA 22314-2047
Plan Administrator: William T. Sweeney, Jr.
Employer Identification No. 52-6152779**

1. **Plan Participant Information:** The Plan Participant is _____ (name) _____, whose current mailing address is _____. His/her date of birth is _____, and his Social Security Number is _____.
2. **Alternate Payee Information:** The Alternate Payee is _____ (name) _____, whose current mailing address is _____. Her/his date of birth is _____, and her/his Social Security Number is _____.
3. **Date Of Marriage And Divorce:** The Plan Participant and the Alternate Payee were married on _____, and were granted a divorce on _____.
4. **Assignment Of Benefits To Alternate Payee:** The Alternate Payee is hereby assigned a portion of the pension benefit that would otherwise be payable to the Plan Participant. The Fund is to make payment of the Alternate Payee's benefit directly to her.
5. **Formula For Determining Alternate Payee Benefit:** The Fund shall determine the Alternate Payee's portion of the Participant's benefit as follows:

Instructions: There are three sample formulas listed below which are commonly used in domestic relations orders. To be qualified, the order must contain ONE formula which will instruct the Fund in how to determine the Alternate Payee's portion of the Participant's benefit. All three formulas are acceptable for use in either the dividing or sharing method of division. The parties are NOT required to use any of the sample formulas, nor must the percentage assigned to the Alternate Payee be 50%. The parties may use any formula, provided it is calculable under the Plan. Please refer to page 4 of this booklet for further information.

$$50\% \times \frac{\text{Pension Credit Accrued During Marriage}}{\text{Total Pension Credit On Effective Date}} \times \text{Benefit Amount On Effective Date}$$

OR

50% of the benefit accrued by the Participant from the date of marriage to the date of divorce

OR

50% of the benefit accrued by the Participant at retirement

6. **Form Of Payment To Alternate Payee:** The Alternate Payee shall receive her/his benefit as

Instructions: There are two commonly used methods for dividing the Participant's benefit. The parties must decide whether they wish to assign the Alternate Payee a share of the Participant's pension [use language in first box] or a separate entitlement [use language in second box]. Please refer to pages 5 and 6 of this booklet for further details about each method.

If the parties choose, the order can give the Alternate Payee the right to Post-Retirement Surviving Spouse Benefits. Thus, even if the order used the Sharing Method and the Participant predeceased the Alternate Payee after starting to get benefits, if the order gave the Alternate Payee an entitlement to a Post-Retirement Surviving Spouse Pension, she/he would continue to receive a benefit for her/his life. Please see page 6 of the booklet for more information.

a share of each payment to which the Plan Participant is entitled. The portion of the Participant's benefit assigned to the Alternate Payee through this Qualified Domestic Relations Order will be paid to her/him in the 50% Husband and Wife Pension form with the Alternate Payee treated as the Participant's Qualified Spouse for purposes of entitlement to the Surviving Spouse Pension should the Participant die prior to the Alternate Payee. At her/his death, no further benefits will be payable on the Alternate Payee's behalf.

OR

a separate entitlement, payable for her/his lifetime. The Alternate Payee may choose to have her/his benefit paid in any form available to her/him under the Plan, with the exception of the 50% Husband and Wife Pension, the 100% Husband and Wife Pension, or the 50% Joint and Survivor Pension with a subsequent spouse. Survivor benefits, if any, will be paid in accordance with the form of payment elected by the Alternate Payee and will be payable to her/his designated beneficiary(ies).

7. **Form Of Payment For Participant:** The Participant may elect any form of payment available to him/her under the Plan for the portion of his/her benefit not assigned to the Alternate Payee under this order. This entitlement includes the right to elect a Surviving Spouse form of payment for a subsequent spouse.

8. **Commencement Of Payments To Alternate Payee:** The Alternate Payee may, upon written application, choose to begin receiving her/his portion of the Participant's benefit at any time after the Participant becomes eligible to receive benefits. Should the Alternate Payee die prior to establishing an Effective Date of Benefits, her/his portion will revert to the Participant. If the Alternate Payee has not entered pay status prior to the Participant establishing an Effective Date for his/her benefit, she/he will begin receiving her/his portion of the Participant's benefit as of his/her Effective Date of Benefits.

Important Information about Payments to Alternate Payee – Paragraph 8: If the order uses the Sharing Method, for the Alternate Payee to begin receiving benefits before the Participant, the order must identify the benefit form in which she/he is to share. In addition, if the order uses the Sharing Method, it can provide for a shorter period of payments to the Alternate Payee than until the earlier of the Participant's or Alternate Payee's death. For example, it can provide that payments to the Alternate Payee will cease upon her/his remarriage. If the order uses the Dividing Method, the Alternate Payee can start to receive benefits at any time once the Participant becomes eligible to do so, and she must start to receive benefits by her/his Required Beginning Date. Please see page 7 of the booklet for more information.

9. **Early Retirement Subsidy:** Should the Alternate Payee choose to begin receiving her/his benefit prior to the time the Participant submits an application and establishes an Effective Date of Benefits, she/he will not be entitled at that time to any early retirement subsidy for which the Plan Participant may later become entitled. If she/he has not entered pay status prior to the Participant establishing an Effective Date for his/her benefit, the Alternate Payee [use EITHER *will* OR *will not*] be entitled to any Early Retirement Subsidy attributable to her/his proportional entitlement for which the Participant is otherwise eligible.

Important Information about the Early Retirement Subsidy – Paragraph 9: The order should state whether or not the Alternate Payee is to be entitled to the Early Retirement Subsidy. Although Paragraph

9 of this model order is not required, if the order uses the Sharing Method, the Alternate Payee will have an entitlement to the early retirement subsidy **unless** the order says that she/he does not have an entitlement to it. If the order uses the Dividing Method, the Alternate Payee will not have an entitlement to the subsidy **unless** the order explicitly says that she/he is to have an entitlement to it. The amount of the Alternate Payee's entitlement to the subsidy will be proportionate to her/his portion of the benefit, unless the order says otherwise.

10. **Pensioner Increases:** After the Participant enters pay status, the Alternate Payee [use EITHER *will* OR *will not*] be entitled to any benefit improvements attributable to her/his proportional entitlement for which the Participant is otherwise eligible.

Important Information about Pensioner Increases – Paragraph 10: The order should state whether or not the Alternate Payee is to be entitled to future pensioner increases. Although Paragraph 10 of this model order is not required, if the order uses the Sharing Method, the Alternate Payee will have an entitlement to a proportionate amount of such increases **unless** the order says that she/he does not have an entitlement to them. If the order uses the Dividing Method, the Alternate Payee will not have an entitlement to such increases **unless** the order explicitly says that she/he is to have an entitlement to them.

11. **Preretirement Surviving Spouse Pension:** In the event the Participant dies prior to the date the Alternate Payee establishes her/his Effective Date of Benefits, the Fund shall treat her/him as the Qualified Surviving Spouse of the Participant for purposes of the Preretirement Surviving Spouse Pension. Should such a benefit become payable to the Alternate Payee, upon application, she/he shall be entitled to receive a 100% Husband and Wife Pension payable for her/his life, based on that portion of the Participant's benefit set out in Paragraph 5 of the order.

Important Information about the Preretirement Surviving Spouse Pension – Paragraph 11: Neither the Retirement Equity Act nor the National Pension Fund require that an Alternate Payee be treated as the Surviving Spouse of the Participant for Preretirement Surviving Spouse Annuity purposes. Thus, Paragraph 11 of this model order is not required. However, the parties should be aware that in a defined benefit plan such as this one, should the Participant die prior to the Alternate Payee beginning to receive her/his portion, she would have no entitlement to benefits under the domestic relations order unless the Fund is required to treat her/him as a Qualified Spouse for purposes of the Preretirement Surviving Spouse Pension.

The order may designate the Alternate Payee as the Surviving Spouse for the Preretirement Surviving Spouse Pension based upon the Participant's entire benefit if the Participant dies before the effective date of the Alternate Payee's benefits. If the Participant dies after the effective date of the Alternate Payee's benefits, but before his/her Effective Date of Benefits, the Preretirement Surviving Spouse Pension must be based only on the portion of the pension remaining to the Participant. Should the

Alternate Payee be granted such Preretirement Surviving Spouse Pension benefits, there would be no survivor benefits payable to the Participant's surviving spouse at the time of his/her death.

12. **Federal Tax Reporting:** For Federal income tax purposes, the Alternate Payee and not the Plan Participant shall be treated as the distributee of all benefits made by the Fund to the Alternate Payee pursuant to this order. The Fund will issue a 1099R to the Alternate Payee at the end of each calendar year and report such income to the IRS under the Alternate Payee's name and Social Security Number.

13. **Right To Amend:** The Court retains jurisdiction over this matter to amend this order if necessary to establish or maintain its qualification as a Qualified Domestic Relations Order under the Retirement Equity Act and the rules of the Plumbers and Pipefitters National Pension Fund.

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

Judge

Plan Participant

Attorney for Participant/Address

Alternate Payee

Attorney for Alternate Payee/Address

MODEL QDRO — PARTICIPANT ALREADY IN PAY STATUS

In the _____ Court of _____,
State of _____

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

QUALIFIED DOMESTIC RELATIONS ORDER

THIS MATTER comes on for hearing this _____ day of _____, 20_____, in accordance with the agreement of the parties herein. The following disposition is made of the Participant's pension benefit through his/her participation in the pension plan named below:

Plumbers and Pipefitters National Pension Fund
103 Oronoco Street
Alexandria, VA 22314-2047
Plan Administrator: William T. Sweeney, Jr.
Employer Identification No. 52-6152779

1. **Plan Participant Information:** The Plan Participant is _____ (name) _____, whose current mailing address is _____. His/her date of birth is _____, and his/her Social Security Number is _____. He/she retired on _____, and is receiving a monthly pension from the Plumbers and Pipefitters National Pension Fund. His/her benefit is payable for his/her lifetime.
2. **Alternate Payee Information:** The Alternate Payee is _____ (name) _____, whose current mailing address is _____. Her/his date of birth is _____, and her/his Social Security Number is _____.
3. **Date Of Marriage And Divorce:** The Plan Participant and the Alternate Payee were married on _____, and were granted a divorce on _____.
4. **Assignment Of Benefits To Alternate Payee:** The Alternate Payee is hereby assigned a portion of the pension benefit that the Participant is currently receiving. The Fund is to make payment of the Alternate Payee's benefit directly to her.

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

Instructions: There are three sample formulas listed below which are commonly used in domestic relations orders. To be qualified, the order must contain ONE formula which will instruct the Fund in how to determine the Alternate Payee's portion of the Participant's benefit. All three formulas are acceptable for use in either the dividing or sharing method of division. The parties are NOT required to use any of the sample formulas, nor must the percentage assigned to the Alternate Payee be 50%. The parties may use any formula, provided it is calculable under the Plan. Please refer to page 4 of this booklet for further information.

$$50\% \times \frac{\text{Pension Credit Accrued During Marriage}}{\text{Total Pension Credit On Effective Date}} \times \text{Benefit Amount On Effective Date}$$

OR

50% of the benefit accrued by the Participant from the date of marriage to the date of divorce

OR

50% of the benefit accrued by the Participant at retirement

6. **Commencement Of Payments To Alternate Payee:** The Alternate Payee shall receive her/his benefit as a share of each payment to which the Participant is entitled for his/her lifetime effective with the first payment after the Fund receives a court-certified copy of this order. At the Participant's death, benefits to the Alternate Payee under this order will cease. Should the Alternate Payee predecease the Participant, her/his portion of his/her benefit, as assigned in this order, will revert to him/her.

Important Information about Payments To Alternate Payee – Paragraph 6: The order can provide for a shorter period of payments to the Alternate Payee than until the earlier of the Participant's or Alternate Payee's death. For example, it can provide that payments to the Alternate Payee will cease upon her/his remarriage. Please refer to page 7 of the booklet for further information. If the Participant was married to the Alternate Payee at the time he/she entered pay status, and if he/she elected to have his/her benefit paid in a surviving spouse form, the Alternate Payee would retain her/his right to be treated as the Participant's Qualified Spouse for the Surviving Spouse Pension should the Participant predecease her/him. Should this be the case, the language of Paragraph 6 should read as follows:

The Alternate Payee shall receive her/his benefit as a share of each payment to which the Participant is entitled for his/her lifetime effective with the first payment after the Fund receives a court-certified copy of this order. At the Participant's death, the Alternate Payee shall continue to receive benefits under the

Surviving Spouse Pension as his/her Qualified surviving spouse. Should the Alternate Payee predecease the Participant, her/his portion of his/her benefit, as assigned in this order, will revert to him/her.

7. **Pensioner Increases:** The Alternate Payee [use EITHER *will* OR *will not*] be entitled to any benefit improvements attributable to her/his proportional entitlement for which the Participant is otherwise eligible.

Important Information about Pensioner Increases – Paragraph 7: The order should state whether or not the Alternate Payee is to be entitled to future pensioner increases. Although Paragraph 7 of this model order is not required, if the order is silent on this matter, the Alternate Payee will receive a proportionate share of any future pensioner increases which the Fund may award.

8. **Federal Tax Reporting:** For Federal income tax purposes, the Alternate Payee and not the Participant shall be treated as the distributee of all benefits made by the Fund to the Alternate Payee pursuant to this order. The Fund will issue a 1099R to the Alternate Payee at the end of each calendar year and report such income to the IRS under the Alternate Payee's name and Social Security Number.

9. **Right To Amend:** The Court retains jurisdiction over this matter to amend this order if necessary to establish or maintain its qualification as a Qualified Domestic Relations Order under the Retirement Equity Act and the rules of the Plumbers and Pipefitters National Pension Fund.

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

Judge

Plan Participant

Attorney for Participant/Address

Alternate Payee

Attorney for Alternate Payee/Address

ERISA PROVISIONS: QUALIFIED DOMESTIC RELATIONS ORDERS¹

Sec. 206(d)

- (1) Each pension plan shall provide that benefits provided under the plan may not be assigned or alienated.
- (2) {Clarification of paragraph (1) not related to domestic relations orders}²
- (3) (A) Paragraph (1) shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, except that paragraph (1) shall not apply if the order is determined to be a qualified domestic relations order. Each pension plan shall provide for the payment of benefits in accordance with the applicable requirements of any qualified domestic relations order.
- (B) For the purposes of this paragraph –
- (i) the term "qualified domestic relations order" means a domestic relations order –
 - (I) which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under a plan, and
 - (II) with respect to which the requirements of subparagraphs (C) and (D) are met, and
 - (ii) the term "domestic relations order" means any judgment, decree, or order (including approval of a property settlement agreement) which –
 - (I) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant, and
 - (II) is made pursuant to a State domestic relations law (including a community property law).
- (C) A domestic relations order meets the requirements of this subparagraph only if such order clearly specifies –
- (i) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order,
 - (ii) the amount or percentage of the participant's benefits to be paid by the plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,
 - (iii) the number of payments or period to which such order applies, and
 - (iv) each plan to which such order applies,
- (D) A domestic relations order meets the requirements of this subparagraph only if such order –
- (i) does not require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan,
 - (ii) does not require the plan to provide increased benefits (determined on the basis of actuarial value), and
 - (iii) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.
- (E) (i) A domestic relations order shall not be treated as failing to meet the requirements of clause (i) of subparagraph (D) solely because such order requires that payment of benefits be made to an alternate payee –
- (I) in the case of any payment before a participant has separated from service, on or after the date on which the participant attains (or would have attained) the earliest retirement age,
 - (II) as if the participant had retired on the date on which such payment is to begin under such order (but taking into account only the present value of benefits actually accrued and not taking into account the present value of any employer subsidy for early retirement), and
 - (III) in any form in which such benefits may be paid under the plan to the participant (other than in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse).
- For purposes of subclause (II), the interest rate assumption used in determining the present value shall be the interest rate specified in the plan or, if no rate is specified, 5 percent.
- (ii) For purposes of this subparagraph, the term "earliest retirement age" means the earlier of –
- (I) the date on which the participant is entitled to a distribution under the plan, or
 - (II) the later of the date the participant attains age 50 or the earliest date on which the participant could begin receiving benefits under the plan if the participant separated from service.

¹ As provided by the Retirement Equity Act of 1984 and amended through December 1986.

² Editor's notations are presented within { }.

- (F) To the extent provided in any qualified domestic relations order –
- (i) the former spouse of a participant shall be treated as a surviving spouse of such participant for purposes of section 205 {*regarding the Joint and Survivor Annuity and Preretirement Survivor Annuity*} (and any spouse of the participant shall not be treated as a spouse of the participant for such purposes), and
 - (ii) if married for at least 1 year, the surviving former spouse shall be treated as meeting the requirements of section 205(f) {*regarding the minimum term of marriage*}.
- (G) (i) In the case of any domestic relations order received by a plan –
- (I) the plan administrator shall promptly notify the participant and each alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relations orders, and
 - (II) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.
- (ii) Each plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Such procedures –
- (I) shall be in writing,
 - (II) shall provide for the notification of each person specified in a domestic relations order as entitled to payment of benefits under the plan (at the address included in the domestic relations order) of such procedures promptly upon receipt by the plan of the domestic relations order, and
 - (III) shall permit an alternate payee to designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.
- (H) (i) During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined (by the plan administrator, by a court of competent jurisdiction, or otherwise), the plan administrator shall separately account for the amounts (hereinafter in this subparagraph referred to as the "segregated amounts") which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.
- (ii) If within the 18-month period described in clause (v) the order (or modification thereof) is determined to be a qualified domestic relations order, the plan administrator shall pay the segregated amounts (including any interest thereon) to the person or persons entitled thereto.
- (iii) If within the 18-month period described in clause (v) –
- (I) it is determined that the order is not a qualified domestic relations order, or
 - (II) the issue as to whether such order is a qualified domestic relations order is not resolved, then the plan administrator shall pay the segregated amounts (including any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.
- (iv) Any determination that an order is a qualified domestic relations order which is made after the close of the 18-month period described in clause (v) shall be applied prospectively only.
- (v) For purposes of this subparagraph, the 18-month period described in this clause is the 18-month period beginning with the date on which the first payment would be required to be made under the domestic relations order.
- (I) If a plan fiduciary acts in accordance with part 4 {*regarding Fiduciary Responsibility*} of this subtitle in –
- (i) treating a domestic relations order as being (or not being) a qualified domestic relations order, or
 - (ii) taking action under subparagraph (H),
- then the plan's obligation to the participant and each alternate payee shall be discharged to the extent of any payment made pursuant to such Act.
- (J) A person who is an alternate payee under a qualified domestic relations order shall be considered for purposes of any provision of this Act a beneficiary under the plan. Nothing in the preceding sentence shall permit a requirement under section 4001 of the payment of more than 1 premium with respect to a participant for any period.
- (K) The term "alternate payee" means any spouse, former spouse, child or other dependent of a participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.
- (L) This paragraph shall not apply to any plan to which paragraph (1) does not apply.
- (M) Payment of benefits by a pension plan in accordance with the applicable requirements of a qualified domestic relations order shall not be treated as garnishment for purposes of section 303(a) of the Consumer Credit Protection Act.

PROCEDURES FOR PROCESSING DOMESTIC RELATIONS ORDERS

1. Domestic Relations Order (DRO) Defined

A domestic relations order is any judgment, decree, or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of the Participant, and is made pursuant to a state domestic relations law (including community property law).

The term "Qualified Domestic Relations Order" means a domestic relations order that (1) creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant under a pension plan, and (2) meets certain other requirements.

An Alternate Payee includes any spouse, former spouse, child, or other dependent of a Participant who is recognized by a Qualified Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to the Participant.

2. Notification of Receipt of Domestic Relations Order

Upon receipt of a domestic relations order, the Fund shall notify the Participant and all Alternate Payees named in the order that the order was received. This notice will contain:

- a. a cover letter acknowledging when the order was received and explaining the possible effect it might have on the rights of the Participant and other payees under the Plan of Benefits,
- b. a copy of the ERISA provisions on Qualified Domestic Relations Orders, and
- c. a copy of Fund procedures for processing domestic relations orders.

The Participant and Alternate Payee(s) may designate a representative for receipt of copies of any notices that are sent to them pursuant to this procedure. Copies of the notices will be sent to the legal representatives of the parties, and all future correspondence will be directed to the legal representatives and copied to the Participant and Alternate Payee(s). If no address is given in the order for mailing of this notice, the Fund shall mail it to the last known addresses of the Participant and the Alternate Payee(s).

3. Determination of Qualification

The Fund Office will evaluate the order to determine if it is a Qualified Domestic Relations Order as follows:

- a. In making the evaluation, the Fund Office may consult with Fund counsel and Advisors. This determination shall be made as soon as possible, but in no event later than 90 days after receipt of the order by the Fund Office.
- b. The Participant, the Alternate Payee, and any counsel for these parties of which the Fund has notice, shall be notified in writing of the Fund's decision concerning the qualified status of the domestic relations order. The notice shall state whether the order is a Qualified Domestic Relations Order or shall state in what respect the order is deficient. The letter shall also state that the decision of the Fund Office about the qualified status of the domestic relations order is appealable to the Trustees and shall give information about the appeal procedures of the Fund.
- c. If the order is found to be a Qualified Domestic Relations Order, the notice shall state the understanding of the Fund as to its effect and implementation, and provide appropriate procedural

information. The letter shall also state that if the parties disagree with the interpretation of the Fund as to the order's effect and implementation, they may appeal the interpretation, or they may have the order amended to conform with their intent. When an application for or payment of benefits is approaching, this notice shall include a determination response form which the parties can complete to indicate that they do not wish to appeal the Fund's determination.

- d. If the order is found to be deficient, the notice shall state in what respect the order is deficient, and how it may be amended to be found to qualify under the law and the Fund. The letter shall also state that if the parties disagree with the determination of the Fund as to the order's effect or meaning rendering it not to be qualified, they may appeal the interpretation, or they may have the order amended to conform with their intent.

4. **Separate Accounting and Delay of Benefit Payments During Determination Period**

The Fund will separately account for and/or delay the payment of benefits during the determination period as follows:

- a. If an order is received dividing benefits of a Participant who is in pay status, the portion of the benefits payable to the Alternate Payee under the order shall be withheld and separately accounted for with interest, for a period of up to 18 months from the first payment due under the order, pending a final determination about the qualified status of the domestic relations order. The Alternate Payee's portion shall be calculated according to the form of payment received by the Participant. The balance of the Participant's benefit shall continue to be paid to the Participant.
- b. If an application for benefits is received during the determination period of an adjudicated domestic relations order (or California Summons/Joinder), or if an adjudicated domestic relations order (or California Summons/Joinder) is received before the issuance of the first benefit check, the payment of benefits shall be delayed until after a final determination on the order is made. The applicant shall be given notice of this delay.
- c. If the Fund receives notice of divorce or separation proceedings and notice that a domestic relations order is proposed or pending, the Fund shall freeze the Participant's pending benefit application for 30 days to determine if an adjudicated domestic relations order is forthcoming and to what extent such an order may affect the Participant's benefit. If no adjudicated order is received within 30 days, the Fund may proceed with processing the application for benefits, or, if the Fund determines that an adjudicated order may be forthcoming, it may extend the freeze on the Participant's benefit application for up to an additional 60 days.
- d. If there is any reasonable doubt or conflicting claims about the existence of or the effect of a domestic relations order or a proposed domestic relations order, the Fund may freeze the Participant's benefit for such time as is necessary to resolve any outstanding legal issues or interests of affected parties.

5. **Final Determination**

When a final determination is made by the Fund concerning the qualified status of the domestic relations order, the Participant's payments shall be paid as follows:

- a. If the order is determined to be a Qualified Domestic Relations Order, the amount held separately for the Alternate Payee (plus interest) shall be paid to the Alternate Payee upon verification that the interpretation of the Fund is not to be the subject of an appeal, or that the order is not to be amended. Should either of the latter be the case, the payments shall continue to be held separately.
- b. If the order is determined not to be a Qualified Domestic Relations Order, the Fund will continue to withhold the Alternate Payee portion from the Participant's benefit each month until the earlier of,

the expiration of the 18-month withholding period, our receipt and review of an amended order that is determined to be qualified, or written notification from both parties stating that they will not pursue a Qualified Domestic Relations Order. At that date, if the Fund Office has not received a Qualified Domestic Relations Order, any amounts held separately with respect to any alternate Payee shall be forwarded to the participant with interest.

- c. If a final determination is not made within 18 months from the first payment due after receipt of the original order by the Fund Office, any amounts held separately with respect to any Alternate Payee shall be forwarded to the Participant with interest. Any determination that an order is a Qualified Domestic Relations Order after the close of the 18-month period shall be applied prospectively only.
- d. If the Fund receives a domestic relations order after the Participant is in pay status, the Alternate Payee must share the Participant's benefit for the Participant's life or some shorter time period. The Alternate Payee may not elect to receive the benefit in a different form than the form being paid to the Participant.
- e. If the Fund makes a final determination that a domestic relations order is a Qualified Domestic Relations Order, and the parties submit a new adjudicated domestic relations order at a time before benefits have been paid under the order first submitted, the newly submitted order shall serve to nullify the existence of the order previously submitted and found to be a Qualified Domestic Relations Order. If a Qualified Domestic Relations Order has been established and the parties have gone into pay status, a newly submitted order can serve only to change the apportionment between the parties of the amounts payable under the order. For a newly submitted order to have such effect, it must satisfy the requirements for a Qualified Domestic Relations Order.
- f. For the purposes of this procedure, a final determination shall mean:
 - (i) A determination by the Fund that the order is a Qualified Domestic Relations Order if the parties verify that they do not intend to appeal the determination or submit an amended order to the Fund, or upon the expiration of the period of appeal provided herein following notice of the Fund Office's determination of the qualified status of a domestic relations order.
 - (ii) A determination by the Fund that the order is not a Qualified Domestic Relations Order if no appeal has been filed or amended order submitted by the parties within 90 days of the date of the determination, or
 - (iii) A determination by the Trustees on the appeal.

6. **Benefit Payment Issues**

- a. **Early Retirement Subsidy.**
 - (i) If a Qualified Domestic Relations Order provides that the Alternate Payee will share in the benefit payable to the Participant, then the Alternate Payee will have an entitlement to a portion of any early retirement subsidy payable to the Participant, unless the order expressly states otherwise. The amount of the Alternate Payee's entitlement shall be proportionate to the portion of the benefit assigned to the Alternate Payee by the order, unless the order expressly states otherwise.
 - (ii) If the Qualified Domestic Relations Order provides that the Alternate Payee will have a separate entitlement to a portion of the benefit otherwise payable to the Participant, the Alternate Payee will not have an entitlement to a portion of any early retirement subsidy payable to the Participant, unless the order expressly gives the Alternate Payee an entitlement to the subsidy and specifies the amount of the Alternate Payee's entitlement.

- b. Future Benefit Increases.
 - (i) If a Qualified Domestic Relations Order provides that the Alternate Payee will share in the benefit payable to the Participant, then the Alternate Payee will have an entitlement to a portion of any future benefit increases awarded by the Fund and payable to the Participant, unless the order expressly states otherwise. The amount of the Alternate Payee's entitlement shall be proportionate to the portion of the benefit assigned to the Alternate Payee by the order, unless the order expressly states otherwise.
 - (ii) If the Qualified Domestic Relations Order provides that the Alternate Payee will have a separate entitlement to a portion of the benefit otherwise payable to the Participant, the Alternate Payee will not have an entitlement to a portion of any future benefit increases payable to the Participant, unless the order expressly gives the Alternate Payee an entitlement to such increases and specifies the amount of the Alternate Payee's entitlement.
- c. Mandatory Commencement of Benefits.
 - (i) If a Qualified Domestic Relations Order provides that the Alternate Payee will share in the benefit payable to the Participant, then payment of benefits to the Alternate Payee shall commence no later than when benefits commence to the Participant.
 - (ii) If the Qualified Domestic Relations Order provides that the Alternate Payee will have a separate entitlement to a portion of the benefit otherwise payable to the Participant, then payment of benefits to the Alternate Payee shall commence no later than the Alternate Payee's Required Beginning Date.

7. Proposed Domestic Relations Orders

The Fund will treat proposed domestic relations orders as follows:

- a. If the Fund receives a proposed domestic relations order after the Participant has begun receiving his benefit, the proposed order will have no effect on the continued payment of benefits to the Participant. The Fund shall continue to pay the Participant his total benefit until an adjudicated order is received for a determination of whether it is a Qualified Domestic Relations Order.
- b. If an application for benefits is received after receipt of a proposed domestic relations order, or if a proposed domestic relations order is received while an application for benefits is pending, the Fund shall freeze the Participant's pending benefit application for 30 days to determine if an adjudicated domestic relations order is forthcoming and to what extent such an order may affect the Participant's benefit. If no adjudicated order is received within 30 days, the Fund may proceed with processing the application for benefits, or, if the Fund determines that an adjudicated order may be forthcoming, it may extend the freeze on the Participant's benefit application for up to an additional 60 days.
- c. The Fund shall review the proposed order, notify the parties and their representatives whether or not it would be qualified, if adjudicated, and advise such persons that the Fund's determination is only preliminary; the parties must still submit an adjudicated order for formal review by the Fund.
- d. For the purposes of this procedure, a proposed domestic relations order is a draft of any document described in paragraph 1 above which, although not acted upon by a State domestic relations court, is in the form the order is intended to be filed and has been adopted by both parties as represented by their signatures and/or the signatures of their counsel. However, if the proposed order pertains to enforcement of a child support obligation, and if it is submitted by a governmental child support enforcement agency, then the Fund will review the proposed order even if it does not have the signatures of the Participant and/or Alternate Payee.

8. **Notice Requirements in Domestic Relations Order**

The Fund Office will provide no notice to the Participant or Alternate Payee other than that which the Fund is required by law to provide. The Fund shall not assume the administrative burden of providing notices that are not otherwise required by law.

9. **Application and Information Required From Alternate Payees**

It shall be the responsibility of the Alternate Payee to comply with the following procedures:

- a. The Alternate Payee must apply for any benefit to which he or she may be entitled under a Qualified Domestic Relations Order at the time and in the manner in which the Alternate Payee is entitled under the order to elect to commence the receipt of a benefit from the Fund. The application shall be in writing and in the manner and form prescribed by the Trustees in advance of its Effective Date.
- b. If the order provides that an Alternate Payee is entitled to commence the receipt of benefits upon the date that the Participant begins receipt of benefits under the Plan, it will not be necessary for the Alternate Payee to request or submit a written application. In such case, the Fund shall notify the Alternate Payee of the receipt of a pension application from the Participant, identify the resulting Effective Date of Benefits for each, and request any information needed to effect payment as of the Participant's annuity starting date.
- c. If the Alternate Payee is given the right under the order to elect from among benefit forms available under the Plan, the Fund will provide the Alternate Payee with a description of such options at the time of the Alternate Payee's award of benefits.
- d. If the terms of the Plan so require or permit, the Alternate Payee may receive or elect to receive his or her separate entitlement as an immediate distribution of the actuarial equivalent of his or her designated portion. If the Alternate Payee is to receive a share of the Participant's benefit, he or she will receive an immediate distribution if the Participant is required to or elects to receive an immediate distribution. The requirement or option will be described at the time of the Alternate Payee's award of benefits.
- e. Each Alternate Payee under a Qualified Domestic Relations Order must advise the Trustees in writing of her name, address, and marital status, and of any amended Qualified Domestic Relations Order entered in the court since the Fund's final determination on the Qualified Domestic Relations Order of record with the Fund. Until a subsequent amended Qualified Domestic Relations Order has been provided to the Trustees for final determination, the Trustees are fully protected in complying with, and in conducting the affairs of the Fund in a manner consistent with, the information set forth in the Qualified Domestic Relations Order of record.
- f. The Trustees are not required to modify or reverse any payment, transaction, or application of funds occurring before the receipt of any notice that would have affected such payment, transaction, or application of funds; nor are the Trustees or any other party liable for any such payment, transaction, or application of funds.

10. **Death of Participant**

Because on the date of the Participant's death, rights to benefits vest immediately in individuals other than the Participant, the Fund shall pay benefits payable with respect to a deceased Participant as follows:

- a. If within 60 days after the death of the Participant, the Fund has not received a Qualified Domestic Relations Order that was entered prior to the date of the Participant's death, the Fund shall pay any benefits that are payable with respect to the deceased Participant in accordance with the

terms of the Plan. The Trustees are not required to modify or reverse any payment, transaction, or application of funds in accordance with any order entered prior to the death of the Participant that is received more than 60 days after the death of the Participant that would have affected such payment, transaction, or application of funds; nor are the Trustees or any other party liable for any such payment, transaction, or application of funds.

- b. Except as provided in 10.c. below, the Fund will not honor any domestic relations orders that are entered after the date of the Participant's death.
- c. The Fund will not honor any domestic relations order that is entered prior to the date of the Participant's death which is amended or modified after the date of the Participant's death, except to the extent that the amendment or modification is required to correct any defects necessary to qualify the order and such amendment or modification does not in any way designate the Alternate Payee as the surviving spouse for the first time, or does not in any way modify or alter the individual designated as Alternate Payee, the amount or percentage of benefits assigned to the Alternate Payee, the form in which the benefit is to be paid to the Alternate Payee or the number of payments to be made to the Alternate Payee.

11. **Discretion of Trustees**

In construing these procedures, any appeal, and the terms of the Plan, the Trustees shall have full and exclusive authority and discretion to determine all questions of eligibility, methods of providing or arranging for benefits and all related matters. All determinations made and actions taken by the Trustees will be conclusive and binding upon the Plan, the Participant, the Participant's spouse and beneficiaries, and any Alternate Payees named in the order received by the Plan.

12. **Modification to Qualified Domestic Relations Order Procedures**

The Trustees shall have the right to amend or modify these procedures in accordance with the amendment procedures of the Plan and without notice to any party. The Trustees shall make available to each party of a pending Qualified Domestic Relations Order determination a copy of the amended or modified procedures.

No amendment or modification, unless required by law or applicable regulation, shall cause an order previously determined to be a Qualified Domestic Relations Order to fail to retain that status, or cause an order previously determined not to be a Qualified Domestic Relations Order to be recharacterized as a Qualified Domestic Relations Order.