

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

[Note: This Model Is Provided To Assist Practitioners With Drafting A QDRO That May Be Acceptable To The Plan. It Is In No Way Meant To Be A Required Form, Nor Is It Meant To Cover Every Situation In A Marital Property Dispute. The Trustees Do Not Intend To, Nor Do They Provide Legal Advice Through Providing The Use Of These Models]

MODEL QDRO 2 — PARTICIPANT ALREADY IN PAY STATUS

In the _____ Court of _____,

State of _____

_____, Plaintiff)

vs,) Case No. _____

_____, Defendant)

QUALIFIED DOMESTIC RELATIONS ORDER

This Order is intended to be a qualified domestic relations order (“QDRO”), as that term is defined in section 206(d) of the Employee Retirement Income Security Act of 1974 (“ERISA”) and section 414(p) of the Internal Revenue Code of 1986 (“Code”). This QDRO is granted in accordance with [applicable state domestic relations law citations], which relate to marital property rights, child support, and/or spousal support between spouses and former spouses in matrimonial actions.

1. Identification of Plan: This order applies to benefits under the International Union of Operating Engineers Local 4 and Its Branches Pension Plan.

Plan Administrator:

Board of Trustees, International Union of Operating Engineers Local 4 and Its Branches Pension Plan

Pension Fund Office
16 Trotter Drive
P.O. Box 680
Medway MA 02053-0680

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2. Identification of Participant and Alternate Payee:

a. Plan Participant Information: The Plan Participant is _____ (name) _____ whose current mailing address _____.

His/her date of birth is _____, and his/her Social Security Number is _____.

b. 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: Following 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. . 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 by the Fund under the Plan. Please refer to Section 4 of these procedures for further information.

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

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 benefit as a share of each payment to which the Participant is entitled for his lifetime effective with the first day of the month after the month in which 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 unless the Alternate Payee has already been named as Beneficiary under an optional form of payment previously elected by the participant. 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 remarriage. Please refer to Section 4 of these procedures for further information. If the Participant was married to the Alternate Payee at the time he entered pay status, and if he elected to have his benefit paid in a surviving spouse form, the Alternate Payee would retain her right to be treated as the Participant's Qualified Spouse for the Surviving Spouse Pension should the Participant predecease her. Should this be the case, the language of Paragraph 6 should read as follows:

The Alternate Payee shall receive her benefit as a share of each payment to which the Participant is entitled for his lifetime effective with the first day of the month after the month in which 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 Qualified surviving spouse. Should the Alternate Payee predecease the Participant, her portion of his benefit, as assigned in this order, will revert to him.

7. Pensioner Increases: The Alternate Payee [use EITHER *will* OR *will not*] be entitled to any benefit improvements attributable to her 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.

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9. Compliance with Applicable Law: The parties to this Order intend that it comply with applicable provisions of ERISA and the Code. Nothing in this Order shall require the Plan:

- a. To pay any benefits not permitted under the Code or ERISA;
- b. To provide any type or form of benefits or any option not provided by the Plan;
- c. To pay total benefits with the value in excess of the value of the benefits the Participant otherwise would receive under the Plan; and
- d. To pay benefits to the Alternate Payee that are required to be paid to another Alternate Payee under another QDRO that is in effect prior to this Order.

10. Right To Amend: The Court retains jurisdiction over this matter to amend this order, provided the Plan Administrator qualifies the amended 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 International Union of Operating Engineers Local 4 and Its Branches Pension Plan.

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

Judge

Plan Participant

Attorney for Participant/Address

Alternate Payee

Attorney for Alternate Payee/Address