

**Model Provisions For Awarding Alternate Payee
a SHARED INTEREST In Participant's Retirement Benefits Under The
WESTERN CONFERENCE OF TEAMSTERS PENSION PLAN**

**SAMPLE ONE
OPTIONAL LANGUAGE FOR SECTION 8**

(The below Section 8 provides for the alternate payee to receive a shared interest in the participant's Disability Retirement Benefits and replaces the Section 8 in the Plan's Model Provisions)

SECTION 8. DISABILITY RETIREMENT BENEFITS (See Section 9.E.2 for definition): This Section applies (and Sections 4 – 7 do not apply unless otherwise stated) ONLY if (i) Participant's Disability Retirement Benefits Commencement Date is before Participant's Earliest Retirement Date under the Plan and Alternate Payee is then alive, and (ii) Alternate Payee has not received payments under Section 4 before the Plan approves Participant's application for Disability Retirement Benefits.

A. Form of Participant's Disability Retirement Benefits

1. Unless Alternate Payee consents to Participant's election of some other form of benefit in accordance with the terms of the Plan and applicable federal law, the Plan shall pay Participant's Disability Retirement Benefits in the form of an Employee and Spouse Pension (this form of benefit satisfies the qualified joint and survivor annuity requirements mandated by federal pension law under ERISA Section 205(d)). Notwithstanding the foregoing, if Alternate Payee dies before the expiration of Participant's election period for benefits, Participant may elect (without spousal consent) to receive the Disability Retirement Benefits in any form permitted under the Plan.
2. For purposes of the Employee and Spouse Pension under Section 8.A.1 and any of the Plan's spousal consent requirements, the Plan shall treat Alternate Payee as Participant's "spouse" with respect to 100% of Participant's Plan benefits, and to the exclusion of all other persons.

B. Division Of Participant's Disability Retirement Benefits

The Plan shall make payments to Alternate Payee in accordance with the following provisions:

1. For as long as Participant is entitled to receive Disability Retirement Benefits, the Plan shall pay Alternate Payee each month Alternate Payee's Shared Percentage Interest (see Section 3.C) in each of Participant's monthly lifetime Disability Retirement Benefit payments (subject to reduction under Section 8.B.2). If Alternate Payee dies before Participant,

the Plan shall continue to pay Alternate Payee's Shared Percentage Interest in each of Participant's monthly lifetime Disability Retirement Benefit payments to Alternate Payee's Beneficiary (as long as Participant remains entitled to receive Disability Retirement Benefits) until Participant's death.

2. During Alternate Payee's lifetime, if Participant is receiving Disability Retirement Benefits in a form that entitles Alternate Payee to surviving spouse annuity protection (that is, the Employee and Spouse Pension), then, in accordance with the Plan's QDRO procedures, the Plan shall reduce Alternate Payee's payments under Section 8.B.1 by the remaining balance of the charge for providing Alternate Payee with the surviving spouse annuity protection. This reduction shall not exceed the amount Alternate Payee would otherwise be entitled to under Section 8.B.1.
3. The Plan shall pay Participant each month the balance of the Disability Retirement Benefit payment after subtracting the payment, if any, to Alternate Payee (or Alternate Payee's Beneficiary, if applicable) for that month under Section 8.B.1.
4. If Participant loses entitlement to a Disability Retirement Benefit that is not replaced by an Age Retirement Benefit payable in the same form and in the same amount, the Plan shall terminate payments to both Participant and Alternate Payee under this Section 8. Thereafter, the following shall apply:
 - a. Except as provided in Section 8.B.4.b below, the provisions of Section 8 shall cease to apply and the Plan shall pay Alternate Payee and Participant only in accordance with Sections 3 through 7 of this Order.
 - b. If Participant again becomes entitled to and begins receiving Disability Retirement Benefits before Participant's Earliest Retirement Date under the Plan, the Plan shall pay Alternate Payee and Participant only in accordance with Section 8 of this Order.
5. If Participant dies while the provisions of Section 8 are in effect, then upon Participant's death:
 - a. The Plan shall terminate payments to Participant and Alternate Payee (or Alternate Payee's Beneficiary, if applicable) under Section 8.B.1 with the last payment before Participant's death. Any payments made under Section 8.B.1 after Participant's death shall be returned to the Plan.
 - b. The Plan shall pay Alternate Payee (or Alternate Payee's Beneficiary, if applicable) an amount equal to Alternate Payee's Shared Percentage Interest in any lump sum death benefits that

become payable upon Participant's death. The Plan shall pay Participant's Beneficiary the balance of any lump sum death benefits after reducing those benefits by any amounts payable to Alternate Payee (or Alternate Payee's Beneficiary, if applicable).

- c. Provided Alternate Payee survives Participant and Participant's Disability Retirement Benefits are payable in the form of an Employee and Spouse Pension, the Plan shall pay Alternate Payee the entire After Retirement Spouse Lifetime Pension.

EXPLANATION OF THE ABOVE SECTION 8:

Background on Section 8: Section 8 of the Model Provisions applies in the event the participant begins receiving Disability Retirement Benefits before the participant's Earliest Retirement Date under the Plan and the alternate payee has not yet begun receiving payments under Section 4.¹ Under this section, the alternate payee is awarded a *shared interest* in the participant's lifetime Disability Retirement Benefits. The participant's share of his or her Disability Retirement Benefits are identical under either a *separate* or *shared interest* arrangement. However, under a *shared interest* arrangement, the alternate payee will likely be entitled to a greater benefit from the Plan than if the participant's Disability Retirement Benefits were divided on a *separate interest* basis for the following reasons:

- With respect to benefits during the participant's lifetime, the monthly amount payable to the alternate payee will in every case be greater than the monthly amount payable to the alternate payee under a *separate interest* arrangement. That is because the participant's entire accrued benefit will include the Plan's subsidy for disability (which the alternate payee will share). Under a *separate interest* arrangement, only the participant's separate portion of his or her accrued benefit would include the disability subsidy.
- Although payments of alternate payee's share of the participant's lifetime benefits end upon the participant's death, the Model Provisions generally require the participant to elect a form of benefit that provides for lifetime monthly payments to the alternate payee following the participant's death (see Section 8.A). Although these lifetime monthly payments to the alternate payee usually will be less than the monthly payments the alternate payee had been receiving before the participant's death, in many cases, the new monthly amount will be larger than the monthly amount the alternate payee would have received under a *separate interest* arrangement.

Section 8.A.1 of the Model Provisions generally provides that the participant will receive Disability Retirement Benefits in the form of an Employee and Spouse Pension (this form of benefit satisfies the federal requirements for a qualified joint and survivor annuity form of benefit). Lifetime payments to the participant under an Employee and Spouse Pension are less

¹ Irrespective of whether or when the participant becomes entitled to Disability Retirement Benefits, if the alternate payee dies before his or her Benefit Commencement Date, Section 3.E would apply which would revert the alternate payee's community/marital property interest back to the participant.

than the monthly payments under the Life Only Pension so that a surviving spouse annuity may be provided following the participant's death. The surviving spouse annuity is either 50% or 66-2/3% of the monthly benefit payable during the participant's lifetime (depending on whether the participant has recent coverage at retirement) and is paid for the rest of the spouse's lifetime. Note, the participant may elect and receive his or her benefits in the form of a Life Only Pension (a single life annuity), in which case all monthly payments will end upon the participant's death, if either the alternate payee consents to the election or the alternate payee dies before the end of the participant's election period for benefits.

Section 8.A.2 of the Model Provisions provides that the alternate payee will be treated as the participant's surviving spouse for purposes of the entire Employee and Spouse Pension under Section 8.A.1 (that is, even if the participant remarries, the new spouse will not be entitled to any portion of the surviving spouse annuity). As described in Section 8.A.1 above, under this form of benefit, the alternate payee will continue to receive payments for his or her lifetime following the participant's death.

Section 8.B.1 of the Model Provisions provides that the alternate payee will receive his or her community/marital property interest in each Disability Retirement Benefit payment made to the participant (subject to the reduction described in Section 8.B.2). To arrive at the alternate payee's community/marital property interest, the Plan multiplies the monthly benefit under the Employee and Spouse Pension by Alternate Payee's Shared Percentage Interest in Section 3.C. If the alternate payee dies before the participant, then the alternate payee's interest in the participant's Disability Retirement Benefit payments will be made to the alternate payee's beneficiary for as long as the participant is entitled to receive Disability Retirement Benefits.

Section 8.B.2 of the Model Provisions provides that the alternate payee's portion of the participant's Disability Retirement Benefits in Section 8.B.1 will be reduced to reflect the cost of providing surviving spouse annuity protection. The cost of the surviving spouse annuity protection is the difference between the participant's monthly benefit under the Employee and Spouse Pension and the monthly benefit that the participant could otherwise receive under a Life Only Pension. The alternate payee's share in Section 8.B.1 already reflects a reduction for a portion of this cost. The remainder of this cost must also be allocated to alternate payee's share. These calculations are done as follows:

- i. The Plan first determines the cost of the surviving spouse annuity protection by subtracting the participant's monthly benefit under a Life Only Pension from the actual monthly benefit under the Employee and Spouse Pension.
- ii. This amount is multiplied by the Alternate Payee's Shared Percentage Interest. The resulting amount represents that portion of the cost of the surviving spouse annuity protection already charged to the alternate payee under Section 8.B.1.
- iii. The amount obtained in step ii. is then subtracted from the amount obtained in step i. The result is the balance of the cost of the surviving spouse annuity protection.
- iv. The amount obtained in step iii. is subtracted from the alternate payee's share in Section 8.B.1. In the event that the alternate payee's share of the monthly benefit under Section 8.B.1 is less than or equal to the reduction under Section 8.B.2, then the

alternate payee will receive no part of the monthly benefit, but would still be entitled to 100% of any surviving spouse annuity that becomes payable.

Section 8.B.3 of the Model Provisions provides that the participant will receive the balance of his or her disability benefit after payment of the alternate payee's interest.

Section 8.B.4 of the Model Provisions provides generally that if the participant loses his or her entitlement to a Disability Retirement Benefit (that is if the participant recovers from the disability) before the participant's Earliest Retirement Date under the Plan, then the Plan will stop benefit payments under Section 8 to both the alternate payee and participant. However, the terms of this Order will still apply to the participant's Plan benefits that become payable at a later date. Whether these future benefits will be paid as a *shared interest* or *separate interest* depends on whether the participant becomes disabled again, and if so, when. If the participant again becomes disabled before the participant's Earliest Retirement Date under the Plan, the Plan will pay the alternate payee a *shared interest* in the participant's disability benefit pursuant to Section 8. Otherwise, the alternate payee will be entitled to a *separate interest* in the participant's benefits determined under the provisions of the Order other than Section 8.

Section 8.B.5.a of the Model Provisions provides that payment of the Alternate Payee's Shared Percentage Interest in the participant's lifetime Disability Retirement Benefits will terminate upon the participant's death (however, see the explanation of Section 8.A above regarding payments to the alternate payee after the participant's death).

Section 8.B.5.b of the Model Provisions awards the alternate payee (or alternate payee's beneficiary) his or her *shared interest* in any lump sum death benefit that may become payable upon the participant's death. The remaining balance of any such lump sum death benefit would be paid to the participant's beneficiary.

Section 8.B.5.c of the Model Provisions directs the Plan to pay the alternate payee the entire surviving spouse annuity, if any, following the participant's death. This benefit would only be payable if the participant's Disability Retirement Benefits are being paid in the form of an Employee and Spouse Pension, and if the alternate payee survives the participant.

Note, in Section 10 of the Model Provisions (Reservation of Jurisdiction), the phrase referring to Section 8.B should be deleted.

**Model Provisions For Awarding Alternate Payee
a SEPARATE INTEREST In Participant's Retirement Benefits Under The
WESTERN CONFERENCE OF TEAMSTERS PENSION PLAN**

**SAMPLE TWO
OPTIONAL LANGUAGE FOR SECTION 8**

(The below Section 8 provides for the alternate payee to receive a separate interest in the participant's Disability Retirement Benefits and replaces the Section 8 in the Plan's Model Provisions)

SECTION 8. DISABILITY RETIREMENT BENEFITS (See Section 9.E.2 for definition): This Section applies ONLY if Participant's Disability Retirement Benefits Commencement Date is before Participant's Earliest Retirement Date under the Plan and Alternate Payee is then alive.

Section 4 of this Order shall be modified as follows:

- A. The Plan shall make payments to Alternate Payee without taking into account any Plan subsidy payable because of Participant's disability.
- B. If Participant is still receiving a Disability Retirement Benefit on Participant's Earliest Retirement Date under the Plan, the Plan shall apply the provisions of Section 4.D of this Order, regarding subsidies for early retirement, as if Participant actually began to receive Plan benefits (without regard to any disability) on Participant's Earliest Retirement Date under the Plan.

EXPLANATION OF THE ABOVE SECTION 8:

If the alternate payee intends to receive a *separate interest* under Section 8, payments to the alternate payee will be made in accordance with Section 4 as modified in Sections 8.A and 8.B. These modification are:

1) Payments to the alternate payee do not include any disability subsidy that the participant is receiving with regard to the participant's portion of his or her Plan benefits (because the federal rules which allow the alternate payee to share in upward adjustments of the participant's benefit apply to adjustments for early retirement, not for disability); and

2) If the participant is still receiving a disability pension benefit on the date of the participant's Earliest Retirement Age, then the alternate payee is entitled to receive his or her interest in any early retirement subsidy that would have been payable had the participant begun receiving retirement benefits on such date.

Note, in Section 10 of the Model Provisions (Reservation of Jurisdiction), the phrase referring to Section 8.B should be deleted.