

# **WESTERN CONFERENCE OF TEAMSTERS PENSION PLAN**

## **Model Provisions For Awarding Alternate Payee A SEPARATE Interest In Participant's Retirement Benefits**

### **IMPORTANT NOTE**

These Model Provisions apply only if:

- 1) **THE PARTICIPANT HAS NOT BEGUN RECEIVING PAYMENTS, or**
- 2) **THE PLAN HAS BEEN WITHHOLDING BENEFITS ON BEHALF OF THE ALTERNATE PAYEE SINCE THE PARTICIPANT'S PENSION EFFECTIVE DATE.**

If these Model Provisions do not apply, please contact one of the Plan's Area Administrative Offices for the appropriate Model Provisions.

### **CAUTION: YOU MUST READ THE FOLLOWING BEFORE USING THESE MODEL PROVISIONS**

THE DISPOSITION OF RETIREMENT BENEFITS IN DOMESTIC RELATIONS PROCEEDINGS INVOLVES COMPLEX MARITAL RIGHTS AND TAX ISSUES. THE FOLLOWING MODEL PROVISIONS DEMONSTRATE ONE METHOD OF DIVIDING RETIREMENT BENEFITS. OTHER METHODS OF DIVIDING RETIREMENT BENEFITS MAY BE AVAILABLE AND THESE MODEL PROVISIONS MAY BE INAPPROPRIATE FOR YOUR CIRCUMSTANCES.

THIS SAMPLE IS PROVIDED AS A COURTESY ONLY, AS NEITHER THE WESTERN CONFERENCE OF TEAMSTERS PENSION PLAN (THE "PLAN"), NOR ITS AGENTS OR CONSULTANTS ARE AUTHORIZED TO GIVE LEGAL ADVICE AND THEY MAKE NO REPRESENTATION AS TO ITS SUFFICIENCY OR AS TO ITS LEGAL CONSEQUENCES. MOREOVER, THE PLAN, ITS AGENTS AND CONSULTANTS MAKE NO REPRESENTATION AS TO WHETHER THESE MODEL PROVISIONS COMPLY WITH STATE LAW REQUIREMENTS REGARDING THE DIVISION OF MARITAL OR COMMUNITY PROPERTY IN CONNECTION WITH A MARRIAGE DISSOLUTION.

THESE MODEL PROVISIONS WERE DESIGNED SPECIFICALLY TO COMPORT WITH THE COMPLEX STRUCTURE OF THE PLAN. ACCORDINGLY, ANY MODIFICATION OF THESE MODEL PROVISIONS MAY RESULT IN A CONFLICT WITH THE PLAN'S TERMS OR CREATE AMBIGUITIES WITHIN THE ORDER. SUCH MODIFICATION MAY LEAD TO UNINTENDED CONSEQUENCES REGARDING THE PAYMENT OF PLAN BENEFITS OR PREVENT THE ORDER FROM BEING QUALIFIED.

## **MODEL QUALIFIED DOMESTIC RELATIONS ORDER**

### **PREAMBLE**

This Order is intended to be a Qualified Domestic Relations Order ("QDRO") as defined in Section 206(d) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and Section 414(p) of the Internal Revenue Code of 1986, as amended (the "Code").

### **ORDER**

#### **SECTION 1. REQUIRED BACKGROUND INFORMATION**

##### **A. Identification of the Plan**

This Order applies to benefits under the WESTERN CONFERENCE OF TEAMSTERS PENSION PLAN (the "Plan").

**B. Identification of Participant**

1. Participant's Name: \_\_\_\_\_
2. Mailing Address: \_\_\_\_\_
3. Date of Birth: \_\_\_\_\_
4. Participant shall keep the Plan advised at all times of Participant's current mailing address.

**C. Identification of Alternate Payee**

1. Alternate Payee's Name: \_\_\_\_\_
2. Mailing Address: \_\_\_\_\_
3. Date of Birth: \_\_\_\_\_
4. Alternate Payee shall keep the Plan advised at all times of Alternate Payee's current mailing address.

**D. Identification of Alternate Payee's Beneficiary**

1. Name of Alternate Payee's Beneficiary: \_\_\_\_\_
2. Mailing Address: \_\_\_\_\_
3. Date of Birth: \_\_\_\_\_
4. Alternate Payee may change the identity of Alternate Payee's Beneficiary at any time by following the Plan's beneficiary designation procedures. If Alternate Payee's designated Beneficiary is not living when any payment is to be made on Alternate Payee's behalf, then payment shall be made in equal shares to Alternate Payee's survivor(s) in the first surviving class among the following: (1) spouse, (2) children, (3) parents, (4) siblings, and (5) estate.

**E. Statement of Confidential Information**

Participant's, Alternate Payee's, and Alternate Payee's Beneficiary's Social Security number must be entered on a separate form supplied by the Plan entitled "Statement of Confidential Information". The form must be completed and returned to the Plan with a copy of this Order, or as soon as possible thereafter. The Plan requires this information for tax purposes. The form is not a public record and must not be filed as part of these proceedings.

**F. Dates Required for Calculating Community/Marital Property Interest**

1. Date of Marriage: \_\_\_\_\_
2. Date of Dissolution or Separation: \_\_\_\_\_

**SECTION 2. ENFORCEABILITY OF THIS ORDER**

This Order shall be enforceable against the Plan ONLY if and when the conditions in Section 2.A and 2.B are both met:

**A. Timing**

1. This Order is submitted to the Plan administrator before the date payment of Participant's Plan benefits begin; or
2. If Plan benefits to Participant have begun, in connection with these proceedings:
  - a. The Plan has been withholding (or has been required to withhold) all or a portion of any payments made to Participant, and
  - b. This Order is submitted to the Plan administrator within 18 months of the date the Plan began (or was required to begin) the withholding described in Section 2.A.2.a.

**B. Determination of Order as a QDRO**

1. The Plan makes a final determination that this Order is a QDRO; or
2. A court of competent jurisdiction makes a final determination that this Order is a QDRO after the Plan makes a final determination that this Order is not a QDRO (or fails to make a determination within a reasonable period of time whether this Order is or is not a QDRO).

**SECTION 3. DESIGNATION OF ALTERNATE PAYEE'S SEPARATE PERCENTAGE INTEREST IN PARTICIPANT'S BENEFITS**

- A. The Court finds that Participant has earned Plan benefits that are community/marital property of Participant and Alternate Payee.
- B. The Court awards Alternate Payee a separate interest in Participant's Plan benefits equal to 50%\* of the community/marital property portion of the Participant's normal retirement benefit accrued to the effective date of Alternate Payee's Plan benefits ("Alternate Payee's Separate Percentage Interest"). The effective date of Alternate Payee's Plan benefits is hereinafter referred to as "Alternate Payee's Benefit Commencement Date" (see also Sections 4.C and 9.E for more information regarding Alternate Payee's Benefit Commencement Date).

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\* This formula is based on an equal (50% each) division of the community/marital property portion of the Participant's Plan benefits. This percentage may be modified if the parties intend an unequal division.

- C. Alternate Payee's Separate Percentage Interest in Participant's Plan benefits shall be determined using the following formula:

$$\begin{array}{r}
 \text{50\%*} \quad X \quad \frac{\text{Participant's Total Hours of Benefit Service} \\
 \text{Under the Plan Earned From the} \\
 \text{Date of Marriage to the Date of Dissolution or Separation}}{\text{Participant's Total Hours of Benefit Service Earned up to} \\
 \text{Alternate Payee's Benefit Commencement Date}} \\
 \text{(Alternate Payee's share of the} \\
 \text{community/marital property portion} \\
 \text{of Participant's Plan Benefits)}
 \end{array}$$

- D. The Plan shall determine Participant's "Hours of Benefit Service" to be included in the numerator and the denominator of the above fraction in accordance with the Plan's terms and procedures.
- E. Except as provided in Section 6, if Alternate Payee dies before Alternate Payee's Benefit Commencement Date, Participant shall be entitled to Participant's entire interest in the Plan and neither Alternate Payee nor Alternate Payee's Beneficiary shall have any interest in any of Participant's Plan benefits.

**SECTION 4. PAYMENT OF ALTERNATE PAYEE'S BENEFITS: This Section applies ONLY if Participant has reached his or her Earliest Retirement Date under the Plan and is not then receiving Disability Retirement Benefits (see Section 8 and 9.E.2) and ONLY if Alternate Payee does not die before Alternate Payee's Benefit Commencement Date.**

**A. Determination of Alternate Payee's Benefit**

In accordance with the Plan's QDRO procedures, the Plan shall convert Alternate Payee's Separate Percentage Interest in Participant's normal retirement benefit, accrued to Alternate Payee's Benefit Commencement Date, to an actuarially equivalent benefit based on Alternate Payee's life.

**B. Form of Benefit**

The Plan shall make payments to Alternate Payee in the normal form of benefit under the Plan (that is, the Life Only Pension) or in any other form of benefit permitted by the Plan and elected by Alternate Payee (for example, a Benefit Adjustment Option or an Optional Lump Sum Death Benefit), other than:

1. A disability retirement pension, or
2. A joint and survivor pension.

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\* See footnote on previous page.

**C. Commencement of Alternate Payee's Benefits**

The Plan shall make payments to Alternate Payee in satisfaction of Alternate Payee's Separate Percentage Interest in Participant's normal retirement benefit in accordance with the following provisions:

1. Alternate Payee must file with the Plan an application for benefits on a form prescribed by the Plan.
2. Payment to Alternate Payee shall begin on the date elected by Alternate Payee, provided that date:
  - a. Is the first day of a calendar month;
  - b. Is not more than three months before Alternate Payee's application for benefits is received by the Plan; and
  - c. Notwithstanding Section 4.C.2.b above, is no later than the earlier of Participant's Benefit Commencement Date or Participant's date of death.

**D. Subsidies for Early Retirement**

Payments to Alternate Payee shall not take into account the value of any subsidy for early retirement except as follows:

**1. *Timing***

- a. The Plan shall take into account the value of any subsidy for early retirement ONLY if and when the following conditions are met:
  - i. The Plan commences payment of Plan benefits to Participant, and
  - ii. Such benefits include a subsidy for early retirement.
- b. Alternate Payee shall be entitled to receive Alternate Payee's interest in any early retirement subsidy payable with respect to Participant beginning with Participant's Benefit Commencement Date.

**2. *Amount***

- a. The amount of Alternate Payee's interest in any early retirement subsidy payable to Participant, and any adjustment to Alternate Payee's benefits to reflect that interest, shall be determined in accordance with the Plan's QDRO procedures.

- b. In no event shall the amount of Alternate Payee's interest in any early retirement subsidy payable to Participant include any amount Participant could have received as an early retirement subsidy had Participant begun receiving Plan benefits on a date earlier than Participant's actual Benefit Commencement Date.

**SECTION 5. DEATH AND SURVIVOR BENEFITS PAYABLE TO ALTERNATE PAYEE: This Section 5 applies ONLY if Participant dies before Participant's Earliest Retirement Date under the Plan and before Alternate Payee, and Participant is not then receiving Disability Retirement Benefits (see Section 8 and 9.E.2).**

- A. The Plan shall treat Alternate Payee as Participant's "surviving spouse" for purposes of the immediate or deferred Before Retirement Spouse Lifetime Pension, as appropriate, but only to the extent of Alternate Payee's Separate Percentage Interest in Participant's normal retirement benefit. The Before Retirement Spouse Lifetime Pension satisfies the qualified pre-retirement survivor annuity requirements mandated by Federal pension law (ERISA Section 205(e)).
- B. The Plan shall pay Alternate Payee an amount equal to Alternate Payee's Separate Percentage Interest in any Basic Lump Sum Death Benefit that becomes payable upon Participant's death.

**SECTION 6. DEATH AND SURVIVOR BENEFITS PAYABLE TO ALTERNATE PAYEE'S BENEFICIARY: This Section 6 applies ONLY if Participant and Alternate Payee each die before their respective Benefit Commencement Dates and Alternate Payee predeceases Participant.**

The Plan shall pay Alternate Payee's Beneficiary an amount equal to Alternate Payee's Separate Percentage Interest in any lump sum death benefits that become payable upon Participant's death (that is, the Basic Lump Sum Death Benefit and, if applicable, the Before Retirement 48-Month Death Benefit).

**SECTION 7. DETERMINATION OF PARTICIPANT'S BENEFITS**

- A. **This Section 7.A applies only if Section 4, 5 or 6 applies:** The Plan shall reduce Participant's normal retirement benefit, and the amount of any benefits that are calculated by reference to Participant's normal retirement benefit, by Alternate Payee's Separate Percentage Interest therein.
- B. **This Section 7.B applies only if Section 5 or 6 applies:** The Plan shall reduce the Basic Lump Sum Death Benefit payable to Participant's Beneficiary by an amount equal to Alternate Payee's Separate Percentage Interest.
- C. Any benefits payable under the Plan with respect to Participant that have not been awarded to Alternate Payee (or Alternate Payee's Beneficiary) by this Order are awarded to Participant.

**SECTION 8. DISABILITY RETIREMENT BENEFITS (See Section 9.E.2 for definition): This Section applies 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. As soon as practicable following the Plan's receipt of Participant's application for benefits, the Plan shall send Alternate Payee written notice to Alternate Payee's last reported address to the Plan that Participant has applied for disability benefits.
- B. Sections 4 through 7 of this Order shall not apply except in the event Participant recovers from disability as provided in Section 8.D.
- C. In accordance with Section 10, the parties shall obtain a new QDRO that implements the payment of Alternate Payee's community/marital property interest under Section 3 in light of Participant's entitlement to Disability Retirement Benefits before Participant's Earliest Retirement Date. The new order shall take into account the parties' circumstances at the time of Participant's Disability Benefit Commencement Date such as whether Participant is married or whether state law impacts the division of disability benefits.
- D. The Plan shall withhold Alternate Payee's fractional interest in Participant's Plan benefits (as determined under Section 3.C) from each of Participant's monthly lifetime Disability Retirement Benefit payments until the Plan receives a QDRO pursuant to Section 8.B. The Plan shall dispose of the withheld benefits in accordance with the terms of the new QDRO.
- E. If Participant loses entitlement to Disability Retirement Benefits before Participant's Earliest Retirement Date, the Plan shall pay Alternate Payee and Participant in accordance with Sections 4 through 8 of this Order. Any QDRO that had been entered pursuant to Section 8.B shall no longer apply unless Section 8 applies again.
- F. Nothing in this Order shall prevent the Plan from processing and paying Participant's interest in the Disability Retirement Benefits.

**SECTION 9. GENERAL PROVISIONS**

**A. Compliance with ERISA and the Code**

Pursuant to Federal law, this Order shall not be construed to:

1. Provide Alternate Payee any type or form of benefit, or any option, not otherwise provided under the Plan;
2. Provide a benefit to Alternate Payee which could have the effect of increasing Participant's total accrued benefit; and

3. Provide Plan benefits to Alternate Payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO.

**B. Participant's Cooperation Required**

Participant must cooperate fully with Alternate Payee and the Plan to carry out the conditions of this Order.

**C. Alternate Payee's Cooperation Required**

Alternate Payee must provide the Plan with whatever information the Plan reasonably needs to determine Alternate Payee's entitlement to benefits.

**D. The Plan's Right To Recover Overpayments**

Payments by the Plan pursuant to this Order shall be without prejudice to any right the Plan has under applicable law to seek recoupment or offset for overpayment.

**E. Definitions**

1. Benefit Commencement Date shall mean the "annuity starting date" as that term is defined in the Code and corresponding Treasury Regulations.
2. Disability Retirement Benefits shall mean those Plan benefits provided to retirees pursuant to Article 9 of the Plan.

**F. Participant's Beneficiary**

Participant may designate or change Participant's Beneficiary under the Plan without the consent of Alternate Payee or Alternate Payee's Beneficiary.

**G. Effect of Plan Changes**

If changes in the terms of the Plan prevent the Plan from making any payment expressly provided for in this Order, for the purpose of maintaining the Order's status as a QDRO, the Plan is authorized to interpret the Order in a manner that is consistent with this Order and the Plan as changed. Any such interpretation by the Plan is subject to review by the Court in accordance with Section 10 by petition of either party.



**SECTION 10. RESERVATION OF JURISDICTION**

The Court retains jurisdiction to make such further orders as are appropriate to (i) implement Section 8.B, (ii) enforce or clarify the provisions of Sections 1 through 9, or (iii) amend this Order for the purpose of establishing or maintaining this Order's qualification as a Qualified Domestic Relations Order.

**WESTERN CONFERENCE OF TEAMSTERS PENSION PLAN**

**Statement of Confidential Information  
(Regarding Your Social Security Number)**

**DO NOT SUBMIT THIS FORM TO THE COURT.**

**Instructions:** For tax reporting purposes, the Plan requires the social security number of any person who receives Plan benefits. However, to avoid having the social security numbers of the parties involved become part of the public record in a court order, the Plan uses this separate form to obtain the parties' social security numbers. Accordingly, please:

1. Enter the name and social security number of each party in the appropriate space below. Please print or type.
2. Submit this form to the Plan's Area Administrative Office with a file-marked copy of the court order dividing the participant's Plan benefits.
3. Do not submit this form to the court.

	NAME	SOCIAL SECURITY #
<b>Participant:</b>		____ - ____ - ____
<b>Alternate Payee:</b>		____ - ____ - ____
<b>Alternate Payee's Beneficiary:</b>		____ - ____ - ____