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**This Model Form is Governed by  
Texas Government Code Annotated Chapter 804  
and the Rules of the Employees Retirement System of Texas  
Title 34, Part IV  
Texas Administrative Code  
Chapter 74.1-11**

**QUALIFIED DOMESTIC RELATIONS ORDER**

This order is intended to meet the requirements for a “qualified domestic relations order” relating to the EMPLOYEES RETIREMENT SYSTEM OF TEXAS, hereinafter called the “Plan.” This Order is an integral part of the Decree of Divorce granted on \_\_\_\_\_. In compliance with those requirements, the following is specified:

1. This Order assigns a portion of the benefits payable under the Plan to \_\_\_\_\_ in recognition of \_\_\_\_\_ marital rights in \_\_\_\_\_’s benefits payable under the Plan.
2. Participant in the Plan is \_\_\_\_\_, whose last known mailing address is \_\_\_\_\_, whose birth date is \_\_\_\_\_, and whose Social Security Number is \_\_\_\_\_.
3. Alternate Payee is \_\_\_\_\_, whose last known mailing address is \_\_\_\_\_, whose birth date is \_\_\_\_\_, and whose Social Security Number is \_\_\_\_\_. Participant and Alternate Payee became married on \_\_\_\_\_.
4. As part of a just and right division of the estate of the parties, Alternate Payee is hereby awarded a portion of any benefits payable with respect to Participant which Participant, or Participant’s designated beneficiary, surviving spouse, or estate may become entitled to receive from the Plan, by way of a return of accumulated contributions or by way of any annuity that may become payable as a result of Participant’s participation in the Plan, such portion to be determined by:  
  
multiplying \_\_\_\_\_  
by a fraction, the numerator of which is the amount of credited service with the Plan earned by Participant between \_\_\_\_\_ and \_\_\_\_\_, and the denominator of which is the amount of credited service by Participant under the Plan on \_\_\_\_\_, and then multiplying that product by the value of the benefit that would be payable to Participant or Participant’s designated beneficiary, surviving spouse or estate by the Plan, as if the Participant were eligible to receive such benefit on \_\_\_\_\_.

5. The award to Alternate Payee under paragraph 4 of this Order is expressly made subject to the following provisions:
- (a) This Order shall not be interpreted in any way to require the Plan to provide any type or form of benefit or any option not otherwise provided under the Plan.
  - (b) This Order shall not be interpreted in any way to require the Plan to provide increased benefits determined on the basis of actuarial value.
  - (c) This Order shall not be interpreted in any way to require the Plan to pay any benefits to an Alternate Payee named in this Order which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.
  - (d) This Order shall not be interpreted in any way to require the payment of benefits to the Alternate Payee before the retirement of the Participant, the distribution of a withdrawal of contributions to the Participant as authorized by the statutes governing the Plan, or other distribution to the Participant required by law.
  - (e) This Order shall be interpreted to require that, in the event of Participant's retirement before normal retirement age, the benefits payable to Alternate Payee shall be reduced in a proportionate amount.
  - (f) This Order shall not be interpreted to require the designation of a particular person as the recipient of benefits in the event of the Participant's death, or to require the selection of a particular benefit payment plan or option.
  - (g) Applicable Texas laws and rules do not currently permit alternate payees to receive any future benefit increases. In the event that, after the date the divorce was granted, the Texas Legislature provides or requires any benefit increase specifically for alternate payees of the Plan, Alternate Payee shall receive a proportionate part of such increase or such other amount as directed by the Texas Legislature, unless such an increase would disqualify this Order as a qualified domestic relations order under applicable law or unless such increase would otherwise conflict with the rules of the Plan.
  - (h) In the event that, after the date of divorce was granted, the amount of any benefit otherwise payable to Participant is reduced by law, the portion of benefits payable to Alternate Payee shall be reduced in a proportionate amount.
  - (i) If, as a result of Participant's death after the date the divorce was granted, a payment is made by the Plan to Participant's estate, surviving spouse, or designated beneficiaries, which payment does not relate in any way to Participant's length of employment or accumulated contributions with the Plan, but is purely a death benefit as a result of employment or retired status at the time of death, no portion of such payment is community property, and Alternate Payee shall have no interest in such death benefit.
  - (j) In lieu of paying Alternate Payee the interest awarded by this Order, the Plan may pay the Alternate Payee an amount that is the actuarial equivalent of that interest in the form of (1) an annuity payable in equal monthly installments for the life of the Alternate Payee, or (2) a lump sum.
  - (k) All payments to Alternate Payee under this Order shall terminate upon Alternate Payee's death or at such earlier date as may be required as a result of the retirement option selected by Participant.

6. All benefits payable under the Plan other than those payable under paragraph 4, above, to Alternate Payee shall be payable to Participant in such manner and form as Participant may elect in \_\_\_\_\_ sole and undivided discretion, subject only to Plan requirements.
7. Alternate Payee is ORDERED to report any retirement payments received on any applicable income tax return, and to promptly notify the Plan of any changes in Alternate Payee's mailing address. The Plan is authorized to issue a Form 1099R or other form required by the Internal Revenue Service on any direct payment made to Alternate Payee.
8. Participant is designated a constructive trustee for receiving any retirement benefits under the Plan that are due to Alternate Payee but paid to Participant. Participant is ORDERED to pay the benefit defined in this paragraph directly to Alternate Payee within three (3) days after receipt by Participant. All payments made directly to Alternate Payee by the Plan shall be a credit against funds required to be paid by this Order.
9. The Court retains jurisdiction to amend this Order so that it will constitute a qualified domestic relations order under the Plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated.

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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JUDGE PRESIDING

APPROVED:

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Participant

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(Participant's Counsel, if applicable)

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Alternate Payee

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(Alternate Payee's Counsel, if applicable)