

## UMWA 1974 Pension Trust Sample QDRO – Shared Payment

*(You may use this sample either before or after the Participant’s benefit payments have started; however, benefit payments to the alternate payee cannot start until the Participant’s benefit payments have started. Also, except for any survivor benefits described in Section 8, if the Participant dies before the Alternate Payee, the Alternate Payee is not entitled to any further benefit payments following the Participant’s death.)*

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_  
DIVISION \_\_\_\_\_ COUNTY \_\_\_\_\_

IN RE MARRIAGE/SUPPORT OF :

\_\_\_\_\_  
PETITIONER,

Case No. \_\_\_\_\_

vs.

\_\_\_\_\_  
RESPONDENT

### **QUALIFIED DOMESTIC RELATIONS ORDER**

IT IS HEREBY ORDERED AS FOLLOWS:

This Order creates and recognizes the existence of an Alternate Payee’s right to receive a portion of a Participant’s benefits payable under an employer sponsored defined benefit pension plan that is qualified under Section 401 of the Internal Revenue Code (the “Code”) and the Employee Retirement Income Security Act of 1974 (“ERISA”). It is intended to constitute a Qualified Domestic Relations Order (“QDRO”) under Section 414(p) of the Code and Section 206(d)(3) of ERISA. This Order is entered pursuant to the authority granted in the applicable domestic relations laws of the [state of/commonwealth of \_\_\_\_\_]. This Order relates to the provision of marital property rights as a result of the Order of Dissolution of Marriage between the Participant and Alternate Payee.

#### **Section 1. Identification of the Plan**

The name of the Plan to which this Order applies is the UMWA 1974 Pension Plan (hereinafter referred to as the “Plan”). Further, any successor plan to the Plan shall also be subject to the terms of this Order.

**Section 2. Identification of the Participant and Alternate Payee**

a. The name and last known address of the plan “Participant” are: \_\_\_\_\_  
\_\_\_\_\_. His/Her date of birth is: \_\_\_\_\_  
and his/her Social Security Number is \_\_\_\_\_.

b. The name and last known address of the “Alternate Payee” are: \_\_\_\_\_  
\_\_\_\_\_. His/Her date of birth is: \_\_\_\_\_ and  
his/her Social Security Number is \_\_\_\_\_. The Alternate Payee shall have  
the duty to notify the Plan Administrator in writing of any changes in his/her mailing  
address subsequent to the entry of this Order.

**Section 3. Amount of Benefit to be Paid to Alternate Payee**

Starting at the time specified in Section 4, the Plan shall pay to the Alternate Payee  
\$\_\_\_\_/\_\_\_\_% of each of the Participant’s monthly benefit payments as of the time of the  
commencement date.

In addition to the above, any cost of living adjustments or other economic improvements  
made to the Participant’s benefit [**shall/shall not**] be applied by increasing, pro-rata, the  
Participant’s and the Alternate Payee’s benefit.

**Section 4. Commencement Date and Form of Payment to Alternate Payee**

Payments to the Alternate Payee shall be payable as of (**select one option**) [**a future  
specified date/the date when the Plan starts payments to the Participant**]. (This date must  
be the first day of a month and cannot be before the Participant’s Earliest Retirement Age as  
defined by Section 414(p)(4)(B) of the Code). Payment shall not be made until the Plan qualifies  
this domestic relations order. Payments to the Alternate Payee shall not start earlier than the date  
the Participant starts payments.

The Alternate Payee shall not have the right to elect a form of benefit. The amount paid  
to the Alternate Payee will be determined by the benefit form elected by the Participant.

**Section 5. Benefits Stop for the Alternate Payee**

Except for any survivor benefits described in Section 8, the Plan shall make payments to  
the Alternate Payee until the earlier of the Participant’s or Alternate Payee’s death.

**Section 6. Death of Participant**

Except for any survivor benefits described in Section 8, if the Participant dies before the  
Alternate Payee, the Alternate Payee is not entitled to any payments as of the first of the month  
following the Participant’s death.

## **Section 7. Death of Alternate Payee**

If the Alternate Payee dies before the Participant, the Plan shall return the Participant's monthly benefit payments to the amount that the Participant would be receiving had there been no Order.

## **Section 8. Treatment of Alternate Payee as Surviving Spouse**

- a. The Plan [**shall/shall not**] treat the Alternate Payee as the Participant's surviving spouse for the purposes of the Participant's pension benefits under the Plan. If the word "shall" was selected in the preceding sentence, the surviving spouse benefit shall be based on [**specify portion**] of the Participant's benefit and any subsequent spouse of the Participant shall not be treated as a spouse of the Participant for such portion. For purposes of determining the eligibility for such surviving spouse benefits, the Alternate Payee and the Participant must have satisfied the nine-month marriage requirement as required under the provisions of the Plan.
- b. In the event that the Participant predeceases the Alternate Payee and neither the Participant nor the Alternate Payee has commenced their benefits under the Plan, such Alternate Payee [**shall/shall not**] be designated as the surviving spouse of the Participant for purposes of establishing Alternate Payee's entitlement to receipt of a qualified pre-retirement survivor annuity. If the word "shall" was selected in the preceding sentence, the surviving spouse benefit shall be based on [**specify portion**] of the Participant's benefit and any subsequent spouse of the Participant shall not be treated as a spouse of the Participant for such portion. For purposes of determining the eligibility for such surviving spouse benefits, the Alternate Payee and the Participant have satisfied the one-year marriage requirements as enumerated in Sections 401(a)(11) and 417(d) of the Code and as may be required under the provisions of the Plan.

## **Section 9. Other Requirements**

This Order is not intended, and shall not be construed in such a manner as to require the Plan:

- a. To provide any type or form of benefit option not otherwise provided under the terms of the Plan;
- b. To require the Plan to provide increased benefits determined on the basis of actuarial value;
- c. To require the payment of any benefits to the Alternate Payee which are required to be paid to another Alternate Payee under another Order which was previously deemed a QDRO; or
- d. To change the benefit form if the Participant is already receiving benefit payments.

## **Section 10. Certification of Necessary Information**

All payments made pursuant to this Order shall be conditioned on the certification by the Alternate Payee and the Participant to the Plan Administration of such information as the Plan Administrator may reasonably require from such parties to make the necessary calculation of the benefit amounts contained herein.

### **Section 11. Continued Qualified Status of the Order**

It is the intention of the parties that this QDRO continues to qualify as a QDRO under Section 414(p) of the Internal Revenue Code, as it may be amended from time to time, and that the Plan Administrator shall reserve the right to reconfirm the qualified status of the Order at the time benefits become payable hereunder.

### **Section 12. Tax Treatment of Distribution Made Under This Order**

For purposes of Sections 402 (a)(1) and 72 of the Internal Revenue Code, any Alternate Payee who is the spouse of the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay appropriate federal income taxes on such distribution.

### **Section 13. Constructive Receipt**

In the event that the Plan Trustee inadvertently pays to the Participant any benefits which are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant shall immediately reimburse the Alternate Payee to the extent that he/she has received such benefit payments, and shall forthwith pay such amounts so received directly to the Alternate Payee within ten (10) days of receipt.

In the event that the Plan Trustee inadvertently pays to the Alternate Payee any benefits which are assigned to the Participant pursuant to the terms of this Order, the Alternate Payee shall immediately reimburse the Participant to the extent that he/she has received such benefit payments, and shall forthwith pay such amounts so received directly to the Participant within ten (10) days of receipt.

### **Section 14. Continued Jurisdiction**

The Court shall retain jurisdiction with respect to this Order to the extent required to maintain its qualified status and the original intent of the parties as stipulated herein.

### **Section 15. Plan Termination**

In the event that the Plan is terminated, whether on a voluntary or involuntary basis, and the Participant's benefits become guaranteed by the Pension Benefit Guaranty Corporation ("PBGC"), the Alternate Payee's benefits, as stipulated herein, shall also be guaranteed to the same extent in accordance with the Plan's termination rules and in the same ratio as the Participant's benefits are guaranteed by the PBGC.

IT IS SO ORDERED.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BY THE COURT,

\_\_\_\_\_  
JUDGE