

# **NATIONAL ELEVATOR INDUSTRY PENSION PLAN**

**INFORMATION AND PROCEDURES REGARDING PROCESSING AND EVALUATING  
DOMESTIC RELATIONS ORDERS**

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**NATIONAL ELEVATOR INDUSTRY PENSION PLAN**  
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**EVALUATING DOMESTIC RELATIONS ORDERS**

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**-PART ONE-**

**INFORMATION REGARDING THE NATIONAL ELEVATOR INDUSTRY PENSION PLAN AND HOW THE PLAN**  
**EVALUATES DOMESTIC RELATIONS ORDERS**

**SECTION I. INTRODUCTION**

**1. The National Elevator Industry Pension Plan.**

The National Elevator Industry Pension Plan (“Plan”) is a multiemployer, defined benefit pension plan funded by employer contributions. A defined benefit plan provides a formula for calculating a participant’s pension at retirement. It does *not* maintain individual accounts into which contributions are made.

The Plan provides retirement benefits to employees (Participants) who work for employers that contribute to the Plan. Employers make contributions for each hour worked by the employees covered under a collective bargaining or other written agreement. Covered employees do not make contributions themselves.<sup>1</sup>

Eligibility for benefits and the amount of those benefits are determined pursuant to a formula that takes into account a Participant’s benefit service under the Plan, his or her age at retirement, the Applicable Benefit Rate/Periodic Benefit Rate, and the form of payment option the Participant elects.

Generally, a Participant obtains vested status (*i.e.* attains a nonforfeitable right to a pension benefit) upon completing five (5) years of Vesting Service. We emphasize that the Plan does *not* establish individual accounts on behalf of Participants.

**2. The Allocation of Plan Benefits in a Domestic Relations Proceeding.**

The information in this booklet pertains to the allocation of benefits from the Plan in a divorce or other domestic relations proceeding. The Employee Retirement Income Security Act of 1974 (“ERISA”) provides that benefits may be allocated to a spouse, former spouse, child or other dependent of a Participant by a Qualified Domestic Relations Order (sometimes referred to herein as a “QDRO”). The individual to whom a portion of a Participant’s benefit is allocated is referred to as an “Alternate Payee.”

There are many options to consider and many decisions that must be made by the parties when establishing a QDRO. This booklet is designed to assist in drafting a Domestic Relations Order that will be qualified under ERISA and the Plan. Accordingly, we strongly recommend that you read this entire booklet.

It is the legal responsibility of the Plan to determine if a Domestic Relations Order is a QDRO. No benefits can be paid in accordance with the provisions of a Domestic Relations Order until the Plan determines that the Domestic Relations Order is a QDRO. Therefore, a party seeking to enforce a Domestic Relations Order must submit that order to the Plan for review. In accordance with ERISA, the Plan will review a Domestic Relations Order it receives to determine whether that order satisfies the QDRO requirements.

We suggest that prior to formulating a Domestic Relations Order, the parties and their legal counsel review the Participant’s pension status with the Plan. We further suggest that the parties consider sending the Benefits

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<sup>1</sup> Prior to July 1, 1982, Employees did make contributions to the Plan. Employees who performed work in covered employment prior to July 1, 1982 and made Employee contributions to the Plan during that period have “Accumulated Employee Contributions,” which is defined as the total Employee contributions of an Employee plus interest compounded annually at the rate established from time to time by the Trustees to the date of death, distribution or retirement, as applicable.

Office a copy of any domestic relations order in proposed form before it is submitted to the state court for adjudication. In the Plan's experience, many Domestic Relations Orders entered without prior review by the Benefits Office fail to satisfy ERISA's QDRO requirements. The Plan must reject any such Domestic Relations Order. Under such circumstances, the parties may choose to seek to amend the Order in state court consistent with ERISA's QDRO requirements. Accordingly, it is often more efficient for the Plan to conduct a preliminary review of a domestic relations order in proposed form before it is formally adjudicated.

The information contained herein is not intended to be, nor should it be, construed as legal advice to Participants, prospective Alternate Payees or any other person. The Plan urges parties who plan to submit a Domestic Relations Order to consult their attorneys before doing so. The parties' attorneys can help ensure that the parties' intentions and interests are accurately reflected in the Order. The Plan can only make a determination regarding whether the Domestic Relations Order meets ERISA's QDRO requirements and cannot make other recommendations such as the method of payment and type of formula to be used.

## **SECTION II. QDRO REQUIREMENTS**

A "Domestic Relations Order" (sometimes referred to herein as an "Order") is any judgment, decree, or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a Participant, and is made pursuant to a State domestic relations law (including community property law).

A "Qualified Domestic Relations Order" or "QDRO" is a Domestic Relations Order that: (a) creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant under a plan; and (b) meets certain other requirements as set forth under ERISA. These requirements are summarized as follows:

1. The Order must clearly specify the name the Participant and any Alternate Payee covered by the Order along with their last known mailing addresses. The Social Security Numbers of each party should also be included in the Order or as an attachment thereto for administrative purposes. The Plan recommends that the date of birth for the Participant and Alternate Payee also be included.
2. The Order must clearly specify the name the employee benefit plan to which it applies (in this case, the National Elevator Industry Pension Plan).
3. The Order must require the Plan to make payments directly to the Alternate Payee or, in the event the Alternate is not legally competent to receive such payments, to the Alternate Payee's legal guardian or other representative for the benefit of such Alternate Payee.
4. The Order must clearly specify the amount or percentage of the Participant's benefit the Plan is to pay the Alternate Payee, or the manner in which such amount or percentage is to be determined.
5. The Order must clearly specify the number of payments or period to which such order applies.
6. The Order may not require the Plan to provide benefits to provide any type or form of benefit, or any option, not otherwise provided by the Plan.
6. The Order may not require benefits, determined on the basis of actuarial equivalence, to be paid in the aggregate to or on behalf of the Participant and to the Alternate Payee that are actuarially greater than the total benefit which the Participant has earned.
7. The Order may not require benefits to be paid to the Alternate Payee which are already required to be paid to another Alternate Payee under a prior QDRO.
8. To be a QDRO, an Order cannot grant any party the right to transfer assets or have the Plan transfer assets to an Individual Retirement Account (IRA) or to another retirement plan.

9. To be a QDRO, an Order cannot grant any party the right to direct the investment of funds in the Plan. The assets of the Plan are invested on a pooled basis subject only to the direction of the Plan's Board of Trustees and the various investment managers who are fiduciaries to the Plan.

### SECTION III. BENEFIT ALLOCATION FORMULAS

For a Domestic Relations Order to be a QDRO, it must clearly specify the amount or percentage of the Participant's benefit to be paid the Alternate Payee or the manner in which such amount or percentage is to be determined. This is often done by use of an allocation formula. It can also be done by awarding a specific dollar amount to the Alternate Payee. However, because the Participant often may not know his or her benefit entitlement at the time a Domestic Relations Order is entered by the court, use of a specific dollar amount is generally not used unless the Participant is already receiving benefit payments.

In developing a formula to calculate the Alternate Payee's interest in the Participant's benefit, several factors are generally considered, such as the length of the marriage and the Participant's number of years of benefit service under the Plan, or the amount of the pension benefit earned during the marriage. The following are *examples* of some basic formulas that could be used to calculate the Alternate Payee's benefit:

- The Alternate Payee is entitled to receive a monthly benefit from the Plan equal to 50% of the fraction of the Participant's benefit at retirement based on the benefit service accumulated by the Participant during the term of the marriage. The fraction shall be computed by using as the numerator the amount of benefit service accumulated by the Participant during the marriage, and as the denominator the total amount of benefit service accumulated by the Participant under the Plan at the time of the Participant's retirement, or (if earlier) at the time the Alternate Payee elects to receive a benefit.
- The Alternate Payee shall receive a monthly benefit equal to 50% of the monthly benefit payable to the Participant based upon the Participant's benefit service in the Plan as accumulated as of the date of the Order.
- The Alternate Payee shall receive a monthly benefit equal to 50% of the monthly benefit payable to the Participant, as accumulated at the time of the Participant's retirement, or (if earlier) at the time the Alternate Payee elects to receive a benefit.

While the above examples use an apportionment of 50% of the Participant's benefit as a means to determine the Alternate Payee's benefit, neither the Plan nor ERISA mandate this percentage. It is up to the parties, together with their counsel and subject to the approval of the State court, to choose an appropriate percentage or amount of the Participant's benefit to be paid to the Alternate Payee. For a Domestic Relations Order to be a QDRO, however, the portion of the Participant's benefit assigned to the Alternate Payee under the Domestic Relations Order must not be greater than 100%. In all cases, the formula for determining the Alternate Payee's interest must satisfy the requirements of ERISA and be consistent with the terms of the Plan.

The Plan must determine whether the formula in a Domestic Relations Order is specific and clear enough to allow the Plan to calculate the amount to be paid to the Alternate Payee. The Plan will not qualify a Domestic Relations Order that does not specify the percentage or amount of the Participant's benefit to be paid by the Plan to an Alternate Payee or the manner in which such percentage or amount is determined.

Terms such as "account", "account balance", "amounts held", or "interest accrued", are inappropriate when referring to a defined benefit plan like the National Elevator Industry Pension Plan and should not be used. As noted above, the Plan is *not* a thrift or savings plan, an individual account plan, a profit sharing plan, a money purchase plan or a defined contribution plan into which specified amounts are paid into separate accounts by or on behalf of each Participant.

## SECTION IV. BENEFIT ALLOCATION METHODS

There are two commonly used methods recognized by the Plan under which a QDRO can allocate benefits to an Alternate Payee: the Shared Payment Method, which provides a designated portion of the Participant's monthly benefit to the Alternate Payee, and the Separate Interest Method, which carves out a portion of the Participant's Accrued Benefit and provides such portion as a separate entitlement to the Alternate Payee. We have provided a description of these allocation methods below.

### 1. Separate Interest Method.

#### *In General.*

A Separate Interest Method QDRO awards a portion of the Participant's expected lifetime benefits to the Alternate Payee, to be paid over the Alternate Payee's lifetime. The Separate Interest Method essentially takes the whole benefit a Participant accrued for a specific period of time, such as the duration of the parties' marriage, and creates two separate benefits. The Alternate Payee receives the portion assigned to him or her as a separate entitlement. The Participant then receives the remaining portion as a separate entitlement. On an actuarial basis, the two separate benefits cannot have a greater total value than the Participant's Accrued Benefit before the division. **The Separate Interest Method is NOT available if the Participant is already receiving a benefit from the Plan.**

#### *Time Period/Number of Payments and Form of Benefit.*

A QDRO must specify the time period or number of payments to which it applies. When the Separate Interest Method is used, this requirement may be satisfied by stating when payments to the Alternate Payee are to begin. While it is not necessary for a Domestic Relations Order to indicate the specific form in which benefits are to be paid, it should at the very least contain language stating that the Alternate Payee can elect to receive his or her portion of the benefit in any form available under the Plan, with the exception of a joint-and-survivor benefit payable with a subsequent spouse. Unless the parties intend for the Alternate Payee to receive post-retirement survivor benefits from the Participant's benefit and the order so provides, the Participant retains all rights to elect any form of payment available under the Plan, including a joint-and-survivor benefit with a subsequent spouse, if applicable.

#### *Timing of Payment.*

A QDRO may permit the Alternate Payee to elect to receive benefits at any time after the Participant has reached (or would have reached) the earliest retirement age under the Plan (generally age 55), even if the Participant continues to work in covered employment, subject to the requirement that the Alternate Payee must complete any forms and provide any information necessary for the Plan to start payment. Payments to the Alternate Payee must begin no later than the Participant's Required Beginning Date.

#### *Separate Interest Established.*

Upon a determination that a Domestic Relations Order is an enforceable Qualified Domestic Relations Order, the Alternate Payee's share of the Participant's benefit shall be immediately assigned as a separate entitlement unless the Order indicates otherwise. This approach to assigning a portion of the Participant's benefit under the Separate Interest Method is sometimes referred to as the *totally severed* approach. Consequently, under this approach:

- a. Under the totally severed approach, if the Participant predeceases the Alternate Payee, the Participant's death generally will not impact the Alternate Payee's rights with respect to his or her separate entitlement.
- b. If the Order requires the Alternate Payee to be treated as the surviving spouse beneficiary for purposes of a surviving spouse benefit, such surviving spouse benefit may be based only on the portion of the accrued benefit retained by the Participant.
- c. If the Order provides that the Alternate Payee is to be treated as the Participant's surviving spouse for a

portion of a preretirement surviving spouse benefit that exceeds the portion of the Participant's benefit retained by the Participant, the totally severed approach will not apply.

- d. Under the totally severed approach, if the Alternate Payee predeceases the Participant, the Alternate Payee's share of the Participant's benefit will not revert to the Participant or otherwise increase the portion of the Participant's benefit retained by the Participant. This is the case regardless of whether the Alternate Payee has commenced receiving benefits under the Plan.
- e. Under the totally severed approach, if the Alternate Payee dies before his or her Annuity Starting Date, the Alternate Payee's share of the Participant's benefit will not flow to a successor. In other words, the Order may not name a successor Alternate Payee.

#### *Surviving Spouse Benefits.*

As indicated above, a QDRO may require the Plan to treat the Alternate Payee as a surviving spouse for limited purposes under the Plan. However, because under the totally severed approach the Participant's death has no impact on the Alternate Payee's rights with respect to his or her separate entitlement, an Order does not require preretirement surviving spousal protection in order to secure the Alternate Payee's entitlement to a portion of the Participant's pension benefit.

Nevertheless, in the event the parties do wish to include surviving spouse protection for the benefit of the Alternate Payee, the Domestic Relations Order must state for what purpose(s), if any, the Alternate Payee is to be treated as a surviving spouse (*i.e.*, for purposes of a post-retirement survivor benefit, a pre-retirement surviving spouse benefit, or both). The Domestic Relations Order must also clearly define what portion of a surviving spouse benefit is payable to the Alternate Payee.

The portion of any post-retirement surviving spouse benefit the Alternate Payee may receive cannot be based on the portion of the Participant's accrued benefit that the Plan divided and allocated to the Alternate Payee. On the other hand, the Alternate Payee may receive a surviving spouse benefit based on the portion of the accrued benefit retained by the Participant. For example, the Domestic Relations Order could provide that the Alternate Payee will be treated as the Participant's surviving spouse for the portion of the Participant's accrued benefit earned during the parties' marriage and retained by the Participant. Under these circumstances, if the Alternate Payee is to receive post-retirement surviving spousal protection, the Order must provide that the Plan will pay the Participant's benefit in a joint and survivor form.

The parties should note, however, that if the Alternate Payee is named as the surviving spouse for the Participant's entire portion of the accrued benefit retained by the Participant, any subsequent spouse of the Participant will receive no benefits upon the Participant's death. Additionally, a Domestic Relations Order cannot assign an Alternate Payee any portion of a survivor benefit which is required to be paid to another Alternate Payee under a Domestic Relations Order previously determined to be a QDRO.

## **2. Shared Payment Method.**

### *In General.*

The Shared Payment Method gives the Alternate Payee a share of the monthly benefit payable to the Participant based on the form selected by the Participant, which can be expressed either as a flat monthly dollar amount or a percentage of the Participant's monthly benefit.

### *Availability of the Shared Payment Method.*

If the Participant is already receiving a benefit from the Plan, a Domestic Relations Order cannot change the Participant's benefit form. **Accordingly, if the Participant is already in pay status at the time the Plan receives a Domestic Relations Order, the Domestic Relations Order must use the Shared Payment Method.** If the Participant is not yet in pay status at the time the Plan receives a Domestic Relations Order, the Domestic Relations Order may use either the Shared Payment Method or the Separate Interest Method (discussed above).

### *Time Period/Number of Payments.*

A QDRO must specify the period of time or number of payments to which it applies. Therefore, an Order must state when the Alternate Payee may begin to receive the designated share of the Participant's benefit (*i.e.*, upon commencement of the Participant's pension or a date occurring thereafter) and when such payments will cease. For example, a QDRO may provide the Alternate Payee with a share of benefits payable to the Participant for the Participant's lifetime, or for a specific period, such as until a child reaches age 18 or until the Alternate Payee remarries.

### *Post-Retirement Surviving Spouse Benefits.*

Under the Shared Payment Method, payments to the Alternate Payee must cease no later than the Participant's date of death. However, if the Domestic Relations Order also treats the Alternate Payee as the Participant's surviving spouse for purposes of any portion of a post-retirement surviving spouse benefit, although the Alternate Payee will cease receiving a share of the Participant's pension benefit upon the Participant's death, the Alternate Payee will begin receiving a portion of the post-retirement surviving spouse benefit assigned to the Alternate Payee under the Order. If the Alternate Payee is to be treated as the Participant's surviving spouse for purposes of the Plan's post-retirement surviving spouse benefit, the Order must provide that the Plan will pay the Participant's benefit in a joint and survivor form.

The Domestic Relations Order must clearly define what portion of the post-retirement surviving spouse benefit is payable to the Alternate Payee. The parties should note that if the Alternate Payee is named as the post-retirement surviving spouse for the Participant's entire benefit, any subsequent spouse of the Participant will not receive any benefits upon the Participant's death.

Notwithstanding the foregoing, if benefit payments to the Participant have already commenced, a Domestic Relations Order cannot designate the Alternate Payee as the Participant's surviving spouse for purposes of any post-retirement surviving spouse benefit that may be payable under the Plan. Under these circumstances, survivor benefits payable after the Participant's death, if any, will be based on the form of payment the Participant elected at the time of retirement. For example, if the Participant was married at the time he or she retired and elected a 50% Surviving Spouse Pension, the Participant's spouse at the time of the Participant's retirement would receive the post-retirement surviving spouse benefit.

A Domestic Relations Order also cannot assign an Alternate Payee any portion of a post-retirement surviving spouse benefit which is required to be paid to another Alternate Payee under a Domestic Relations Order previously determined to be a QDRO.

### *Pre-Retirement Spouse's Benefits.*

If the Participant has not yet commenced receiving benefits under the Plan when the Domestic Relations Order is submitted to the Plan, the Order may require the Plan to treat the Alternate Payee as the Participant's spouse for purposes of the Plan's Pre-Retirement Spouse's Benefit. Under these circumstances, the Domestic Relations Order must clearly define what portion of the Plan's Pre-Retirement Spouse's Benefit is payable to the Alternate Payee. For example, the Domestic Relations Order could provide that the Alternate Payee will be treated as the Participant's surviving spouse for the portion of the Pre-Retirement Spouse's Benefit accrued during the parties' marriage.

The parties should note, however, that if the Alternate Payee is named as the pre-retirement surviving spouse for the Participant's entire benefit, any subsequent spouse of the Participant will not receive any benefits upon the Participant's death prior to retirement. Additionally, a Domestic Relations Order cannot assign an Alternate Payee any portion of a pre-retirement surviving spouse benefit which is required to be paid to another Alternate Payee under a Domestic Relations Order previously determined to be a QDRO.

If the parties use the Shared Payment Method, and the Order does not require the Plan to treat the Alternate payee as the Participant's surviving spouse for at least some portion of the Pre-Retirement Spouse's Benefit,



nothing will be payable to the Alternate Payee after the Participant's death if the Participant's death occurs before his or her Annuity Starting Date.

*Death of the Alternate Payee.*

Because a Shared Payment Method QDRO does not provide the Alternate Payee with a separate interest in a portion of the Participant's benefit, an Alternate Payee has no right to designate a beneficiary in the event he or she dies before the Participant. Accordingly, if the Alternate Payee dies before the Participant, the Alternate Payee's share of the Participant's benefit will either: (a) revert to the Participant, or (b) flow to a "successor Alternate Payee" if the Domestic Relations Order names a successor Alternate Payee from a category of individuals qualified to be an Alternate Payee under ERISA.

## **SECTION V. ADDITIONAL BENEFIT PAYMENT ISSUES**

### **1. Commencing Payments under the Separate Interest Method.**

If a Domestic Relations Order uses the Separate Interest Method, payments to an Alternate Payee may commence after the Participant has reached (or would have reached) his or her Earliest Retirement Age under the Plan (generally age-55) and when elected by the Alternate Payee (even if a benefit may not yet be payable to the Participant), and provided: (a) the Alternate Payee has completed all forms and submitted all information necessary for the Plan to start payment, and (b) the QDRO gives the Alternate Payee the right to begin receiving benefits at that time. Payments to the Alternate Payee must begin no later than the Participant's Required Beginning Date.

### **2. Commencing Payments under the Shared Payment Method.**

If a Domestic Relations Order uses the Shared Payment Method, payment of a benefit to the Alternate Payee may commence when payment of a benefit commences to the Participant (or at a later time as specified in the Order), and provided the Alternate Payee has completed all forms and submitted all information necessary for the Plan to start payment. Payments must begin no later than the Participant's Required Beginning Date.

### **3. If the Participant's Benefit Has Commenced.**

If the Plan first receives a Domestic Relations Order after the Participant's benefit has commenced, the Domestic Relations Order must use the Shared Payment Method to allocate a portion of the Participant's benefit to the Alternate Payee, and the Alternate Payee must share the Participant's benefit payments for the Participant's life or some shorter period of time. A Domestic Relations Order may not require the Plan to change the form of benefit in effect with respect to the Participant. Furthermore, a QDRO may not award a portion of the Participant's monthly benefit payment to the Alternate Payee that has already been paid to the Participant.

### **4. Entitlement to Early Retirement Subsidy.**

Any benefit paid to an Alternate Payee prior to the Participant's Annuity Starting Date will not include an early retirement subsidy. In such case, if the Participant subsequently retires and receives an Early Retirement subsidy (and if the Alternate Payee is to receive a portion of the subsidy), the Alternate Payee's benefit will be recalculated accordingly.

*If the Order Uses the Shared Payment Method—*

If the QDRO uses the Shared Payment Method, the Alternate Payee will have an entitlement to a portion of any early retirement subsidy payable to the Participant, unless the QDRO states otherwise.

*If the Order Uses the Separate Interest Method—*

If the QDRO uses the Separate Interest Method, then the Alternate Payee will **not** have an entitlement to the subsidy, unless the QDRO expressly provides this right.

If applicable, the amount of the Alternate Payee's entitlement to any early retirement subsidy will be proportionate to the portion of the benefit assigned to the Alternate Payee by the QDRO, unless the QDRO expressly states a different percentage or amount of subsidy. When the Alternate Payee's benefit is paid in the form of a separate entitlement, any early retirement subsidy received will be actuarially adjusted.

#### **5. Entitlement to Future Benefit Increases.**

From time to time, the Plan's Board of Trustees may provide increases to benefit recipients in pay status (*i.e.*, retiree increases).

*If the Order Uses the Shared Payment Method—*

If the QDRO uses the Shared Payment Method, then the Alternate Payee will have an entitlement to a portion of any future benefit increases payable to the Participant, unless the Domestic Relations Order awards the Alternate Payee a specified, fixed dollar amount or otherwise limits the portion of the Participant's benefit to which the Order applies in a manner in which such increase would not apply to the Alternate Payee's share.

*If the Order Uses the Separate Interest Method—*

If the QDRO uses the Separate Interest Method, then the Alternate Payee will **not** have an entitlement to any future benefit increases, unless the QDRO expressly gives the Alternate Payee this right.

If the QDRO expressly provides the Alternate Payee with a right to a portion of future benefit increases, the amount of the Alternate Payee's entitlement to a portion of any future benefit increases payable to the Participant will be proportionate to the portion of the benefit assigned to the Alternate Payee by the QDRO, unless the QDRO expressly states a different portion of such increases. When the Alternate Payee's benefit is paid in the form of a separate entitlement, any future benefit increase received will be based on the actuarially adjusted payment received by the Alternate Payee.

### **SECTION VI. PROPOSED DOMESTIC RELATIONS ORDERS**

As previously noted, we suggest sending the Benefits Office a copy of any Order in proposed form ("Proposed Domestic Relations Order") before it is adjudicated by the State court. The Plan will review a Proposed Domestic Relations Order to determine if it would be qualified if issued by a State court or other authoritative body. Such a review does not involve a formal determination under ERISA. The review will often expedite the QDRO determination process and save the parties time and legal fees. The Plan's review of a Proposed Domestic Relations order is done as a courtesy to assist parties in drafting orders to avoid repeated court filings due to technical errors.

If the Plan receives a Proposed Domestic Relations Order after a Participant's benefit has commenced, it will have no effect on the Participant's receipt of his or her benefit. The Plan will continue to pay the Participant his or her full benefit until an adjudicated Domestic Relations Order is received.

We emphasize that the Plan's determination of the status of a Proposed Domestic Relations Order is only preliminary. The parties must still submit a Domestic Relations Order to the Plan for formal review by the Plan. A Proposed Domestic Relations Order is not a Domestic Relations Order and has no legal effect.

The rules governing the Plan's processing of Proposed Domestic Relations Orders are separately described below in Section XI of the Procedures for Processing and Evaluating Domestic Relations Order.

**-PART TWO-**  
**PROCEDURES FOR PROCESSING AND EVALUATING  
DOMESTIC RELATIONS ORDERS**

These Procedures set forth the rules under which the National Elevator Industry Pension Plan (the “Plan”) will process and evaluate a Domestic Relations Order to determine whether it is a Qualified Domestic Relations Order. These Procedures also describe the rules under which the Plan will review a Proposed Domestic Relations Order and provide an opinion on whether the Proposed Domestic Relations Order would be a Qualified Domestic Relations Order if issued by a State court.

To assist the parties in drafting a Qualified Domestic Relations Order that the Plan may determine to be qualified, two model Domestic Relations Orders immediately follow these Procedures. The first model utilizes the Separate Interest Method for allocating the Participant’s Accrued Benefit and the second model is designed for a Participant who has commenced benefits and is a Shared Payment Method QDRO. These models represent examples of possible ways to prepare a Qualified Domestic Relations Order. We emphasize that these models include provisions for which other options are available and thus may not suit the particular needs of the parties. The parties are free to draft a Domestic Relations Order that suits their particular intent, provided such Order otherwise satisfies ERISA’s QDRO requirements and is consistent with the Plan.

**SECTION I. DEFINITIONS**

**1. Domestic Relations Order.**

A “Domestic Relations Order” or “Order” is any judgment, decree, or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a Participant, and is made pursuant to a State domestic relations law (including community property law). A Proposed Domestic Relations Order, as defined below, is not a Domestic Relations Order.

**2. Qualified Domestic Relations Order.**

A “Qualified Domestic Relations Order” or “QDRO” is a Domestic Relations Order that: (a) Creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefit payable with respect to a Participant under a pension plan; and (b) meets certain other requirements as set forth in relevant provisions of ERISA (ERISA § 206(d)(3)) and the Internal Revenue Code (IRC §414(p)).

**3. Proposed Domestic Relations Order.**

The term “Proposed Domestic Relations Order” means a draft document that relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of the Participant, but which has not been issued or approved by a State court or other authorized body. The rules governing the Plan’s processing of Proposed Domestic Relations Orders are separately described in Section XI of these Procedures.

**4. Alternate Payee.**

An “Alternate Payee” means any spouse, former spouse, child, or other dependent of a Participant who is recognized by a Domestic Relations Order as having a right to receive all or a portion of the benefit payable under a pension plan with respect to the Participant.

## **5. Separate Interest Method.**

The Separate Interest Method of assigning a portion of the Participant's benefit to the Alternate Payee divides the Participant's benefit into two separate portions and the Alternate Payee is given an independent right to receive his/her portion of the Participant's benefit. Typically under a Separate Interest Method QDRO, the Alternate Payee's benefit will commence at a time and in a form selected by the Alternate Payee rather than at a time and in the form selected by the Participant. The Alternate Payee may not receive a payment until the Participant reaches (or would have reached) his or her Earliest Retirement Age as defined below. At the time the Alternate Payee elects to commence benefits, the Alternate Payee may designate beneficiaries if the Alternate Payee elects a payment form that provides benefits to beneficiaries after the Alternate Payee's death. However, the Alternate Payee may not elect to receive the benefit in any of the Plan's joint-and-survivor annuity forms with a subsequent spouse of the Alternate Payee. The Separate Interest Method cannot be used if distribution of the Participant's benefit has commenced before a Domestic Relations Order has been submitted because a Domestic Relations Order cannot require the Plan to change a form of benefit that is in effect.

The Separate Interest Method is described in "QDROs: The Division of Pensions through Qualified Domestic Relations Orders" at Q 3-3, pp. 30-31. This publication is available at [www.dol.gov/ebsa/publications/qdros.html](http://www.dol.gov/ebsa/publications/qdros.html).

## **6. Shared Payment Method.**

The Shared Payment Method of assigning a portion of the Participant's benefit to the Alternate Payee divides each actual benefit payment made to the Participant so that the Alternate Payee receives, for a period specified in the Order (*e.g.*, for the life of the Participant, 60 monthly payments, *etc.*) a portion of each payment. Under this approach, the Alternate Payee will not receive a payment unless and until the Participant enters or is already in pay status. Unless the Alternate Payee is designated as a surviving spouse and entitled to survivor benefits following the Participant's death, the payments to the Alternate Payee will cease upon the earlier of the death of the Participant or the death of the Alternate Payee. The Alternate Payee may not designate a beneficiary for the portion of the benefit allocated to the Alternate Payee in the event the Alternate Payee predeceases the Participant.

The Shared Payment Method is described in the Department of Labor Publication entitled "QDROs: The Division of Pensions through Qualified Domestic Relations Orders" at Q 3-3, pp. 29-30. This publication is available at [www.dol.gov/ebsa/publications/qdros.html](http://www.dol.gov/ebsa/publications/qdros.html).

## **7. Earliest Retirement Age.**

The Participant's "Earliest Retirement Age" under the Plan is the earlier of: (i) the date on which the Participant is entitled to a distribution under the Plan, or (ii) the later of: (a) the date the Participant attains age 50, or (b) the earliest date the Participant could begin receiving a benefit under the Plan if the Participant separated from service. Generally, the Participant's Earliest Retirement Age will be age 55. As noted above, if the parties use the Separate Interest Method, the Plan will pay a benefit to an Alternate Payee no earlier than the date the Participant attained (or would have attained) Earliest Retirement Age. However, if the parties use the Shared Payment Method, the Plan will pay a benefit to an Alternate Payee no earlier than the Participant's Effective Date of Pension.

## **SECTION II. NOTIFICATION OF RECEIPT OF DOMESTIC RELATIONS ORDER**

Upon receipt of a Domestic Relations Order, the Plan will notify the Participant and all Alternate Payees named in the Domestic Relations Order that the Order was received. The notification will be in writing and contain:

- 1.** A cover letter acknowledging when the Order was received, explaining the steps the Plan will take to review the Order, and an explanation of the status of the Participant's benefit entitlement during the review of the Order;

2. A copy of the Order; and
3. A statement that these Procedures may be downloaded from the Plan's website <https://www.neibenefits.org/members/pension-plan/> or mailed to the Participant, Alternate Payee or either party's counsel upon request.

The Participant and any Alternate Payee(s) may designate a representative for receipt of copies of any notices that are sent to them by the Plan pursuant to this Procedure with respect to a Domestic Relations Order or a proposed Domestic Relations Order. If so designated, copies of the notices will be sent to the representatives of the parties, and all future correspondence will be directed to the representatives and copied to the Participant and Alternate Payee(s). If no address is given in the Order for mailing of this notice, the Plan shall mail it to the last known addresses of the Participant and the Alternate Payee(s).

### **SECTION III. DETERMINATION OF QUALIFICATION**

The Plan's Benefits Office will evaluate a Domestic Relations Order to determine if it is a Qualified Domestic Relations Order as follows:

1. In making the determination, the Benefits Office may consult with counsel or other advisors. The determination will be made within a reasonable period of time.
2. The Participant, all Alternate Payees, and any counsel for these parties (or other duly authorized representative of a Participant or Alternate Payee) of which the Plan has notice, will be notified in writing of the Plan's decision concerning the qualified status of the Domestic Relations Order. The determination letter will state whether or not the Order is a Qualified Domestic Relations Order. The determination letter will also state that the decision about the qualified status of the Domestic Relations Order may be appealed to the Trustees.
3. If the Plan determines that the Order is a Qualified Domestic Relations Order, the letter may describe the understanding of the Plan as to the Order's provisions and effect. If the determination is based on certain interpretations or assumptions by the Plan, the determination letter may state the interpretations or assumptions of the Plan and how they pertain to the Order. The determination letter may also state that if the parties disagree with any of the interpretations of the Plan as set forth in the determination letter, they may appeal the interpretation or assumption to the Trustees, or they may have the Order amended so that it clearly conforms to their intent.
4. If the Domestic Relations Order is found to be deficient, the determination letter will state in what respect the Order is deficient, and how the Order may be amended to qualify under the law and the Plan. The determination letter will also state that if the parties disagree with the determination of the Plan as to the failure of the Order to qualify, they may appeal the determination to the Trustees, or they may have the Order amended accordingly.
5. Unless otherwise stated in the Order, any additional actuarial costs incurred by the Plan as a result of multiple or non-routine calculations required to determine an Order's qualification will be deducted equally from the benefits payable to the parties.

### **SECTION IV. SEPARATE ACCOUNTING AND DELAY OF BENEFIT PAYMENTS DURING DETERMINATION PERIOD**

During the period when the Plan's Benefits Office is determining whether a Domestic Relations Order which has been submitted is a Qualified Domestic Relations Order, the Plan will separately account for and/or delay the payment of a benefit during the determination period as follows:

1. If the Plan receives a Domestic Relations Order allocating to an Alternate Payee(s) a portion of the benefit of a Participant who has established an Annuity Starting Date, the portion of the benefit payments allocated to the

Alternate Payee(s) by the Order will be separately accounted for pending a Final Determination of the qualified status of the Domestic Relations Order. The balance of the Participant's benefit payments, if any, will be paid to the Participant.

2. If the Plan receives an application for benefits after receipt of a Domestic Relations Order but while the Plan's consideration of the Domestic Relations Order is pending, the processing of the Participant's benefit will be suspended until a determination can be made as to the benefit to which the Alternate Payee(s) would be entitled if the Domestic Relations Order were qualified. If a preliminary determination can be made concerning the Alternate Payee's entitlement, the Alternate Payee's benefit will be set aside and separately accounted for until a Final Determination of the qualified status of the Domestic Relations Order is made by the Plan. The balance of the Participant's benefit will be paid to the Participant if the Participant's portion can be determined and paid, provided that permitting the Participant to go into pay status does not adversely affect the Alternate Payee's entitlement under the terms of the Order, including an Alternate Payee's right to receive his or her interest as a Separate Interest.
3. If the Plan receives a Domestic Relations Order after the Plan receives an application for benefits but before the distribution of the Participant's benefit has begun, the Plan will proceed as if the application for benefits was received after the receipt of the Domestic Relations Order as set forth in Paragraph 2 above.
4. If after the Plan receives an application for benefits but before the distribution of the Participant's benefit has begun:
  - (a) The Plan receives written notice of divorce or separation proceedings and that a Domestic Relations Order is proposed or pending, but the Plan has not received a Domestic Relations Order, or
  - (b) The Plan receives a Domestic Relations Order that does not clearly relate to the creation or recognition of the existence of an Alternate Payee's right to receive all or a portion of a benefit payable with respect to the Participant under *this Plan*—

The Plan may suspend the processing of the Participant's benefit application for 30 days following the later of:

- (a) The Plan's receipt of an application for benefits; and
- (b) The written notice of the divorce and pending Order relating to this Plan,

to determine if there is a Domestic Relations Order and to what extent a Domestic Relations Order may affect the Participant's benefit. Upon receiving this written notice or Domestic Relations Order, the Plan will provide notice of the hold on the processing of the pension application. The Plan will provide this information in writing and will include a copy of these Procedures. If no Domestic Relations Order is received within 30 days, the Plan may process the application for benefits or, if it is determined that an Order may be forthcoming, the Plan may extend the hold on the Participant's benefit for up to an additional 60 days based upon the facts and circumstances.

5. If there is any reasonable doubt or if there are conflicting claims as to the existence of (or the effect of) a Domestic Relations Order or a Proposed Domestic Relations Order, the Plan may suspend processing of the Participant's benefit (or any portion thereof) for such time period necessary to resolve any outstanding legal issues or legal interests of affected parties.

## **SECTION V. FINAL DETERMINATIONS**

When a determination is made by the Plan concerning the qualified status of a Domestic Relations Order, payment of any portion of the benefit assigned shall be made as follows:

1. If the Domestic Relations Order is determined to be a Qualified Domestic Relations Order and such determination

is considered a Final Determination (as defined below), the benefit assigned to an Alternate Payee will be paid to that Alternate Payee in accordance with the terms of the Order (and any other restrictions on the timing of payment) so long as such Alternate Payee has submitted such forms and information as required by the Plan.

However, should any of the parties appeal the Plan's determination or seek to amend the Order as described in Paragraph 2 below, the Plan's determination will not be treated as a Final Determination, and, if applicable, any benefit held separately with respect to any Alternate Payee shall continue to be held separately until the Plan issues a Final Determination of the qualified status of the Order.

2. If the Order is determined not to be a Qualified Domestic Relations Order, any benefit held separately for an Alternate Payee will continue to be held separately for 180 days from the date of the determination letter to allow the parties to amend the Order or file an appeal. If within the 180-day period following a determination that an Order is not a QDRO the parties neither submit an amended Order nor file an appeal, at the end of the 180-day period the determination shall be treated as a Final Determination and any benefit held separately with respect to any Alternate Payee will be released.

However, if at any time during the 180-day period the parties each indicate that they do not intend either to appeal the Plan's determination or amend the Order, the determination will be treated as a Final Determination and any separately held benefit will be released to the person or persons who would have been entitled to such amounts if there had been no Order.

3. If a Final Determination is not made within the eighteen (18) month period that begins with the date on which the first payment would be required to be made under the Order, any benefit held separately with respect to any Alternate Payee will be released. A determination that a Domestic Relations Order is a QDRO after the close of this eighteen (18) month period will be applied prospectively only.

For purposes of these Procedures, a **Final Determination** means:

1. A determination by the Plan that a Domestic Relations Order is a Qualified Domestic Relations Order if no appeal has been filed or if no amended Order has been submitted within 180 days of the date of the determination or, if earlier, when the parties verify that they do not intend to appeal the determination or submit an amended Order to the Plan.
2. A determination by the Plan that the Order is not a Qualified Domestic Relations Order if no appeal has been filed or amended Order has been submitted within 180 days of the date of the determination or, if earlier, when the parties verify that they do not intend to appeal the determination or submit an amended Order to the Plan.
3. A determination by the Trustees on appeal.

## **SECTION VI. BENEFIT PAYMENT ISSUES**

### **1. Commencing Payments under the Separate Interest Method.**

If a Domestic Relations Order uses the Separate Interest Method, payments to an Alternate Payee may commence after the Participant has reached (or would have reached) his or her Earliest Retirement Age and when elected by the Alternate Payee (even if a benefit may not yet be payable to the Participant), subject to the requirement that the Alternate Payee must complete any forms and provide any information necessary for the Plan to start payment and provided that the QDRO gives the Alternate Payee the right to begin receiving benefits at that time. Payments to the Alternate Payee must begin no later than the Participant's Required Beginning Date.

### **2. Commencing Payments under the Shared Payment Method.**

If a Domestic Relations Order uses the Shared Payment Method, payment of a benefit to the Alternate Payee may commence when payment of a benefit commences to the Participant (or at a later time as specified in the Order),

subject to the requirement that the Alternate Payee must complete any forms and provide any information necessary for the Plan to start payment. Payments must begin no later than the Participant's Required Beginning Date.

### **3. If the Participant's Benefit Has Commenced.**

If the Plan first receives a Domestic Relations Order after the Participant's benefit has commenced, the Domestic Relations Order must use the Shared Payment Method to allocate a portion of the Participant's benefit to the Alternate Payee, and the Alternate Payee must share the Participant's benefit payments for the Participant's life or some shorter time period. A Domestic Relations Order may not require the Plan to change the form of benefit in effect with respect to the Participant.

### **4. Rounding Up of Time Periods.**

If a Domestic Relations Order includes a period of time representing the portion of the Participant's benefit to be divided (*e.g.*, months of service, months of time in which the Participant has accrued a benefit under the Plan, *etc.*), and such time period includes fractions of months, the Plan reserves the right to round those partial months up to the next whole number of months.

### **5. Entitlement to Early Retirement Subsidy.**

The Alternate Payee can receive a portion of an early retirement subsidy only if and when it becomes payable to the Participant. If the QDRO uses the Shared Payment Method, then the Alternate Payee will have an entitlement to a portion of any early retirement subsidy payable to the Participant, unless the QDRO states otherwise.

If the QDRO uses the Separate Interest Method, then the Alternate Payee will **not** have an entitlement to the subsidy, unless the QDRO expressly provides this right. Any early retirement subsidy that would otherwise apply to the portion of the Participant's normal retirement benefit assigned to the Alternate Payee under the QDRO will not apply to the benefit retained by the Participant.

If applicable, the amount of the Alternate Payee's entitlement will be proportionate to the portion of the benefit assigned to the Alternate Payee by the QDRO, unless the QDRO expressly states a different percentage or amount of subsidy. When the Alternate Payee's benefit is paid in the form of a separate entitlement, any early retirement subsidy received will be actuarially adjusted.

### **6. Entitlement to Future Benefit Increases.**

#### *Retiree Benefit Increases where the Order Uses the Shared Payment Method—*

If the QDRO uses the Sharing Payment Method, then the Alternate Payee will have an entitlement to a portion of any future retiree benefit increases payable to the Participant, unless the Domestic Relations Order awards the Alternate Payee a specified, fixed dollar amount or otherwise limits the portion of the Participant's benefit to which the Order applies in a manner in which such retiree benefit increase would not be applicable to the Alternate Payee's share.

#### *Retiree Benefit Increases where the Order Uses the Separate Interest Method—*

If the QDRO uses the Separate Interest Method, then the Alternate Payee will not have an entitlement to any future retiree benefit increases, unless the QDRO expressly gives the Alternate Payee this right.

If the QDRO expressly provides the Alternate Payee with the right to a portion of future retiree benefit increases, the amount of the Alternate Payee's entitlement to a portion of any future retiree benefit increases payable to the Participant will be proportionate to the portion of the retiree benefit assigned to the Alternate Payee by the QDRO, unless the QDRO expressly states a different portion of such increases. When the Alternate Payee's benefit is paid in the form of a separate entitlement, any future retiree benefit increase received will be based on the actuarially adjusted payment received by the Alternate Payee.



*Impact of Plan Amendments Affecting a Participant's Benefit Rate where the Order Uses the Shared Payment Method—*

If the QDRO uses the Shared Payment Method, then the Alternate Payee's share of the Participant's monthly benefit will be adjusted to account for subsequent Plan amendments that affect the Participant's benefit accrual rate unless the Domestic Relations Order awards the Alternate Payee a specified, fixed dollar amount or otherwise clearly indicates that amendments changing the Participant's benefit rate shall have no impact on the Alternate Payee's share.

*Impact of Plan Amendments Affecting a Participant's Benefit Rate where the Order Uses the Separate Interest Method—*

If the QDRO uses the Separate Interest Method, then the Alternate Payee's portion will not be adjusted to take into account subsequent Plan amendments that affect the Participant's benefit accrual rate unless the QDRO expressly provides otherwise.

If the QDRO expressly provides the Alternate Payee's separate interest shall be adjusted to account for subsequent Plan amendments affecting a Participant's benefit rate, the impact of any such amendment on the Alternate Payee's interest will be proportionate to the portion of the accrued benefit assigned to the Alternate Payee by the QDRO, unless the QDRO expressly states otherwise, and any additional benefit amount be subject to appropriate actuarial adjustment to reflect the time and form of payment of the Alternate Payee's separate interest.

**7. Suspension of Benefits.**

If a Domestic Relations Order uses the Separate Interest Method, a suspension of the Participant's benefit will not impact the Alternate Payee's receipt of benefits. If a Domestic Relations Order uses the Shared Payment Method, a suspension of the Participant's benefit will also result in a suspension of the Alternate Payee's benefit.

**8. Multiple Orders.**

If, after a Domestic Relations Order has been received by the Plan (either before or after it is determined to be a QDRO), a new Domestic Relations Order is received modifying the earlier Order, the two Orders will be considered together and a determination made whether the new Order constitutes a QDRO. If the earlier Order has been determined to be a QDRO, the changes will have a prospective effect only.

**SECTION VII. DEATH OF PARTICIPANT**

A Domestic Relations Order will not fail to be a QDRO solely because it is issued after the death of the Participant. However, a Domestic Relations Order issued after the death of the Participant cannot require the Plan to change the form of a benefit after the benefit form is effective or require the payment of benefits already paid to the Participant or to another beneficiary. Therefore, Domestic Relations Orders received after the death of a Participant are subject to the following provisions in addition to the other provisions of these Procedures:

1. If a Domestic Relations Order has not been submitted to the Plan, the Plan will assume that no Domestic Relations Order has been entered and may process applications from and pay a benefit to beneficiaries in accordance with that assumption unless and until a Domestic Relations Order or written notice of a Domestic Relations Order is received.
2. If the Plan has received written notice of a Domestic Relations Order, the Plan will suspend the processing of a benefit application from a beneficiary for up to 30 days (and may extend this up to an additional 60 days) to allow for the submission of a Domestic Relations Order, and will provide notice of the of the suspension to the applicant. If a Domestic Relations Order is not received by the Plan by the end of the suspension period, any

order received will have prospective effect only. The Plan is not required to modify or reverse any payment, transaction, or application of funds in accordance with any Order that is received after the suspension period that would have affected such payment, transaction, or application of funds; nor is the Plan or any other party liable for any such payment, transaction, or application of funds.

### **SECTION VIII. PLAN NOTICE REQUIREMENTS**

Except as provided in these Procedures, the Plan will not assume the administrative burden of providing notices that are not otherwise required by law.

It is the responsibility of the Alternate Payee to ensure that a Domestic Relations Order is submitted promptly and before the benefits subject to the order are distributed. The failure of the Plan to give notice of an application received or to suspend processing of an application prior to the receipt of a Domestic Relations Order will not give rights to the Alternate Payee that do not exist under the law based on the submission of a Proposed Domestic Relations Order, other document or under any other circumstances.

### **SECTION IX. FORMS AND INFORMATION REQUIRED FROM ALTERNATE PAYEES**

It is the responsibility of the Alternate Payee to comply with the following procedures:

- 1.** Before benefit payments to the Alternate Payee commence, the Alternate Payee must first complete such forms and provide such information at the time and in the manner required by the Plan and the QDRO.
- 2.** If the Alternate Payee is given the right under the Domestic Relations Order to choose among benefit forms available under the Plan, the Plan will provide the Alternate Payee with a description of such benefit form options at the time the Alternate Payee elects to commence his/her benefits. The Alternate Payee may not elect to receive the benefit in any of the Plan's joint-and-survivor annuity forms with a subsequent spouse of the Alternate Payee.
- 3.** An Alternate Payee must advise the Trustees of any change in his/her name, address, or marital status, as well as any change or amendment to the Qualified Domestic Relations Order. Until a written notice has been provided to the Trustees, the Trustees are fully protected in complying with, and in conducting the affairs of the Plan in a manner consistent with the information set forth in the Qualified Domestic Relations Order.
- 4.** The Trustees are not required to modify or reverse any payment, transaction, or application of funds occurring before the receipt of any document that would have affected such payment, transaction, or application of funds; nor are the Trustees or any other party liable for any such payment, transaction, or application of funds.

## SECTION X. ADDITIONAL ERISA AND TAX-RELATED MATTERS

### 1. Alternate Payee Treated as a Beneficiary.

Upon a Final Determination that a Domestic Relations Order is a QDRO, the Alternate Payee(s) named in the Order will be treated as a beneficiary of the Plan for all purposes, including ERISA's disclosure requirements, except with respect to PBGC premiums.

### 2. Taxability of Distributions to Alternate Payees.

Under the Internal Revenue Code, taxability of distributions pursuant to a Qualified Domestic Relations Order is based on the identity of the Alternate Payee. If the Alternate Payee is the spouse or former spouse of the Participant, payments will be taxable to the Alternate Payee. However, if the Alternate Payee is a child or dependent of the Participant, payments will be taxable to the Participant.

For your review and reference, we have reproduced Section 402(e)(1)(A) of the Internal Revenue Code as follows:

(A) **Alternate payee treated as distributee.** For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

Additionally, we have reproduced an excerpt from IRS Publication 575 for your review and reference as follows:

**Qualified domestic relations order.** A spouse or former spouse who receives part of the benefits from a retirement plan under a qualified domestic relations order (QDRO) reports the payments received as if he or she were a plan participant.... A distribution that is paid to a child or dependent under a QDRO is taxed to the plan participant.

Please refer to IRS Publication 575 for a more complete description of the tax consequences of a distribution to an Alternate Payee. You may also refer to the Department of Labor Publication "The Division of Pensions through Qualified Domestic Relations Orders" available at: <http://www.dol.gov/ebsa/publications/qdros.html>.

The Plan does not provide tax advice. If you have further questions regarding the taxation of benefits payable under a QDRO, you should consult with your tax advisor.

## SECTION XI. PROPOSED DOMESTIC RELATIONS ORDERS

The Plan will treat Proposed Domestic Relations Orders as follows:

1. The Plan will review any Proposed Domestic Relations Order submitted by a party or a legal representative to determine if it would be a Qualified Domestic Relations Order if issued by a State court. After receipt of a Proposed Domestic Relations Order, the Plan will review the Proposed Domestic Relations Order and respond with a non-binding, good faith opinion evaluating the Proposed Domestic Relations Order along with a copy of these Procedures.
2. If the Plan receives a Proposed Domestic Relations Order after the Participant's benefit has commenced, it will have no effect on the Participant's receipt of his/her benefit. The Plan will continue to pay the Participant his/her full benefit until an Order is received.
3. If the Plan receives an application for benefits after it receives a Proposed Domestic Relations Order or within 180 days after the Plan has provided an opinion on the Order under paragraph XI.1, or if the Plan receives a Proposed Domestic Relations Order while an application for benefits is pending, the processing of the Participant's benefit may be suspended for up to 60 days following the later of the Plan's receipt of an application for benefits or the Plan's receipt of the Proposed Domestic Relations Order. In addition to the notice and review

procedures described in Paragraph 1 above, upon the later of the Plan's receipt of a Proposed Domestic Relations Order or an application for benefits, the Plan will notify the parties to the Proposed Domestic Relations Order that the Plan has received an application for benefits and, if applicable, that the processing of the application will be suspended. If no Domestic Relations Order is received within the suspension period specified, the Plan may lift the suspension and process the application for benefits. On the other hand, if the Plan determines that a Domestic Relations Order may be forthcoming, the Plan may extend the suspension so long as the suspension does not exceed a total of 90 days.

- 3. The Plan's determination of the status of a Proposed Domestic Relations Order is only preliminary. The parties must still submit a Domestic Relations Order to the Plan for formal review by the Plan. A Proposed Domestic Relations Order is not a Domestic Relations Order and has no legal effect.

### **SECTION XII. AUTHORITY AND DISCRETION OF TRUSTEES**

In construing these Procedures, any submitted Domestic Relations Order, any appeal or the terms of the Plan, the Trustees have full and exclusive authority and discretion to determine all questions of eligibility, methods of providing or arranging for benefits and all related matters. All determinations made and actions taken by the Trustees regarding the qualified status of an Order will be conclusive and binding upon the Plan, the Participant, the Participant's spouse and beneficiaries, any Alternate Payee(s) named and all other parties.

### **SECTION XIII. MODIFICATION TO THESE PROCEDURES**

The Trustees have the right to amend or modify these Procedures without notice to any party. The Trustees will make available a copy of the amended or modified Procedures to each party to a Domestic Relations Order pending for determination. No amendment or modification, unless required by law or applicable regulation, will cause an Order previously determined to be a Qualified Domestic Relations Order to fail to retain that status, or cause an Order previously determined not to be a Qualified Domestic Relations Order to be recharacterized as a Qualified Domestic Relations Order.

**Adopted:** \_\_\_\_\_

**On Behalf of the Board of Trustees of the National Elevator Industry Pension Plan:**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Co-Chairman

## -PART THREE-

### COMPARISON OF THE SHARED PAYMENT METHOD AND SEPARATE INTEREST METHOD FOR ALLOCATING A PARTICIPANT'S ACCRUED BENEFIT

#### SHARED PAYMENT METHOD

1. The Alternate Payee will receive a portion of the Participant's monthly benefit and cannot choose to receive a benefit in a separate form.
2. If submitted to the Benefits Office before the Plan commences payments to the Participant, the QDRO may designate the Alternate Payee as the surviving spouse beneficiary for either or both the pre-retirement surviving spouse benefit and the post-retirement surviving spouse benefit. The QDRO must specify which applies and what portion of the benefit payable to the Alternate Payee.
3. If the Alternate Payee dies before the commencement of benefits, the Alternate Payee's benefit reverts to the Participant unless the QDRO names a successor Alternate Payee.
4. If the Alternate Payee dies after the commencement of benefits, the Alternate Payee's benefit reverts to the Participant unless the QDRO names a successor Alternate Payee.
5. The Alternate Payee's benefit may be for the lesser of the life of the Participant or the Alternate Payee, or it may be for a specified time, such as until remarriage or a child reaching majority.
6. The Alternate Payee's benefit may begin as early as the date the Participant's benefit begins (if the Participant is not yet in Pay status when the Plan receives the QDRO), or may be effective the first month after receipt of an adjudicated Domestic Relations Order if the Participant is already in pay status or has established an Annuity Starting Date.

**NOTE: The Shared Payment Method may be used regardless of whether payments have begun to the Participant.**

#### SEPARATE INTEREST METHOD

1. The Alternate Payee may be given the right to choose the form of benefit, other than a joint-and-survivor form with a subsequent spouse.
2. If the Participant predeceases the Alternate Payee, the Participant's death will not impact the Alternate Payee's rights with respect to his or her separate entitlement. Accordingly, if the Order requires the Alternate Payee to be treated as the surviving spouse beneficiary for purposes of a surviving spouse benefit, such surviving spouse benefit may be based only on the portion of the accrued benefit retained by the Participant
3. Generally, if the Alternate Payee predeceases the Participant, the Alternate Payee's benefit will not revert to the Participant and will not pass to a successor Alternate Payee.
4. If the Alternate Payee dies after the commencement of benefits to the Alternate Payee, the Fund must pay survivor benefits (if any) to the Alternate Payee's designated beneficiary.
5. The Alternate Payee's benefit is payable based on the Alternate Payee's life.
6. The Alternate Payee's benefit may commence after the Participant has reached his/her Earliest Retirement Age and when elected by the Alternate Payee (even if a benefit may not yet be payable to the Participant), subject to the requirement that the Alternate Payee must complete any forms and provide any information necessary for the Plan to start payment, and provided that the QDRO gives the Alternate Payee the right to begin receiving benefits at that time. However payments must begin to the Alternate Payee no later than April 1st of the calendar year following his or her attainment of age 70½.

**NOTE: The Separate Interest Method cannot be used if payments have begun to the participant.**

**-PART FOUR-**

**NATIONAL ELEVATOR INDUSTRY PENSION PLAN  
MODEL QUALIFIED DOMESTIC RELATIONS ORDER  
(SEPARATE INTEREST METHOD)**

THIS MODEL IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT ALL OF THE ALTERNATIVES AVAILABLE IN DRAFTING A QUALIFIED DOMESTIC RELATIONS ORDER ("QDRO"), NOR DOES IT COVER ALL OF THE ISSUES THAT ARISE IN REGARDS TO A QDRO. THE PARTIES TO THE ORDER SHOULD REVIEW THE PLAN'S QDRO MATERIALS AND CONSULT WITH THEIR ATTORNEYS TO ENSURE THAT THEIR INTENTIONS ARE ACCURATELY REFLECTED IN THE ORDER.

FURTHERMORE, USE OF THE MODEL DOES NOT ENSURE THAT THE ORDER PRESENTED TO THE PLAN WILL QUALIFY AS A QUALIFIED DOMESTIC RELATIONS ORDER OR THAT A COURT WILL APPROVE SUCH ORDER.

THIS MODEL REQUIRES THE PARTIES TO FILL IN INFORMATION OR OTHERWISE MAKE AN ELECTION UNDER PARAGRAPHS 1, 2, 3, 6, 12 AND 13.

In the \_\_\_\_\_ Court of \_\_\_\_\_,

State of \_\_\_\_\_

\_\_\_\_\_, Plaintiff )

vs. )

\_\_\_\_\_, Defendant )

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

**QUALIFIED DOMESTIC RELATIONS ORDER**

In accordance with the agreement of the parties, the following disposition is made of the Participant's benefit accrued through participation in the retirement plan named below:

National Elevator Industry Pension Plan  
19 Campus Blvd., Suite 200  
Newtown Square, PA

**1. Plan Participant Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Social Security #: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**2. Alternate Payee Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Social Security #: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

3. **Date of Marriage and Divorce:** The Participant and the Alternate Payee were married on \_\_\_\_\_, and were granted a divorce on \_\_\_\_\_.

4. **Name of Plan to Which Order Applies:** National Elevator Industry Pension Plan ("Plan").

5. **Assignment to Alternate Payee:** The Alternate Payee is hereby assigned a portion of the benefit that would otherwise be payable to the Participant. The Plan is to make payment of the Alternate Payee's benefit directly to the Alternate Payee.

6. **Formula for Determining Alternate Payee's Benefit:** The Plan shall determine the Alternate Payee's portion of the Participant's benefit as follows:

**Instructions For Paragraph 6**

It is up to the parties to determine the amount of the Alternate Payee's separate entitlement. There 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 Plan how to determine the Alternate Payee's portion of the Participant's benefit. The parties should understand that they are NOT required to use any of the sample formulas, nor must the Participant's benefit be allocated equally between the parties. These sample formulas are included for purposes of illustration only. The parties may devise their own formula (provided it is calculable under the Plan), and it is up to the parties to decide how to apportion the benefits between them. **Select one of the following or devise your own formula:**

$$50\% \times \frac{\text{Participant's Credited Service accrued under the Plan during Marriage}}{\text{Participant's Total Credited Service accrued under the Plan as of Alternate Payee's Effective Date}} \times \frac{\text{Participant's Total Pension Benefit under the Plan as of Alternate Payee's Effective Date}}{\text{Participant's Total Pension Benefit under the Plan as of Alternate Payee's Effective Date}}$$

Or

- 50% of the Pension Benefit accrued by the Participant from the date of marriage to the date of divorce.

Or

- 50% of the Pension Benefit accrued by the Participant as of the Alternate Payee's Annuity Starting Date.

Or

—Insert Custom Formula—

7. **Form of Payment to Alternate Payee:** This Order is intended to be a Separate Interest Order that assigns to the Alternate Payee a portion of the Participant's Accrued Benefit. Such portion is to be payable directly to the Alternate Payee over the course of the Alternate Payee's lifetime. Accordingly,

the Plan is hereby ordered to pay directly to the Alternate Payee the benefit assigned to the Alternate Payee pursuant to this Order in accordance with one of the options provided in the Plan and as the Alternate Payee shall elect (except in the form of a joint-and-survivor annuity payable to Alternate Payee and the Alternate Payee's subsequent spouse). Survivor benefits, if any, will be paid in accordance with the form of payment elected by the Alternate Payee.

**8. Period of Payments to Alternate Payee:** The Alternate Payee may, upon written application in accordance with Plan procedures, elect to begin receiving his/her portion of the Participant's benefit at any time after the Participant attains (or would have attained) the earliest retirement age under the Plan. The Participant will notify the Alternate Payee prior to when he/she files his/her pension application with the Plan. Notwithstanding the foregoing, the Alternate Payee must start to receive benefits by the Participant's Required Beginning Date.

**9. Form of Payment to Participant:** The Participant may elect any form of payment available from the Plan for the portion of the Participant's Accrued Benefit not assigned to the Alternate Payee by this Order (*i.e.*, the portion of the Participant's Accrued Benefit retained by the Participant). This entitlement includes the right to elect a joint-and-survivor annuity form of benefit with a subsequent spouse.

**10. Death of the Participant:** If the Participant predeceases the Alternate Payee, the Participant's death shall have no impact on the Alternate Payee's right to a portion of the Participant's Accrued Benefit. If the Participant dies before the Alternate Payee and before the Participant's Annuity Starting Date, the Alternate Payee will not be treated as the surviving spouse beneficiary of the Participant for purposes of any available pre-retirement spousal benefit. If the Participant dies before the Alternate Payee and after the Participant's Annuity Starting Date, the Alternate Payee will not be treated as the surviving spouse beneficiary of the Participant for purposes of any available post-retirement spousal benefit.

**11. Death of the Alternate Payee:** If the Alternate Payee predeceases the Participant, the Alternate Payee's death shall have no impact on the Participant's rights with respect to the portion of the Participant's Accrued Benefit not assigned to the Alternate Payee by this Order (*i.e.*, the portion of the Participant's Accrued Benefit retained by the Participant). Under no circumstances shall the benefit assigned to the Alternate Payee revert to the Participant.

**12. Early Retirement Subsidy:** If the Alternate Payee commences benefits prior to the Participant's Annuity Starting Date, the benefit payable to the Alternate Payee will not include the value of any subsidized early retirement benefit provided under the Plan. If the Participant begins receiving a subsidized early retirement benefit under the Plan, the Alternate Payee [***EITHER will OR will not***] be entitled to a proportionate share of that subsidy.

**13. Benefit Increases and Decreases:** The Alternate Payee [***EITHER will OR will not***] be entitled to any benefit improvements attributable to his/her proportional entitlement for which the Participant is otherwise eligible.

**14. Savings Clause:** This Order is not intended to, and shall not be construed to, require the Plan to do the following: (a) provide any form of benefit option not otherwise provided under the terms of the Plan; (b) require the Plan to provide an increased benefit determined on the basis of actuarial value; or (c) require the payment of any benefit to the Alternate Payee which is required to be paid to another alternate payee under another order which was previously deemed to be a Qualified Domestic Relations Order. In case of a conflict between the terms of this Order and the terms of the



Plan, the terms of the Plan shall prevail.

**15. Actuarial Costs:** Any additional and excessive actuarial costs incurred by the Plan as a result of this Order will be deducted equally from the benefits payable to the parties.

**16. Address Notification:** The parties shall promptly notify the Plan of any change in their addresses from those set forth in this Order. Any obligation of the Plan to send communications to the parties will be satisfied by mailing such communications to the last known addresses of the parties in the Plan's records.

**17. Actions by Participant:** The Participant will not take any action, affirmative or otherwise, to circumvent the terms and provisions of this Order, or to diminish or extinguish the rights of the Alternate Payee as set forth herein. Should the Participant take any action or inaction to the detriment of the Alternate Payee, the Participant will be required to make sufficient payments directly to the Alternate Payee to the extent necessary to neutralize the effect of his/her actions or inactions and to the extent of the Alternate Payee's full entitlement as set forth herein.

**18. Constructive Trusteeship:** While it is anticipated that the Plan will pay the benefit assigned to the Alternate Payee by this Order directly to the Alternate Payee, the Participant is designated as constructive trustee to the extent Participant receives any part of the Alternate Payee's benefit. Under these circumstances, the Participant must forward such part directly to the Alternate Payee. While it is also anticipated that the Plan will pay the Participant's benefit to the Participant, the Alternate Payee is designated as constructive trustee to the extent Alternate Payee receives any part of the Participant's benefit. Under these circumstances, the Alternate Payee must forward such part directly to the Participant.

**19. Federal Tax Reporting:** For Federal income tax purposes, the Alternate Payee shall be treated as the distributee of all payments made by the Plan to the Alternate Payee pursuant to this Order.

**20. Successor Plan(s):** Any change in Plan Administrator, Plan Sponsor or the name of the Plan will not affect the Alternate Payee's rights under this Order or under the Plan. Any successor plan(s) to the Plan shall be subject to the terms of this Order.

**21. Plan Termination:** If the Plan terminates, the Alternate Payee will be entitled to receive the benefit assigned by this Order in accordance with the Plan's termination provisions.

**22. Attorneys' Fees and Plan Liability:** The Plan, its Trustees and other fiduciaries shall not be responsible for any attorneys' fees or other costs incurred by the Participant or the Alternate Payee in connection with obtaining or enforcing this Order. The Participant and the Alternate Payee shall hold the Plan, its Trustees and other fiduciaries harmless from any liabilities which arise from treating this Order as a Qualified Domestic Relations Order, including all reasonable attorneys' fees in connection with any claims which are asserted because the Plan honors this Order as a Qualified Domestic Relations Order. The Plan shall not be liable for any inadvertent payment(s), including those described under Paragraph 18 of this Order.

**23. Intent and Continued Jurisdiction:** The parties and the Court intend for this Order to be a Qualified Domestic Relations Order under the Retirement Equity Act of 1984, Public Law 98-397. The Court shall retain jurisdiction over this matter to amend this Order if necessary to establish or maintain its status as a Qualified Domestic Relations Order.

SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
Plan Participant

\_\_\_\_\_  
Attorney for Participant  
Address:

\_\_\_\_\_  
Alternate Payee

\_\_\_\_\_  
Attorney for Alternate Payee  
Address:

**-PART FIVE-**

**NATIONAL ELEVATOR INDUSTRY PENSION PLAN  
MODEL QUALIFIED DOMESTIC RELATIONS ORDER  
SHARED PAYMENT METHOD)  
(Participant in Pay Status)**

THIS MODEL IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT ALL OF THE ALTERNATIVES AVAILABLE IN DRAFTING A QUALIFIED DOMESTIC RELATIONS ORDER ("QDRO"), NOR DOES IT COVER ALL OF THE ISSUES THAT ARISE IN REGARDS TO A QDRO. THE PARTIES TO THE ORDER SHOULD REVIEW THE PLAN'S QDRO MATERIALS AND CONSULT WITH THEIR ATTORNEYS TO ENSURE THAT THEIR INTENTIONS ARE ACCURATELY REFLECTED IN THE ORDER.

FURTHERMORE, USE OF THE MODEL DOES NOT ENSURE THAT AN ORDER PRESENTED TO THE PLAN WILL QUALIFY AS A QUALIFIED DOMESTIC RELATIONS ORDER OR THAT A COURT WILL APPROVE SUCH ORDER.

THIS MODEL REQUIRES THE PARTIES TO FILL IN INFORMATION OR OTHERWISE MAKE AN ELECTION UNDER PARAGRAPHS 1, 2, 3, AND 6.

In the \_\_\_\_\_ Court of \_\_\_\_\_,

State of \_\_\_\_\_

\_\_\_\_\_, Plaintiff )

vs. )

\_\_\_\_\_, Defendant )

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

**QUALIFIED DOMESTIC RELATIONS ORDER**

In accordance with the agreement of the parties, the following disposition is made of the Participant's benefit accrued through participation in the retirement plan named below:

National Elevator Industry Pension Plan  
19 Campus Blvd., Suite 200  
Newtown Square, PA

**1. Plan Participant Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Social Security #: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**2. Alternate Payee Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Social Security #: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**3. Date of Marriage and Divorce:** The Participant and the Alternate Payee were married on \_\_\_\_\_, and were granted a divorce on \_\_\_\_\_.

**4. Name of Plan to Which Order Applies:** National Elevator Industry Pension Plan ("Plan").

**5. Assignment to Alternate Payee:** The Alternate Payee is hereby assigned a portion of the benefit that would otherwise be payable to the Participant. The Plan is to make payment of the Alternate Payee's benefit directly to the Alternate Payee.

**6. Formula for Determining Alternate Payee's Benefit:** The Plan shall determine the Alternate Payee's portion of the Participant's monthly benefit, and the Participant's benefit shall be correspondingly reduced, as follows:

**Instructions For Paragraph 6**

It is up to the parties to determine the amount of the portion of each payment made to the Participant to be assigned to the Alternate Payee. There 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 Plan how to determine the Alternate Payee's portion of the Participant's benefit. The parties should understand that they are NOT required to use any of the sample formulas, nor must the Participant's benefit be allocated equally between the parties. These sample formulas are included for purposes of illustration only. The parties may devise their own formula (provided it is calculable under the Plan), and it is up to the parties to decide how to apportion the benefits between them. **Select one of the following or devise your own formula:**

$$50\% \times \frac{\text{Participant's Credited Service accrued under the Plan during Marriage}}{\text{Participant's Total Credited Service accrued under the Plan}} \times \text{Participant's Total Pension Benefit under the Plan}$$

Or

- \$\_\_\_\_\_ of the Participant's monthly Pension Benefit.

Or

- 50% of the Participant's monthly Pension Benefit accrued by the Participant as of the Alternate Payee's Annuity Starting Date.

Or

—Insert Custom Formula—

**7. Period of Payments to Alternate Payee:** The Alternate Payee will, upon written application in accordance with Plan procedures, receive his/her benefit as a share of each payment made to the Participant by the Plan effective with the first day of the month after the month in which the Plan

receives a court-certified copy of this Order. Unless the Alternate Payee was named as the Participant's surviving spouse beneficiary for purposes of post-retirement spousal benefits at the time the Participant commenced benefits, payment of the Alternate Payee's share of the Participant's benefit will end upon the earlier of the Participant's death or the Alternate Payee's death. If the Alternate Payee was named as the Participant's surviving spouse beneficiary for purposes of post-retirement spousal benefits, the Alternate Payee will continue to receive benefits upon the death of the Participant for his/her lifetime as the surviving spouse of the Participant. Should the Alternate Payee predecease the Participant, the Alternate Payee's portion of the benefit as assigned in this Order will revert back to the Participant.

**8. Benefit Increases and Decreases:** The Alternate Payee will be entitled to any benefit improvements attributable to his/her proportional entitlement for which the Participant is otherwise eligible. The Alternate Payee shall also be subject to any benefit decreases that affect (or would have affected) the Participant, including but not limited to decreases that may result in connection with correction of the value of the Participant's Accrued Benefit, action taken pursuant to a Rehabilitation Plan adopted in accordance with the Pension Protection Act of 2006, or action taken pursuant to the Multiemployer Pension Reform Act of 2014.

**9. Savings Clause:** This Order is not intended to, and shall not be construed to, require the Plan to do the following: (a) provide any form of benefit option not otherwise provided under the terms of the Plan; (b) require the Plan to provide an increased benefit determined on the basis of actuarial value; or (c) require the payment of any benefit to the Alternate Payee which is required to be paid to another alternate payee under another order which was previously deemed to be a Qualified Domestic Relations Order. In case of a conflict between the terms of this Order and the terms of the Plan, the terms of the Plan shall prevail.

**10. Actuarial Costs:** Any additional and excessive actuarial costs incurred by the Plan as a result of this Order will be deducted equally from the benefits payable to the parties.

**11. Address Notification:** The parties shall promptly notify the Plan of any change in their addresses from those set forth in this Order. Any obligation of the Plan to send communications to the parties will be satisfied by mailing such communications to the last known addresses of the parties in the Plan's records.

**12. Actions by Participant:** The Participant will not take any action, affirmative or otherwise, to circumvent the terms and provisions of this Order or to diminish or extinguish the rights of the Alternate Payee as set forth herein. Should the Participant take any action or inaction to the detriment of the Alternate Payee, the Participant will be required to make sufficient payments directly to the Alternate Payee to the extent necessary to neutralize the effect of his/her actions or inactions and to the extent of the Alternate Payee's full entitlement as set forth herein.

**13. Constructive Trusteeship:** While it is anticipated that the Plan will pay the benefit assigned to the Alternate Payee by this Order directly to the Alternate Payee, the Participant is designated as constructive trustee to the extent Participant receives any part of the Alternate Payee's benefit. Under these circumstances, the Participant must forward such part directly to the Alternate Payee. While it is also anticipated that the Plan will pay the Participant's benefit to the Participant, the Alternate Payee is designated as constructive trustee to the extent Alternate Payee receives any part of the Participant's benefit. Under these circumstances, the Alternate Payee must forward such part directly to the Participant.

**14. Federal Tax Reporting:** For Federal income tax purposes, the Alternate Payee shall be treated as the distributee of all payments made by the Plan to the Alternate Payee pursuant to this Order.

**15. Successor Plan(s):** Any change in Plan Administrator, Plan Sponsor or the name of the Plan will not affect the Alternate Payee's rights under this Order or under the Plan. Any successor plan(s) to the Plan shall be subject to the terms of this Order.

**16. Plan Termination:** If the Plan terminates, the Alternate Payee will be entitled to receive the benefit assigned by this Order in accordance with the Plan's termination provisions and applicable law.

**17. Attorneys' Fees and Plan Liability:** The Plan, its Trustees and other fiduciaries shall not be responsible for any attorneys' fees or other costs incurred by the Participant or the Alternate Payee in connection with obtaining or enforcing this Order. The Participant and the Alternate Payee shall hold the Plan, its Trustees and other fiduciaries harmless from any liabilities which arise from treating this Order as a Qualified Domestic Relations Order, including all reasonable attorneys' fees in connection with any claims which are asserted because the Plan honors this Order as a Qualified Domestic Relations Order. The Plan shall not be liable for any inadvertent payment(s), including those described under Paragraph 13 of this Order.

**18. Intent and Continued Jurisdiction:** The parties and the Court intend for this Order to be a Qualified Domestic Relations Order under the Retirement Equity Act of 1984, Public Law 98-397. The Court shall retain jurisdiction over this matter to amend this Order if necessary to establish or maintain its status as a Qualified Domestic Relations Order.

SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Judge

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
Plan Participant

\_\_\_\_\_  
Attorney for Participant  
Address:

\_\_\_\_\_  
Alternate Payee

\_\_\_\_\_  
Attorney for Alternate Payee  
Address: