

SAMPLE NON-VESTED CONSTRUCTION PLAN (SEPARATE INTEREST)

IMPORTANT NOTE: THIS IS NOT A FORM TO BE COMPLETED. IT IS A DOCUMENT TO BE USED AS A GUIDELINE IN DRAFTING A PRE-RETIREMENT QDRO. **MATERIAL CONTAINED IN BRACKETS IS FOR YOUR INFORMATION ONLY AND SHOULD NOT BE INCLUDED IN THE ORDER. ALSO, IN CERTAIN INSTANCES, YOU MUST ELECT ONE OF SEVERAL CHOICES. EACH CHOICE IS INDICATED BY A # AND BOLD TYPE.**

State of _____
County of _____

IN THE _____ **[INSERT NAME OF THE COURT]**

IN RE: THE MARRIAGE OF:

)	
)	
)	
_____))	
Petitioner)	
)	
and)	Case No. _____
)	
_____))	
Respondent)	

QUALIFIED DOMESTIC RELATIONS ORDER ("QDRO")

This cause coming to be heard for the purpose of entry of a Qualified Domestic Relations Order ("QDRO") pursuant to and in compliance with ERISA §206(d)(3), 29 U.S.C. §1056(d)(3) and the regulations thereunder, and Section 414(p) of the Internal Revenue Code of 1986, and the regulations thereunder; the Court on _____ **[INSERT DATE]**, entered a judgment relating to the provisions of marital property rights of a spouse, former spouse, or child (as "ALTERNATE PAYEE") of the PARTICIPANT's interest in the Mid-America Carpenters Regional Council Pension Fund (the "PLAN"), due notice having been given; the Court having jurisdiction of the parties and the subject matter; and the Court being advised in the premises;

THE COURT FINDS AND IT IS HEREBY ORDERED AS FOLLOWS:

- A. **SATISFACTION OF QDRO REQUIREMENTS.** It is the intention of the parties that the provisions of this Order governing the disposition and assignment of a portion of the PARTICIPANT's interest in The Mid-America Carpenters Regional Council Pension Fund or its successor to the ALTERNATE PAYEE be incorporated into a judgment for dissolution of marriage, dissolving the marriage of the parties. As it is the further intention of the parties that this Order shall qualify and be deemed a QDRO as defined in the aforementioned regulations, the following information is provided:

(1) The names, relationship (i.e. former spouse, child, father, etc...), Social Security Numbers, dates of birth and last known mailing addresses are as follows:

(a) _____
Participant Social Security Number

Relationship to the Alternate Payee Date of Birth

Address

(b) _____
Alternate Payee Social Security Number

Relationship to the Participant Date of Birth

Address

(2) The amount or percentage of the Participant’s benefits to be paid by the PLAN to the ALTERNATE PAYEE and the manner in which such amount or percentage is to be determined is specified in paragraphs C(1), C(2), and C(3) below.

(3) The number of payments or periods to which this Order applies is specified in paragraphs C(1), C(2), and C(3) below.

(4) The PLAN to which the within agreement applies is The Mid-America Carpenters Regional Council Pension Fund or its successor.

B. DEFINITIONS. The following definitions shall apply for the purposes of this Order.

(1) The term “Date of Dissolution” shall mean the date of the entry of the judgment dissolving the marriage of the parties. The Date of Dissolution is _____ . [INSERT DATE]

(2) The term “Marriage Date” means the date on which the parties were married, which is _____ . [INSERT DATE]

(3) The term “Earliest Retirement Age” shall have the same meaning given to the term in the PLAN. Additionally, if the PARTICIPANT commences benefits under a Disability Pension, the term “Earliest Retirement Age” as defined in this Order shall be the age at which the PARTICIPANT’s Disability Pension commences.

- (4) The term "Actuarial Equivalent" shall have the same meaning given to the term in the PLAN.
- (5) The term "Pension Credit" shall have the same meaning given to the term in the PLAN.
- (6) The term "Vested" shall have the same meaning given to the term in the PLAN.
- (7) The terms "Limited Pension" and "Partial Pension" shall have the same meaning given to these terms in the PLAN.
- (8) The term "Early Retirement Subsidy" shall mean any subsidy that is included in any benefit (reduced or unreduced for Early Retirement) which becomes payable to the PARTICIPANT prior to the Plan's Normal Retirement Age, including a Disability Pension.
- (9) The term "Marital Portion" shall mean the product of the benefit accrued by the PARTICIPANT under the PLAN as of the Date of Dissolution multiplied by a fraction, the numerator of which is the number of Pension Credits earned by the PARTICIPANT during the marriage and the denominator of which is all Pension Credits earned by the PARTICIPANT as of the Date of Dissolution. *[Marital Portion is customarily used if the number of the Participant's Pension Credits as of the Date of Dissolution is greater than the number of Pension Credits earned during the duration of the marriage. Delete this definition if Marital Portion is not used in either paragraph C(1) or C(2) below.]*

C. ASSIGNMENT OF BENEFITS AND PAYMENT PROCEDURE. The PARTICIPANT and the ALTERNATE PAYEE hereby agree to the following:

- (1) If the PARTICIPANT is vested in the Plan:

(a) The ALTERNATE PAYEE is hereby assigned the Actuarial Equivalent of **[CHOOSE ONE] # _____ % of the Marital Portion, OR # _____ % of the PARTICIPANT's accrued benefits under the PLAN as of the Date of Dissolution.** Payments will be made monthly to the ALTERNATE PAYEE for the life of the ALTERNATE PAYEE with a period certain of 60 payments, as described in the PLAN under the Single Life Annuity with 60 Month Guarantee option. If the Actuarial Equivalent of the Alternate Payee's assigned benefit does not exceed \$1,000.00, the PLAN shall pay it in a lump sum.

(b) If the ALTERNATE PAYEE'S benefit is subject to mandatory cash-out of small accounts under the Internal Revenue Code and the terms of the PLAN, the PLAN will initiate a distribution of the ALTERNATE PAYEE'S benefit in a single lump sum. If the mandatory cash-out provisions of the PLAN do not apply to the ALTERNATE PAYEE'S benefit, the ALTERNATE PAYEE may elect to begin receiving payments as soon as administratively feasible following the later of: (i) the date the PARTICIPANT attains "Earliest Retirement Age," as defined by Internal Revenue Code section 414(p)(4)(B) and the PLAN or (ii) the date the PLAN issues a formal written determination that this Order meets the requirements of a QDRO and either the parties have waived the 60 day review period or the review period expires. The ALTERNATE PAYEE, however, must request a distribution no later than the required beginning date specified by the Internal Revenue Code and the PLAN. The ALTERNATE PAYEE must complete an application for benefits from the PLAN. It is the ALTERNATE PAYEE's responsibility to contact the PLAN to request said application for benefits.

(c) In the event the PARTICIPANT elects to commence benefits under the PLAN prior to the ALTERNATE PAYEE's benefit commencement date and if the PARTICIPANT's benefit calculation includes an Early Retirement Subsidy, then the ALTERNATE PAYEE shall be entitled to a pro rata share of said Early Retirement Subsidy upon the ALTERNATE PAYEE's benefit commencement date. The ALTERNATE PAYEE's pro rata share of said subsidy shall be calculated in the same manner as the ALTERNATE PAYEE's assigned benefit is calculated pursuant to paragraph C(1)(a) above.

(d) If the ALTERNATE PAYEE elects to commence benefit payments under the PLAN prior to the PARTICIPANT's benefit commencement date, then the ALTERNATE PAYEE's benefit calculation at the time benefits commence shall be calculated on a true actuarially equivalent basis and shall exclude the value of any Early Retirement Subsidy. However, if the PARTICIPANT subsequently elects to commence benefits under the PLAN and if the PARTICIPANT's benefit calculation includes an Early Retirement Subsidy, the ALTERNATE PAYEE's benefit amount shall be recalculated at the time of the PARTICIPANT's benefit commencement so that the ALTERNATE PAYEE receives a pro rata share of said Early Retirement Subsidy. The ALTERNATE PAYEE's pro rata share of said subsidy shall be calculated in the same manner as the ALTERNATE PAYEE's assigned benefit is calculated pursuant to paragraph C(1)(a) above.

(e) If the PARTICIPANT commences benefits and the PARTICIPANT's benefit calculation includes an Early Retirement Subsidy, and if the PARTICIPANT's benefit is suspended for any reason, the ALTERNATE PAYEE's benefit amount shall be recalculated to eliminate the ALTERNATE PAYEE's pro rata share of said Early Retirement Subsidy. If the PARTICIPANT's benefit is subsequently reinstated and the PARTICIPANT's reinstated benefit includes an Early Retirement Subsidy, at the time of the PARTICIPANT's benefit reinstatement, the ALTERNATE PAYEE's benefit amount shall be recalculated to include a pro rata share of said Early Retirement Subsidy.

(f) If the PARTICIPANT's benefit ceases due to termination of the PARTICIPANT's disability, and if the ALTERNATE PAYEE has commenced benefits due to the PARTICIPANT's commencement of benefits under a Disability Pension, the ALTERNATE PAYEE's benefit will also cease until one of the other events occurs which commence the payment of benefits to the ALTERNATE PAYEE.

(2) In the event that the PARTICIPANT never becomes vested in the PLAN but the PARTICIPANT becomes eligible for a Limited Pension or Partial Pension under the PLAN:

(a) The ALTERNATE PAYEE is hereby assigned the Actuarial Equivalent of **[CHOOSE ONE] # _____ % of the Marital Portion, OR # _____ % of the PARTICIPANT's accrued benefits under the PLAN as of the Date of Dissolution.** Payments will begin on the date payments to the PARTICIPANT begin. Payments will be made monthly to the ALTERNATE PAYEE for the life of the ALTERNATE PAYEE with a period certain of 60 payments, as described in the PLAN under the Single Life Annuity with 60 Month Guarantee option. If the Actuarial Equivalent of the Benefit does not exceed \$1,000.00, the PLAN shall pay it in a lump sum.

(b) If the PARTICIPANT's benefit calculation includes an Early Retirement Subsidy, then the ALTERNATE PAYEE shall be entitled to a pro rata share of said Early Retirement Subsidy upon the benefit commencement date. The ALTERNATE PAYEE's pro rata share of said subsidy shall be calculated in the same manner as the ALTERNATE PAYEE's assigned benefit is calculated pursuant to paragraph C(2)(a) above.

(c) If the PARTICIPANT's benefit calculation includes an Early Retirement Subsidy, and if the PARTICIPANT's benefit is suspended for any reason, the ALTERNATE PAYEE's benefit amount shall be recalculated to eliminate the ALTERNATE PAYEE's pro rata share of said Early Retirement Subsidy. If the PARTICIPANT's benefit is subsequently reinstated and the PARTICIPANT's reinstated benefit includes an Early Retirement Subsidy, at the time of the PARTICIPANT's benefit reinstatement, the ALTERNATE PAYEE's benefit amount shall be recalculated to include a pro rata share of said Early Retirement Subsidy.

(d) If the PARTICIPANT's benefit ceases due to termination of the PARTICIPANT's disability, and if the ALTERNATE PAYEE has commenced benefits due to the PARTICIPANT's commencement of benefits under a Disability Pension, the ALTERNATE PAYEE's benefit will also cease until one of the other events occurs which commence the payment of benefits to the ALTERNATE PAYEE.

- (3) If the PARTICIPANT is vested in the PLAN and dies prior to the date on which payments commence to either the PARTICIPANT or the ALTERNATE PAYEE pursuant to paragraph C(1) above, the ALTERNATE PAYEE shall be treated as the surviving spouse of the PARTICIPANT for purposes of the pre-retirement survivor annuity **[CHOOSE ONE] # to the extent of _____% of the Marital Portion OR # to the extent _____% of the PARTICIPANT's accrued benefits under the PLAN as of the Date of Dissolution.** Payments will be made monthly to the ALTERNATE PAYEE for the life of the ALTERNATE PAYEE. The ALTERNATE PAYEE must complete an application for benefits from the PLAN. The ALTERNATE PAYEE's benefit will be effective as of the first day of the month following the PARTICIPANT's death. If the Actuarial Equivalent of the Benefit does not exceed \$1,000.00, the PLAN shall pay it to the ALTERNATE PAYEE in a lump sum.
- (4) If the PARTICIPANT dies prior to the date on which payments are to commence pursuant to paragraph C(2) above, the ALTERNATE PAYEE shall not be entitled to receive any benefit payments under the PLAN as there is no pre-retirement survivor annuity under the PLAN for Limited or Partial Pensions.
- (5) If the ALTERNATE PAYEE dies prior to the date on which payments commence to the ALTERNATE PAYEE pursuant to paragraph C(1) above, the ALTERNATE PAYEE's benefits shall revert to the PARTICIPANT.
- (6) In the event the PARTICIPANT never becomes eligible for a Partial Pension or Limited Pension under the PLAN, and never becomes vested in the PLAN, or forfeits his benefits accrued in the PLAN as of the Date of Dissolution, the ALTERNATE PAYEE shall not be entitled to receive the benefit payments described in paragraphs C(1), C(2), or C(3) above.

(7) The ALTERNATE PAYEE shall have no rights as to the portion of the PARTICIPANT's benefits not specifically assigned to the ALTERNATE PAYEE under this Order. These benefits shall be paid to the PARTICIPANT or any subsequent spouse or other beneficiary either designated by the PARTICIPANT or in accordance with the provisions of the PLAN that are applicable when the PARTICIPANT does not designate any beneficiaries. The PARTICIPANT retains the right to designate other beneficiaries to receive the payment of benefits other than those assigned to the ALTERNATE PAYEE.

(8) The PLAN's Actuary will determine the Actuarial Equivalents as set forth in paragraphs C(1) and C(2) above in accordance with the PLAN's Actuarial Equivalent assumptions.

D. MISCELLANEOUS.

(1) Pursuant to this Order, the PLAN is not required to provide any type or form of benefit, or any option, not otherwise provided under the PLAN.

(2) Pursuant to this Order, the PLAN is not required to provide increased benefits (determined on the basis of actuarial value).

(3) Pursuant to this Order, the PLAN is not required to pay benefits to the ALTERNATE PAYEE which are required to be paid to another alternate payee under another order previously determined to be a QDRO.

(4) Pursuant to this Order, the PLAN is not required to permit the payment of benefits to the ALTERNATE PAYEE in the form of a joint and survivor annuity with respect to the ALTERNATE PAYEE and the ALTERNATE PAYEE's subsequent spouse.

E. SAVINGS CLAUSE. It is the intention of the parties that the provisions of this Order shall qualify and be deemed a QDRO as defined in Section 414 of the Internal Revenue Code of 1986, as amended, and that they shall be so construed and amended from time to time as may be necessary to comply with the requirements for this Order to be deemed a QDRO.

F. JURISDICTION. The Court retains jurisdiction to establish, amend, or maintain this Order as a Qualified Domestic Relations Order as defined by ERISA §206(d)(3), 29 U.S.C. §1056(d)(3), and the regulations thereunder, and Section 414(p) of the Internal Revenue Code of 1986, and the regulations thereunder.

Enter: _____

Dated: _____

Name and Address of Petitioner's Attorney

Name and Address of Respondent's Attorney

