

MODEL ODRO FOR SHARED PAYMENT
Must be used if Participant is already in "Pay Status"

UNITED FOOD AND COMMERCIAL WORKERS UNIONS AND EMPLOYERS MIDWEST PENSION FUND

[Insert Court Name]

In Re Marriage of:

Petitioner,

QUALIFIED DOMESTIC RELATIONS ORDER

and

Case No. _____:

Respondent.

This matter was heard by the Court on _____ **[date]**, and the Court took evidence and filed its Findings of Fact, Conclusions of Law and Judgment. The purpose of this domestic relations order (the "Order") is to assign to the Alternate Payee an interest in the Participant's retirement benefit in the plan named below for the provision of **[child support] [alimony payments] [marital property rights]**.

This Order is made pursuant to the authority of _____ **[cite statute section(s)]**, part of the domestic relations law of the State of _____ **[name state]**.

The following are the terms and conditions of this Order:

A. Factual Information.

1. "Participant" means the party who is the participant in the retirement plan to which this Order applies. In this matter, the Participant is the **[Petitioner] [Respondent]**. Identifying information for the Participant follows:

Participant's Name
Address
City, State, Zip
Date of Birth
Social Security Number *[for security purposes, you may provide the Date of Birth and Social Security number in a separate attachment]*

2. The "Alternate Payee" is **[the spouse] [former spouse] [a minor child] [other dependent]** of the Participant and is the **[Petitioner] [Respondent]** in this matter. Identifying information for the Alternate Payee follows:

Alternate Payee's Name
Address
City, State, Zip
Date of Birth
Social Security Number *[for security purposes, you may provide the Date of Birth and Social Security number in a separate attachment]*

3. The date of marriage is _____ ***[date of marriage]***.
The date of dissolution of the marriage is _____ ***[date of divorce]***.
4. The name of the Plan to which this Order applies is the United Food and Commercial Workers Unions and Employers Midwest Pension Fund (the "Plan"). This Order also applies to benefits accrued by the Participant under a predecessor qualified retirement plan that were transferred into this Plan. The terms of this Order shall apply to any successor to the Plan to which liability for the Participant's benefits is transferred. Any changes in the Plan Administrator, Plan sponsor or name of the Plan will not affect the Alternate Payee's rights awarded under this Order.
5. The name and address of the Plan Administrator follows:

Board of Trustees
United Food and Commercial Workers
Unions and Employers Midwest Pension Fund
2625 Butterfield Rd, Suite 208E
Oak Brook, IL 60523
www.ufcwmidwest.org

B. Assignment of Benefits.

1. Amount Assigned. This Order awards the Alternate Payee, as shared property, a share of the Participant's accrued benefit under the Plan.

Set Dollar Amount or Percentage The Plan will pay directly to the Alternate Payee _____ ***[specify amount or percentage]*** of the dollar amount of each and every monthly payment or single lump sum payment otherwise payable to the Participant, but not to exceed the full amount of such payment.
2. Form of Payment. The Participant shall elect the form of benefit, subject to the survivor annuity rules in paragraph (7) below.
3. Benefit Commencement Date. The Plan Administrator will distribute benefits to the Alternate Payee if, as and when each monthly payment is made to the Participant under the Plan following the later of (a) the Participant's elected commencement date or (b) the date the Plan Administrator issues a formal written determination that the Order is a Qualified Domestic Relations Order and any related review period has either expired or been waived by the parties to this Order. Payments shall include any Participant benefit payments that were suspended during the qualification period for this Order. Payments to the Alternate Payee shall cease on the earlier of the Alternate Payee's death or the death of the Participant, subject to the survivor annuity rules described below.

4. De Minimis Payments. The Alternate Payee's benefit will be subject to a mandatory cash-out if it falls below the de minimis benefit rules of Internal Revenue Code section 417(e) as adopted by the Plan.
 5. Death of Alternate Payee. If the Alternate Payee predeceases the Participant, any payments awarded the Alternate Payee under paragraph (1) above will end upon the Alternate Payee's death. The Plan will then restore the full monthly benefit payment to the Participant.
 6. Death of Participant. If the Participant predeceases the Alternate Payee, any benefits awarded the Alternate Payee under paragraph (1) above will end. The Alternate Payee shall receive only the death benefits, if any, available under the survivor annuity rules described in paragraph (7) below.
 7. Survivor Annuity Rules. The Alternate Payee will **{not}** be treated as the surviving spouse of the Participant for purposes of the **{[Drafting Note: this applies only if the participant is not already in pay status.] qualified preretirement survivor annuity and}** the qualified joint and survivor annuity as provided by the Plan and the Internal Revenue Code. **{The Alternate Payee will be entitled to receive a survivor annuity based upon {the Participant's entire accrued benefit} {only the Alternate Payee's marital interest in the Participant's accrued benefit as determined in accordance with paragraph (1) above}.**
 8. Plan Termination. If the Plan terminates after this Order is approved and before amounts are paid in full to the Alternate Payee and, at termination, the Plan has unfunded liabilities that are to be paid by the Pension Benefit Guaranty Corporation, any reductions in the benefits payable under the Plan with respect to the Participant shall be applied proportionately to both the Participant and the Alternate Payee based on their respective interests.
- C. Taxes. The Alternate Payee is responsible for any taxes due on the Alternate Payee's distributed interest in the Plan. The Participant will not be responsible for taxes on payments to the Alternate Payee, nor may the Participant claim such payments as tax deductible for income tax purposes.
- D. Repayment of Wrongful Benefits. The Alternate Payee or the Participant under this Order will promptly repay the Plan for any benefits wrongfully or mistakenly received from the Plan.
- E. Status of the Order. This Order is intended to constitute a Qualified Domestic Relations Order pursuant to Internal Revenue Code section 414(p) [26 USC § 414(p)] and section 206(d) of the Employee Retirement Income Security Act [29 USC § 1056(d)]. This Order will be administered and interpreted in conformity with these statutes, as amended from time to time, and any applicable regulations. If, for any reason, any part of this order can reasonably be interpreted to have more than one meaning, but only one of the possible meanings would make the order qualified, then the order shall be interpreted in the way that would make it qualified.
- F. Jurisdiction. The Court retains jurisdiction to amend this Order, but only for the purpose of establishing or maintaining its qualification as a Qualified Domestic Relations Order; provided that (a) no such amendment will require the Plan to

provide any type or form of benefit, or any option not otherwise provided under the Plan and (b) no such amendment or the right of the Court to amend will invalidate this Order as "qualified."

- G. **Notification of Permanent Address.** The Participant and the Alternate Payee will at all times keep the Plan Administrator informed of their respective permanent addresses.
- H. **Copy to Plan Administrator.** A certified copy of this Order will be provided to the Plan Administrator. This Order will take effect immediately and remain in effect until further Order of the Court.

Dated this _____ day of _____, 20__.

BY THE COURT

Drafted by:

Approved as to form by:

Attorney for **[Participant] [Alternate Payee]**
State Bar ID Number _____
Address _____
City, State, Zip Code _____
Telephone Number _____

Attorney for **[Participant] [Alternate Payee]**
State Bar ID Number _____
Address _____
City, State, Zip Code _____
Telephone Number _____

This form is intended as a guideline only; its use is not required. While use of the model form will generally result in a QDRO, it will not serve the needs of all individuals nor will it fit all circumstances. Submitting a draft proposed QDRO for review by the Plan Administrator prior to execution by the Court may be helpful.