

PLAN NAME:

**STATE OF SOUTH CAROLINA
COUNTY OF _____**

**IN THE FAMILY COURT
_____ JUDICIAL CIRCUIT**

[PLAINTIFF],

Plaintiff,

v.

[DEFENDANT],

Defendant.

**QUALIFIED DOMESTIC RELATIONS
ORDER**

CASE NO. [CASE NUMBER]

[NAME OF PLAN]

PLAN ADMINISTRATOR:

[ANY PRELIMINARY STATEMENT ON THE COURT PROCEEDINGS, JURISDICTION, REPRESENTATION, ETC., THAT THE COURT OR PARTIES FIND NECESSARY MAY BE INSERTED HERE.]

This Order is intended to meet the requirements for an acceptable domestic relations order relating to the above-referenced Plan administered by _____ hereinafter referenced as the “Plan.” This Order is accepted, governed and administered under Section 9-18-10 et seq. of the Code of Laws of South Carolina, as amended. This Order is an integral part of the Decree of Divorce signed on [DATE OF DIVORCE DECREE]. In compliance with the organization’s requirements, the following is specified:

1. Participant in the Plan is [NAME OF PARTICIPANT], whose last known mailing address is [PARTICIPANT’S ADDRESS], whose Social Security number is [SOCIAL SECURITY NUMBER], and whose date of birth is [DATE OF BIRTH].¹

2. Alternate Payee is [NAME OF ALTERNATE PAYEE], whose last known mailing address is [ALTERNATE PAYEE'S ADDRESS], whose Social Security number is [SOCIAL SECURITY NUMBER], and whose date of birth is [DATE OF BIRTH].

3. Participant and Alternate Payee were married on [DATE OF MARRIAGE].

4. In recognition of Alternate Payee's marital rights in Participant's benefits under the Plan, this Order assigns to Alternate Payee the right to receive a portion of the benefits payable with respect to Participant under the Plan and directs the organization to disburse benefits to Alternate Payee as set out herein.

5. As part of the equitable division of the marital property of the parties, Alternate Payee is awarded and shall receive from the Plan a portion of each distribution of retirement benefits payable with respect to Participant when each distribution is made as provided by the Plan's governing laws and rules based on Participant's membership in the Plan.

a. Retirement.

Upon Participant's retirement (including disability retirement), Alternate Payee will receive [INSERT DISTRIBUTION LANGUAGE HERE].

b. Termination/Withdrawal.

If Participant terminates employment and withdraws [HIS/HER] retirement contributions, Alternate Payee will receive [INSERT DISTRIBUTION LANGUAGE HERE].

c. Death Before Retirement.

If Participant dies prior to retirement:

(a) if a monthly benefit is payable to Participant's beneficiary(ies), the Alternate Payee will receive [INSERT DISTRIBUTION LANGUAGE HERE]; or,

(b) if a lump sum is payable to Participant's beneficiary(ies), the Alternate Payee will receive [INSERT DISTRIBUTION LANGUAGE HERE].

d. Death After Retirement.

If Participant dies after retirement, and benefits are not being paid under an optional form death benefit, the Alternate Payee will receive [INSERT DISTRIBUTION LANGUAGE HERE].

e. Benefit Adjustments.

If a monthly benefit payable from the Plan is increased by an annual benefit adjustment or other cost-of-living adjustment (COLA), Alternate Payee [SHALL/SHALL NOT] be entitled to receive a pro-rata share of said increase.

f. Tax Liability.

Participant and Alternate Payee shall be responsible for, and pay, any taxes due in connection with his or her receipt of distributions from the Plan.

6. The Administrator is directed to disburse to Alternate Payee the portion of distributions assigned under Paragraph 5 of this Order when such distributions are made as provided by the Plan's governing laws and rules based on Participant's membership in the Plan, subject to the following provisions:

- a. This order shall not be interpreted in any way to require _____ to provide any type or form of benefit or any option not otherwise provided under the Plan.
- b. This order shall not be interpreted in any way to require the Plan to provide increased benefits determined on the basis of actuarial value.
- c. This order shall not be interpreted in any way to require the Plan to pay any benefits to an Alternate Payee named in this order which are required to be paid to another Alternate Payee under another order previously determined to be an acceptable domestic relations order.
- d. This order shall not be interpreted in any way to require the payment of benefits to Alternate Payee prior to Participant's retirement or proper request for a refund of contributions.
- e. If Participant elects to receive an early retirement allowance, the benefits payable to Alternate Payee shall be reduced proportionally, unless a fixed dollar amount has been awarded to Alternate Payee.
- f. This Order shall not be interpreted to require the selection of a particular benefit payment plan or option.
- g. In the event that, after a distribution of a benefit to Participant or a beneficiary has begun, the amount of the distribution is reduced or increased by law, then the amount payable to Alternate Payee shall be reduced or increased proportionately unless a fixed dollar amount has been awarded to Alternate Payee.

7. Any amounts payable by the Plan, other than those payable in Paragraphs 5 and 6 to Alternate Payee, shall be payable directly to Participant, Participant's beneficiary, or Participant's estate, in accordance with the Plan's laws and rules. If Participant, Participant's beneficiary, or Participant's estate receives any amount of a distribution that has been awarded to Alternate Payee,

the recipient is designated a constructive trustee for the amount received and shall immediately transmit such amount to Alternate Payee.

8. If Alternate Payee or the estate or heirs of Alternate Payee receive any amount of a distribution that should have been paid to Participant, Participant's beneficiary, or Participant's estate or heirs, the recipient is designated a constructive trustee for the amount received and shall immediately transmit such amount to Participant or other person to whom the amount should have been paid.

9. If Participant, Alternate Payee, or the estate or heirs of either receive any amount of a distribution that should not have been paid by the Administrator _____, the recipient is designated a constructive trustee for the amount received and shall immediately transmit such amount to PEBA.

10. Alternate Payee is ORDERED to provide the Administrator prompt written notification of any changes in Alternate Payee's mailing address.

11. [NAME] shall furnish a certified copy of this Order to Administrator.

12. Participant and Alternate Payee are ORDERED to complete and sign all Administrator forms and provide all information necessary to effectuate the provisions of this Order.

13. Participant's eligibility to receive retirement benefits from the Plan and the amount of any such benefits are governed solely by the provisions of Title 9 of the Code of Laws of South Carolina.

14. The Court retains jurisdiction to amend this Order so that it will constitute an acceptable domestic relations order under the Plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If Administrator determines at any time that changes in the law, the administration of the Plan, or any other circumstances make it impossible to calculate the portion of a distribution awarded to Alternate Payee by this Order and so notifies both parties, either or both parties will immediately petition the Court for reformation of the Order. If after approval, Administrator determines that there is an ambiguity in the language of the Order and the parties cannot agree on the meaning of the language, the parties will immediately petition the Court for clarification of the Order.

AND IT IS SO ORDERED.

Judge

Date: _____

