

Sample Language*
Qualified Domestic Relations Order**
Central Pension Fund

This cause, coming before the Court for the purpose of entry of a Qualified Domestic Relations Order, as that term is defined in Section 206(d)(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and Section 414(p) of the Internal Revenue Code (“Code”); the Court on _____, 20____ having entered a Judgment approving a Marital Settlement Agreement dated _____, 20____; and the Court being fully advised in the premises; the Court hereby makes the following Findings of Fact and Conclusions of Law and enters them as an Order in this proceeding:

A. On _____, 20____, this Court entered a Judgment of Dissolution of Marriage incorporating a Marital Settlement Agreement, resolving property distribution issues pursuant to _____ [*insert appropriate citation to State Domestic Relations Law*], which Judgment relates to the marital property rights of _____ (hereinafter referred to as “Alternate Payee”), who is the former spouse of _____ (hereinafter referred to as “Participant”), and who has potential retirement benefits from the Central Pension Fund of the International Union of Operating Engineers and Participating Employers (hereinafter referred to as “Plan”).

B. The Participant has applied for and is currently receiving a retirement benefit based upon his/her credited service with the Plan through his/her annuity starting date, which is _____.

C. The amount of the benefit awarded to the Alternate Payee hereunder shall be [*use either a percent or dollar amount*] _____ % (or \$ _____) of the Participant’s current gross monthly retirement benefit amount.

D. The Alternate Payee may commence payment of his/her awarded interest effective as of the first day of the month following the month in which this Order becomes final, subject to the Alternate Payee furnishing written notification to the Board of Trustees of the Plan of his/her desire to commence receiving benefits.

* A DOMESTIC RELATIONS ORDER BASED ON THIS FORM WILL GENERALLY BE FOUND TO BE QUALIFIED BY THE CENTRAL PENSION FUND, IF USED WITHOUT SUBSTANTIAL MODIFICATION. OTHER FORMS ARE, OF COURSE, ALSO ACCEPTABLE. HOWEVER, THE REVIEW PROCESS WILL BE EXPEDITED IF CHANGES TO THE FORM ARE UNDERLINED.

** THIS FORM SHOULD ONLY BE USED IF BENEFITS ARE ALREADY IN PAY STATUS.

*** THIS FORM UTILIZES A “SHARED INTEREST” APPROACH.

E. The Participant's election concerning the form of distribution made at the time of his/her retirement shall remain unchanged.

F. The monthly income amount paid to the Alternate Payee is a gross amount, which is subject to federal income tax and other taxes. The Alternate Payee will be responsible for payment of all taxes due as a consequence of the payment by the Plan of any benefits to the Alternate Payee under this Order.

G. If the Alternate Payee should predecease the Participant, the Alternate Payee's assigned interest shall revert to the Participant, as provided for in the governing Plan of Benefits.

H. The Board of Trustees shall have full discretionary and final authority to implement and interpret this Order, including any uncertain or ambiguous terms, in order to comply with the terms of the Plan and all legal requirements.

I. General Provisions:

- (1) It is intended that this Order shall qualify as a qualified domestic relations order ("QDRO") within the meaning of Section 414(p) of the Code and Section 206(d)(3) of ERISA. The provisions of this Order shall be administered in compliance with such provisions.
- (2) A certified copy of this Order shall be served upon the Board of Trustees by counsel of record forthwith. The Board of Trustees shall, within a reasonable time after receipt of this Order, determine whether this Order is a QDRO and shall so notify the Participant and the Alternate Payee, and/or their respective counsel. During the period while the determination is being made, the Board of Trustees shall take such action as is authorized or required by Section 414(p)(7) of the Code and Section 206(d)(3)(H) of ERISA.
- (3) If the Board of Trustees determines that this Order is a QDRO, they shall so notify the parties. If the Board of Trustees determines that this Order is not a QDRO, they shall inform the parties of the reasons for the determination.
- (4) The Court shall retain jurisdiction to make changes in this Order to the extent necessary to cause the Order to qualify as a QDRO and to effect the intent of the parties. No change to this Order shall be effective until the Board of Trustees determines that the change does not adversely affect the Order's status as a QDRO.
- (5) The Court also finds as follows:

Last known address of Participant is:

_____ Soc. Sec. No. _____

_____ Date of Birth _____

Last known address of Alternate Payee is:

_____ Soc. Sec. No. _____
_____ Date of Birth _____

IT IS FURTHER ORDERED that the parties shall execute any documents deemed necessary by either the Court or the Board of Trustees, and the Court may issue any further Order necessary to effectuate the purposes of this order.

ENTER:
