

**MODEL QDRO LANGUAGE**

**ACTIVE MEMBERS**



1 **BACKGROUND INFORMATION**

2 **[ MEMBER'S NAME AND SOCIAL SECURITY NUMBER ]** is the participating member  
3 whose last known address is **[ MEMBER'S ADDRESS ]**. The member's date of birth is **[**  
4 **MEMBER'S D.O.B. ]**.

5 **[ ALTERNATE PAYEE'S NAME AND SOCIAL SECURITY NUMBER ]** is the  
6 alternate payee whose last known address is **[ ALTERNATE PAYEE'S ADDRESS ]**. The  
7 alternate payee's date of birth is **[ ALTERNATE PAYEE'S D.O.B. ]**.

8 The participating member and the alternate payee were married on

9 **[ DATE OF MARRIAGE ]**.

10 IT IS HEREBY ORDERED THAT:

11 **I. BENEFITS**

12 NOTE: Distribution of benefits must be based on the member's accrued monthly benefit as  
13 opposed to the member's account balance or other estimate. The member's  
14 accrued monthly benefit can be obtained by contacting the NDPERS office. Please  
15 notify NDPERS staff that this information will be used for the purpose of preparing a  
16 domestic relations order.

17 Benefits under the plan are distributed as follows: (choose one)

- 18 1. The alternate payee is awarded **[ % ]** of the member's accrued monthly  
19 annuity benefit of **[ \$ ]** as of **[ DATE OF DIVORCE ]**. **[ OR ]**  
20 2. The alternate payee is awarded **[ \$ ]** of the member's accrued monthly  
21 annuity benefit of **[ \$ ]** as of **[ DATE OF DIVORCE ]**.

1 **II. TIME OF BENEFIT RECEIPT**

2 Benefit payments to the alternate payee will begin: (Choose one)

3 1. When the participating member reaches normal retirement age under the plan. **[OR]**

4 2. When the participating member qualifies for early retirement (Note: Benefits in this  
5 event are payable even if the member has not separated from covered  
6 employment). **[OR]**

7 3. When the alternate payee reaches [ DATE OR EVENT ]. (Note: The date or  
8 event must be after the date participating member would qualify for early retirement)  
9 **[OR]**

10 4. When the participating member retires.

11 **III. DURATION OF PAYMENTS TO ALTERNATE PAYEE** (Choose one)

12 NOTE: Choose the appropriate optional language as applicable under the following rules:

13 - Choose option A if the benefits to the alternate payee are to be paid over the  
14 alternate payee's life. Option A must be chosen if the benefits to the alternate payee  
15 are to begin before the member's benefits are in pay status.

16 - Choose option B if the benefits to the alternate payee are to be paid over the  
17 member's life under the single life annuity option with no surviving spouse annuity  
18 benefits upon the member's death.

19 - Choose option C if the benefits to the alternate payee are to be paid over the  
20 member's life under one of the plan's term certain and life options with the alternate  
21 payee as the survivor beneficiary for continuing annuity payments upon the  
22 member's death.

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A. OVER LIFE OF THE ALTERNATE PAYEE (Choose one)

1. The payments shall be made to the alternate payee on a monthly basis over the life of the alternate payee and shall cease upon the alternate payee's death. The payment shall be calculated on the basis of a single life annuity and will be actuarially adjusted based upon the Plan's assumptions to reflect the life expectancy of the alternate payee. **[OR]**

2. The payments shall be made to the alternate payee on a monthly basis over the life of the alternate payee and calculated on the basis of: (Choose one)

(a) a 5-year term certain and life option. **[OR]**

(b) a 10-year term certain and life option.

Upon the alternate payee's death payments will continue to the alternate payee's designated beneficiary under the term certain and life option identified above.

B. OVER THE LIFE OF THE PARTICIPATING MEMBER (SINGLE LIFE ANNUITY)

The payments shall be made to the alternate payee on a monthly basis over the life of the participating member and shall cease upon the member's death.

C. OVER THE LIFE OF THE PARTICIPATING MEMBER (TERM CERTAIN AND LIFE ANNUITY)

The payments shall be made to the alternate payee on a monthly basis over the life of the participating member with a continuing monthly annuity payable to the surviving alternate payee after the member's death. The amount of the payments to the alternate payee will be calculated on the basis of: (Choose one)

(1) a 5-year term certain and life option. **[OR]**

(2) a 10-year term certain and life option.

1 **IV. MEMBER WITHDRAWS FROM RETIREMENT SYSTEM** (Choose one)

2 A. If the participating member discontinues employment and withdraws the member  
3 account in a lump sum the alternate payee shall receive [%] of the member's  
4 account balance as of **[DATE OF DIVORCE]** accumulated with interest as required  
5 by the Plan from the divorce date until the refund is paid. **[OR]**

6 B. If the participating member discontinues employment and withdraws the member  
7 account in a lump sum, the alternate payee shall receive [\$\_\_\_\_\_] from the  
8 member's account balance accumulated with interest as required by the Plan from  
9 **[DATE OF DIVORCE]** until the refund is paid. **[Note: The dollar amount in this**  
10 **option cannot exceed the member's account balance.]**

11 **V. LIMITATIONS OF THIS ORDER**

12 **(Note: Order must reflect all provisions of this section.)**

13 A. This order recognizes the existence of the right of the alternate payee to receive all  
14 or a portion of the benefits payable to the participating members as indicated above.

15 B. Nothing contained in this Order shall be construed to require any Plan or Plan  
16 administrator:

17 1. To provide to the alternate payee any type or form of benefit or any option  
18 not otherwise available to the participating member under the Plan.

19 2. To provide the alternate payee benefits, as determined on the basis of  
20 actuarial value, not available to the participating member.

21 3. To pay any benefits to the alternate payee which are required to be paid to  
22 another alternate payee under another order previously determined by the  
23 Plan administrator to be a qualified domestic relations order.

24 4. To apply the provisions of this Order to disability benefits that the  
25 participating member may be entitled to receive.

- 1 C. If the alternate payee dies prior to receipt of benefits under this order, the entire  
2 amount that may be due to the alternate payee reverts to the participating member.
- 3 D. If the participating member dies to prior to retirement, the alternate payee will  
4 receive [  %  ] share of the member's pre-retirement death benefits as of **[DATE OF**  
5 **DIVORCE]**.
- 6 E. The benefit enhancements provided by the North Dakota legislature for  
7 service during the marital relationship which are adopted after the end of  
8 the marital relationship apply to the alternate payee's portion of benefits  
9 under this order.
- 10 F. If the participant or alternate payee receive any distribution that should not have  
11 been paid per this order, the participant or alternate payee is designated a  
12 constructive trustee for the amount received and shall immediately notify NDPERS  
13 and comply with written instructions as to the distribution of the amount received.
- 14 G. Alternate payee is ORDERED to report any payments received on any applicable  
15 income tax return in accordance with Internal Revenue Code provisions or  
16 regulations in effect at the time any payments are issued by NDPERS. The Plan is  
17 authorized to issue Form 1099R, or other applicable form on any direct payment  
18 made to alternate payee. Plan participant and alternate payee must comply with the  
19 Internal Revenue Code and any applicable regulations.
- 20 H. Alternate payee is ORDERED to provide the Plan prompt written notification of any  
21 changes in Alternate Payee's mailing address. NDPERS shall not be liable for  
22 failing to make payments to alternate payee if NDPERS does not have a current  
23 mailing address for alternate payee at time of payment.
- 24 I. Alternate payee shall furnish a certified copy of this Order to NDPERS.
- 25 J. The Court retains jurisdiction to amend this Order so that it will constitute a qualified

1 domestic relations order under the Plan even though all other matters incident to this  
2 action or proceeding have been fully and finally adjudicated. If the System  
3 determines at any time that changes in the law, the administration of the Plan, or  
4 any other circumstances make it impossible to calculate the portion of a distribution  
5 awarded to alternate payee by this Order and so notifies the parties, either or both  
6 parties shall immediately petition the Court for reformation of the Order.

7 SIGNED this \_\_\_\_\_ date of \_\_\_\_\_, 19\_\_\_\_.

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JUDGE PRESIDING

#### **IV. "MODEL QDRO LANGUAGE"**

##### **RETIRED MEMBERS**



1 BACKGROUND INFORMATION

2 [ MEMBER'S NAME AND SOCIAL SECURITY NUMBER ] is the participating member  
3 whose last known address is [ MEMBER'S ADDRESS ]. The member's date of birth is [  
4 MEMBER'S D.O.B. ].

5 [ ALTERNATE PAYEE'S NAME AND SOCIAL SECURITY NUMBER ] is the  
6 alternate payee whose last known address is [ ALTERNATE PAYEE'S ADDRESS ]. The  
7 alternate payee's date of birth is [ ALTERNATE PAYEE'S D.O.B. ].

8 The participating member and the alternate payee were married on  
9 [ DATE OF MARRIAGE ].

10 IT IS HEREBY ORDERED THAT:

11 I. BENEFITS

12 NOTE: Distribution of benefits must be based on the member's accrued monthly benefit as  
13 opposed to the member's account balance or other estimate. The member's  
14 accrued monthly benefit can be obtained by contacting the NDPERS office. Please  
15 notify NDPERS staff that this information will be used for the purpose of preparing a  
16 domestic relations order.

17 Benefits under the plan are distributed as follows: (choose one)

- 18 1. The alternate payee is awarded [ % ] of the monthly retirement benefit as  
19 of [ DATE OF DIVORCE ]. [OR]
- 20 2. The alternate payee is awarded [ \$ ] of the monthly retirement benefit as  
21 of [ DATE OF DIVORCE ].

1 **II. TIME OF BENEFIT RECEIPT**

2 The benefits are payable to the alternate payee in the month following receipt of this order  
3 by the plan or plan administrator as the participating member is currently retired and  
4 receiving benefits under the Plan.

5 **III. DURATION OF PAYMENTS TO ALTERNATE PAYEE (Choose one)**

6 NOTE: Choose the appropriate optional language as applicable under the following rules:  
7 - Choose option A if the benefits to the alternate payee are to be paid over the  
8 alternate payee's life.  
9 - Choose option B if the benefits to the alternate payee are to be paid over the  
10 member's life under the single life annuity option with no surviving spouse annuity  
11 benefits upon the member's death.  
12 - Choose option C if the benefits to the alternate payee are to be paid over the  
13 member's life under one of the plan's term certain and life options with the alternate  
14 payee as the survivor beneficiary for continuing annuity payments upon the  
15 member's death.

16 A. **OVER LIFE OF THE ALTERNATE PAYEE (Choose one)**

17 1. The payments shall be made to the alternate payee on a monthly basis over  
18 the life of the alternate payee and shall cease upon the alternate payee's  
19 death. The payment shall be calculated on the basis of a single life annuity  
20 and will be actuarially adjusted based upon the Plan's assumptions to reflect  
21 the life expectancy of the alternate payee.

22 Upon the member's death, the alternate payee, if living, will receive the  
23 survivor benefits, if any, payable to the alternate payee under the

1 annuity option existing at the time of the member's death.

2 **[OR]**

3 2. The payments shall be made to the alternate payee on a monthly basis over  
4 the life of the alternate payee and calculated on the basis of: (Choose one)

5 (a) a 5-year term certain and life option. **[OR]**

6 (b) a 10-year term certain and life option.

7 Upon the alternate payee's death payments will continue to the alternate  
8 payee's designated beneficiary under the term certain and life option  
9 identified above.

10 Upon the member's death, the alternate payee, if living, will receive the  
11 survivor benefits, if any, payable to the alternate payee under the annuity  
12 option existing at the time of the member's death.

13 B. OVER THE LIFE OF THE PARTICIPATING MEMBER (SINGLE LIFE ANNUITY)

14 The payments shall be made to the alternate payee on a monthly basis over the life  
15 of the participating member and shall cease upon the member's death.

16 C. OVER THE LIFE OF THE PARTICIPATING MEMBER (TERM CERTAIN AND LIFE  
17 ANNUITY)

18 The payments shall be made to the alternate payee on a monthly basis over the life  
19 of the participating member with a continuing monthly annuity payable to the  
20 surviving alternate payee after the member's death. The amount of the payments to  
21 the alternate payee will be calculated on the basis of: **(Choose the survivor annuity  
22 option in existence at the time of the divorce or legal separation. NOTE: The option  
23 indicated may not result in a change from the existing original option elected by the  
24 member).**

25 (1) 5-year term certain and life option. **[OR]**

1 (2) 10-year term certain and life option.

2 **IV. LIMITATIONS OF THIS ORDER** (Note: Order must reflect all provisions of this section ).

3 A. This order recognizes the existence of the right of the alternate payee to receive all  
4 or a portion of the benefits payable to the participating members as indicated above.

5 B. Nothing contained in this Order shall be construed to require any Plan or Plan  
6 administrator:

7 1. To provide to the alternate payee any type or form of benefit or any option  
8 not otherwise available to the participating member under the Plan.

9 2. To provide the alternate payee benefits, as determined on the basis of  
10 actuarial value, not available to the participating member.

11 3. To pay any benefits to the alternate payee which are required to be paid to  
12 another alternate payee under another order previously determined by the  
13 Plan administrator to be a qualified domestic relations order.

14 4. To apply the provisions of this Order to disability benefits that the  
15 participating member may be entitled to receive.

16 C. If the alternate payee dies prior to receipt of benefits under this order, the entire  
17 amount that may be due to the alternate payee reverts to the participating member.

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- D. The benefit enhancements provided by the North Dakota legislature for service during the marital relationship which are adopted after the end of the marital relationship apply to the alternate payee's portion of benefits under this order.
- E. If the participant or alternate payee receive any distribution that should not have been paid per this order, the participant or alternate payee is designated a constructive trustee for the amount received and shall immediately notify NDPERS and comply with written instructions as to the distribution of the amount received.
- F. Alternate payee is ORDERED to report any payments received on any applicable income tax return in accordance with Internal Revenue Code provisions or regulations in effect at the time any payments are issued by NDPERS. The Plan is authorized to issue Form 1099R, or other applicable form on any direct payment made to alternate payee. Plan participant and alternate payee must comply with the Internal Revenue Code and any applicable regulations.
- G. Alternate payee is ORDERED to provide the Plan prompt written notification of any changes in Alternate Payee's mailing address. NDPERS shall not be liable for failing to make payments to alternate payee if NDPERS does not have a current mailing address for alternate payee at time of payment.
- H. Alternate payee shall furnish a certified copy of this Order to NDPERS.
- I. The Court retains jurisdiction to amend this Order so that it will constitute a qualified domestic relations order under the Plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If the System 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 the parties, either or both

1 parties shall immediately petition the Court for reformation of the Order.

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3 SIGNED this \_\_\_\_\_ date of \_\_\_\_\_, 19\_\_\_\_.

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6 JUDGE PRESIDING

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