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ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM MODEL QUALIFIED DOMESTIC RELATIONS ORDER

In the Circuit Court Of _____ County, Arkansas

Plaintiff

No. _____

Defendant

QUALIFIED DOMESTIC RELATIONS ORDER

This Order is intended to meet the requirements of a Qualified Domestic Relations Order (QDRO) relating to the distribution of benefits or contributions allowed to a member of the Arkansas Public Employees' Retirement System (APERS) according to applicable law governing such distribution (referred to herein as the Plan).

The Court finds and orders that this QDRO, pursuant to Act 1143 of 1993, as amended, is an integral part of and is incorporated in the judgment, decree, or order of this Court entered on _____ **[date of divorce]**, which grants a divorce to the parties to this Order, and is a part of the equitable distribution of marital property between the parties (including the provision for alimony and child support, if applicable).

A. PARTIES

1. _____ **[Plan member's name]** is the Member whose last known address is _____ and date of birth is _____ **[Member's date of birth]**.

2. _____ **[Alternate Payee's name]** is the Alternate Payee whose last known address is _____ and date of birth is _____ **[Alternate Payee's date of birth]**.

3. The Member and the Alternate Payee were married on _____ **[date of marriage]**.

4. Member **[is] -OR- [is not]** retired from the Plan as of the date of divorce.

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B. MEMBER'S RETIREMENT ANNUITY AND DURATION OF MONTHLY BENEFITS TO ALTERNATE PAYEE

If the member is currently receiving monthly benefits (retired), the option chosen under Section B will be applied to the member's monthly benefit. If the member is not retired, the option chosen will be applied to a monthly benefit calculated from the date of marriage to the date of divorce. Choose only one of the four options below:

For a percentage of the Member's monthly benefit for Alternate Payee's lifetime, choose this option:

5. The Alternate Payee is awarded [_____] % of the Member's accrued monthly retirement benefit for the life of the Alternate Payee, adjusted to the actuarial equivalent of Alternate Payee's share using the Alternate Payee's attained age at his/her last birth date prior to the effective date of this Order, the valuation rate, and the 50/50 mortality table. This percentage portion of the Member's monthly retirement benefit shall be paid to the Alternate Payee in the same manner as is payable to the Member as an annuity, payable for the Alternate Payee's lifetime. All annuity benefits paid to the Alternate Payee shall be paid as a straight life annuity. No survivor or other death benefits will be payable upon the Alternate Payee's death.

-OR-

For a set dollar amount of the Member's monthly benefit for Alternate Payee's lifetime, choose this option:

5. The Alternate Payee is awarded (\$_____) of the Member's monthly retirement benefit. The set dollar amount of the Member's monthly retirement benefit shall be paid to the Alternate Payee in the same manner as is payable to the Member as an annuity, payable for the Alternate Payee's lifetime. The set dollar amount of the Member's monthly retirement benefit under this Order shall not exceed the Member's total monthly benefits payable as of the date of divorce. All annuity benefits paid to the Alternate Payee shall be paid as a straight life annuity. No survivor or other death benefits will be payable upon the Alternate Payee's death.

For a percentage of the Member's monthly benefit during the Member's lifetime, choose this option:

5. The Alternate Payee is awarded (_____) % of the Member's monthly retirement benefit. This percentage portion of the Member's monthly retirement benefit shall be paid to the Alternate Payee in the same manner as is payable to the Member as an annuity, payable for the Member's lifetime. In the event the Member dies before the Alternate Payee, the benefits to the Alternate Payee shall cease on such date. All annuity benefits paid to the Alternate Payee shall be paid as a straight life annuity. No survivor or other death benefits will be payable upon the Alternate Payee's death.

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-OR-

For a set dollar amount of the Member's monthly benefit during the Member's lifetime, choose this option:

5. The Alternate Payee is awarded (\$_____) of the Member's monthly retirement benefit. The set amount of the Member's monthly retirement benefit shall be paid to the Alternate Payee in the same manner as is payable to the Member as an annuity, payable for the Member's lifetime. In the event the Member dies before the Alternate Payee, the benefits to the Alternate Payee shall cease on such date. The set amount of the Alternate Payee's monthly retirement benefit under this Order shall not exceed the Member's total monthly benefit payable as of the date of divorce. All annuity benefits paid to the Alternate Payee shall be paid as a straight life annuity. No survivor or other death benefits will be payable upon the Alternate Payee's death.

C. EFFECTIVE DATE OF MONTHLY RETIREMENT BENEFITS

6. The Plan shall begin benefit payments to the Alternate Payee in accordance with applicable Plan provisions governing distributions to its members. Payments to the Alternate Payee will occur upon the earlier of the date: (1) the Member retires and begins receiving retirement benefits; or (2) the Member ceases to be an active participant of the Plan and requests a refund of his/her contributions to the Plan.

If the Member is retired at the time of the divorce, monthly benefits to the Alternate Payee will commence the month following the date the Plan approves this Order.

D. NON-RETIRED MEMBER'S REQUEST OF REFUND OF PLAN DEPOSIT ACCOUNT

If the Member is not retired from the Plan as of the date of divorce, choose only one of the two options under Section D below. A request by the Member to refund Member contributions extinguishes any right of a monthly retirement benefit from the Plan for either the Member or the Alternate Payee.

If the Member is retired and receiving monthly benefits from the Plan as of the date of divorce, delete this Section D.

For a percentage of Member contributions, choose this option:

7. If the Member discontinues covered employment with the Plan and withdraws as a lump sum his/her contributions, including interest, to the Plan, the Alternate Payee shall receive (____%) of the Member's contributions and interest deposited from the date of marriage to the date of divorce.

-OR-

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For a set dollar amount of Member contributions, choose this option:

7. If the Member discontinues covered employment with the Plan and withdraws as a lump sum his/her contributions including interest, deposited by the Plan, the Alternate Payee shall receive the set dollar amount of (\$ _____) from the Member's deposits upon distribution of the refund by the Plan. The set dollar amount of the Member's deposit account assigned to the Alternate Payee in this Order may not exceed the Member's account balance plus interest credited by the Plan as of the date of divorce.

E. NON-RETIRED MEMBER'S DEATH PRIOR TO RETIREMENT

If the Member is not retired from the Plan as of the date of divorce, choose only one of the two options under Section E below.

If the Member is retired and receiving monthly benefits from the Plan as of the date of divorce, delete this Section E.

For a percentage of the Member's contributions to the Plan, choose this option:

8. If the Member dies prior to retirement and a retirement or survivor annuity is not payable by the Plan due to the Member's death, the Alternate Payee shall receive as a lump sum (____%) of the Member's contributions and interest deposited from the date of marriage to the date of divorce.

-OR-

For a set dollar amount from the Member's contributions to the Plan, choose this option:

8. If the Member dies prior to retirement and a retirement or survivor annuity is not payable by the Plan due to the Member's death, the Alternate Payee shall receive the set dollar amount of (\$ _____) from the Member's contributions and interest deposited by the Plan. The set amount of the Member's deposit account assigned to the Alternate Payee may not exceed the Member's account balance and interest credited by the Plan as of the date of divorce.

F. ADDITIONAL LIMITATIONS

All language in Section F must be included verbatim in the QDRO. If Sections D or E above are not applicable because the member is not retired, renumber the paragraphs below accordingly.

9. If the Alternate Payee dies prior to the receipt of any benefit or payment, the entire amount that may be due to the Alternate Payee reverts to the Member.

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10. If the Member or Alternate Payee receives any distributions that should not have been paid under this Order, such party is designated a constructive trustee for the amount received and shall immediately notify the Plan and comply with the Plan's instructions to retrieve the unauthorized distributions. The Plan reserves all rights under Ark. Code Ann. § 24-4-207 or any other applicable law to adjust payments or otherwise collect amounts owed to the Plan.

11. Both parties shall provide APERS with prompt written notification of any changes in each of their respective mailing addresses. The Plan shall not make payments to the Alternate Payee under this Order until the Plan has received such documentation as it determines to be necessary for the proper administration of this Order. The Plan will not be liable for failing to make payments to Alternate Payee if the Plan does not have an enforceable Order with a current mailing address for Alternate Payee in its records.

12. If payments from the Plan to the Alternate Payee are determined to be a de minimus amount as set by the Board, the Plan shall disburse the remaining payment to the Member who shall pay same to the Alternate Payee.

13. Either the Member or Alternate Payee shall furnish a final, file-marked copy of this Order to APERS. Upon acceptance of this Order by the Plan, the Member consents to disclosure of his/her Plan account information to the Alternate Payee or his/her authorized representative to the extent necessary to administer this Order.

14. Both parties agree to timely provide to APERS all information and forms and make all elections necessary for it to administer the provisions of the Plan pursuant to this Order.

15. The Court retains sole jurisdiction to amend, terminate, or otherwise modify this Order even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If APERS determines at any time that changes in the law, the administration of the Plan, or any other relevant circumstances make it impossible to calculate the portion of the distributions awarded to Alternate Payee by this Order and so notifies one or both of the parties, either or both parties shall immediately petition the Court for reformation of the Order.

16. The Member and the Alternate Payee understand and acknowledge that this Order cannot be amended after the Member's death.

17. This Order shall not require the Plan to provide any type or form of benefit, or pay options not otherwise available under the Plan, and does not require the Plan to provide increased benefits to the parties beyond those applicable Plan benefits to the Member that are in effect as of the entry of this Order. Any provision of this Order that provides otherwise is severable and shall be void and have no effect.

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18. This Order shall not require the Plan to provide any type or form of benefit, or option not otherwise available to the Member; nor shall it require the payment of any benefits to the Alternate Payee which are required to be paid to another alternate payee of another order previously determined by the Plan to be a qualified domestic relations order. Any provision of this Order that provides otherwise is severable and shall be void and have no effect.

IT IS SO ORDERED THIS _____ DAY OF _____, 20____

CIRCUIT JUDGE

Form approved by Arkansas Legislative Council: November 18, 2022
Adopted by board: November 16, 2022