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**DOMESTIC RELATIONS ORDER DIVIDING RETIREMENT PLAN BENEFITS**

This Order is intended to meet the requirements for a "qualified domestic relations order" relating to the Teacher Retirement System of Texas, hereinafter called the "Plan," "TRS," or "System," as set forth in Chapter 804, Title 8, Texas Government Code, and in applicable TRS rules, 34 TAC §§47.1 - 47.17. This Order is an integral part of the Decree of Divorce entered in this cause. In compliance with those requirements, the following is specified:

1. This Order assigns a portion of the benefits or amounts payable under the Plan to Alternate Payee in recognition of his/her marital rights in Participant's benefits or amounts payable under the Plan.

2. Participant in the Plan is \_\_\_\_\_

**(INSERT NAME OF PARTICIPANT)**, whose last known mailing address is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(INSERT PARTICIPANT'S ADDRESS)** and whose Social Security number is excluded from this order to protect the Participant from identity theft. Participant is authorized to use an alternate method acceptable to TRS to verify the number.

3. Alternate Payee is \_\_\_\_\_

**(INSERT NAME OF ALTERNATE PAYEE)**, whose last known mailing address is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(INSERT ALTERNATE PAYEE'S ADDRESS)** and whose Social Security number is excluded from this order to protect Alternate Payee from identity theft. Alternate Payee is authorized to use an alternate method acceptable to TRS to verify the number.

4. Participant and Alternate Payee were married on \_\_\_\_\_ **(INSERT DATE OF MARRIAGE)**. The court

orders that for purposes of this order, the end date for the division of property is

\_\_\_\_\_ **(INSERT END DATE OF DIVISION)**.

5. As part of a just and right division of the estate of the parties, Alternate Payee is awarded and shall receive from the Plan a portion of any of the following distributions paid by the Plan:

- distributions of service or disability retirement benefits (whether payable to Participant or a beneficiary);

- death or survivor benefits; and
- a distribution of the total accumulated contributions credited to Participant by the Plan.

For purpose of this order, the following **definitions** apply:

- **service or disability retirement benefits** include monthly retirement annuity payments payable to a retiree, continuing optional annuity payments paid to a beneficiary, distributions under the Deferred Retirement Option Plan (DROP), distributions of the Partial Lump Sum Option (PLSO), and supplemental payments;
- **death or survivor benefits** include a distribution of any monthly annuity payments paid as a death benefit to a beneficiary, a distribution of a lump sum benefit, any monthly benefits paid to a surviving spouse, dependent parent of the decedent, or minor children of the decedent, and a distribution of an amount equal to the remaining balance of Participant's accumulated contributions paid as a death benefit;
- **accumulated contributions** include member contributions made on behalf of the Participant plus all accumulated interest and has the meaning provided in § 821.001(1), Texas Government Code, or its successor statute; and

The portion awarded to Alternate Payee is payable if, as, and when such distributions are made as provided by the Plan's governing laws and rules based on Participant's membership in, credit with, or contributions to the Plan. The portion of the distribution of benefits or total accumulated contributions that is

awarded and that is to be paid to Alternate Payee shall be determined as follows:

**Select ONE of the following options by marking the applicable box (do not omit the unselected option):**

**OPTION 1**

Multiply the distribution by a percentage derived from the following formula:

$$CP \text{ awarded} \times \frac{\text{standard annuity based on salary and service during marriage}}{\text{standard annuity based on salary and service at time of distribution}}$$

The community property (CP in the equation above) awarded is the Alternate Payee's interest in the community property as determined by the court and may be expressed as a fraction, a percentage or a decimal. The Alternate Payee's interest in the community property is \_\_\_\_\_ **(INSERT INTEREST AWARDED BY THE COURT).**

The **numerator** of the fraction establishing the community's interest in Participant's total benefit is the amount of a standard service retirement annuity unreduced for early retirement calculated under the retirement law and rules in effect on the end date of division but using only service and salary credit that TRS determines has been acquired by Participant between the date of the parties' marriage and the end date of division and maintained with the System as of the end date of division, even if Participant has not yet reached normal retirement age, the service credit is less than the minimum required to be eligible to receive a service retirement annuity, and the average salary must be calculated with fewer salary years than specified by applicable laws and rules.

The **denominator** of the fraction is:

- for distributions made after the retirement of Participant, the amount of a standard service retirement annuity unreduced for early retirement calculated under the laws and rules in effect at the time of Participant's latest effective date of retirement and based on Participant's membership in, credit with, or contributions to the System as of Participant's latest effective date of retirement; and
- for distributions made prior to the retirement of the Participant, the amount of a standard service retirement annuity, unreduced for early retirement, which would have been used to calculate the service retirement benefit payable if Participant had retired at the end of the month in which the distribution is authorized to be made. For the purpose of determining the amount of a normal age standard service retirement annuity which would have been used to calculate the benefit payable if Participant had retired, the Plan may calculate the annuity by using the service credit acquired and maintained by Participant, even if it is less than the minimum required to be eligible to receive a service retirement annuity, and by using an average salary, even if it must be calculated with fewer salary years than specified by applicable laws and rules. The term "standard service retirement annuity" as used in this Order is defined by § 824.203, Texas Government Code, or its successor statute.

**OPTION 2**

Multiply the distribution by \_\_\_\_\_ % **(INSERT PERCENT AWARDED BY THE COURT. AWARD MUST BE LESS THAN ONE HUNDRED PERCENT (100%))**. The percent awarded is a percent of the **total distribution** payable on behalf of Participant and is **not** limited to a percentage of benefits accrued only during the marriage. If the application of the percent awarded results in a distribution of Participant's separate property to the Alternate Payee, the parties acknowledge the award and agree to the distribution and the Court finds that the award of separate property is necessary for the just and right division of the parties' community property.

**Select one or more of the following special instructions if needed by marking the applicable box (do not omit unselected instructions):**

**SPECIAL INSTRUCTION 1:**

The above language notwithstanding, in no event shall Alternate Payee receive more than a total of \$ \_\_\_\_\_ **(INSERT TOTAL AMOUNT)** plus interest, calculated from the end date of division to the date distribution to the Alternate Payee begins, as provided in § 825.307(b), Texas Government Code, or its successor statute.

**SPECIAL INSTRUCTION 2:**

The above language notwithstanding, in no event shall Alternate Payee receive more than a total of \$ \_\_\_\_\_ **(INSERT TOTAL AMOUNT)**.

**SPECIAL INSTRUCTION 3:**

The above language notwithstanding and except as provided in Section 6(g) of this order, in no event shall Alternate Payee receive more than \$\_\_\_\_\_ (**INSERT AMOUNT**) per month from any monthly retirement annuity payment.

**SPECIAL INSTRUCTION 4 (only available if selected Option 1):**

The above language notwithstanding, in determining the amount of service credit acquired during the marriage, service credit acquired under the terms of the Employee Retirement System of Texas (ERS) but transferred to TRS at the time of distribution shall be credited at the time the service was acquired or earned under ERS rather than the time of the transfer to TRS.

**SPECIAL INSTRUCTION 5 (only available if selected Option 1):**

The above language notwithstanding, in determining the amount of service credit acquired during the marriage, \_\_\_\_\_ (**INSERT TOTAL NUMBER OF YEARS of SERVICE CREDIT TO BE EXCLUDED**) years of service credit purchased during the marriage are excluded from the total years of service credit acquired during the marriage.

**SPECIAL INSTRUCTION 6:**

Alternate Payee is awarded and shall receive \_\_\_\_\_ (**INSERT INTEREST AWARDED BY THE COURT**) of a special refund of deposits or contributions that were made to and maintained with TRS between date of marriage and the end date of division and \_\_\_\_\_ (**INSERT INTEREST AWARDED BY THE COURT**) of

any interest, if credited, that TRS determines is attributable to these deposits or contributions. The community property interest awarded is the Alternate Payee's interest in the community property as determined by the court and may be expressed as a fraction, a percentage or a decimal. Special refund means a return of deposits or contributions that should not have been made to TRS on behalf of the member or that were based on compensation that cannot be used for calculation of TRS benefits and is refundable under the terms of the Plan.

6. TRS is directed to disburse to Alternate Payee the portion of distributions assigned under Paragraph No. 5 of this Order, if, as, and when such distributions are made as provided by the System's governing laws and rules based on Participant's membership in, credit with, or contributions to the System, subject to the following provisions:
  - (a) This Order shall not be interpreted in any way to require the Plan 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 a qualified domestic relations order.
  - (d) This Order shall not be interpreted in any way to require the payment of benefits to Alternate Payee before the retirement of Participant, the distribution of a withdrawal of contributions to Participant as authorized by the statutes governing

the Plan, or any other distribution required by law.

(e) If the Plan provides for a reduced benefit upon "early retirement," this Order shall be interpreted to require that, in the event of Participant's retirement before normal retirement age, the benefits payable to Alternate Payee shall be reduced proportionately.

(f) This Order shall not be interpreted to require the designation of a particular person as the recipient of benefits in the event of Participant's death or to require the selection of a particular benefit payment plan or option. However, notwithstanding the provisions of this Order, if Alternate Payee is designated as a beneficiary for any benefits payable by TRS upon the death of Participant, then Alternate Payee shall receive such payment to which Alternate Payee is entitled by law as beneficiary. If Alternate Payee is a joint beneficiary for a benefit, Alternate Payee shall receive the portion of the total benefit payable to the joint beneficiaries as specified in Paragraph No. 5 above; the portion of the benefit payment received by Alternate Payee as a joint beneficiary of Participant shall be credited toward satisfying the amount of the benefit payable to Alternate Payee as the alternate payee for Participant's interest. Additionally, as specified in Paragraph No. 5 above, Alternate Payee shall receive a portion of any other benefits which are payable to a beneficiary and for which Alternate Payee was not designated as a beneficiary.

(g) In the event that, after distribution of a benefit to Participant or a beneficiary has begun, the amount of the distribution is increased or reduced by law, then the amount payable to Alternate Payee shall be increased or reduced proportionately.

(h) If the Board of Trustees of the Plan has provided by rule that, in lieu of paying an alternate payee the interest awarded by a qualified domestic relations order, the Plan may pay an alternate payee an amount that is the actuarial equivalent of such interest in the form of (1) an annuity payable in equal monthly installments for the life of the alternate payee, or (2) a lump sum, then and only in that event Alternate Payee or Participant may request the Plan to make payment in this form, and the Plan is authorized to make payment in this form instead of in the manner otherwise described in this Order. This Order shall not be interpreted in any way to require the Plan to adopt such rules or to require the Plan to grant any request for payment in the form described in this provision. The determination of whether to pay an amount authorized by this provision in lieu of the interest otherwise awarded by this Order shall be at the sole discretion of the Plan.

**The above language notwithstanding,** Alternate Payee may make an election, if authorized by § 804.005, Texas Government Code, or its successor statute, to receive an amount in lieu of the interest awarded by this Order that is Alternate Payee's portion of the actuarial equivalent of the Participant's accrued benefit, determined as of the date of Alternate Payee's election. When authorized, Alternate Payee may make this election in writing to TRS if Participant has not yet retired but is at least 62 years of age and eligible to retire without reduction for early age. The amount is payable to Alternate Payee in the form authorized by law and as determined by TRS. The benefit payable on behalf of Participant is permanently reduced as required by law and as determined by TRS.

(i) The interest of Alternate Payee is governed by § 804.101, Texas

Government Code or its successor statute.

7. Any amount payable by TRS, other than those payable under Paragraph No. 5 above to Alternate Payee, shall be payable directly to Participant, Participant's beneficiary, or the estate, heirs, or legatees of either, in accordance with the TRS laws and rules. If Participant, Participant's beneficiary, or the estate of either 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, heirs, or legatees of Alternate Payee receive any amount of a distribution that should have been paid to Participant, Participant's beneficiary, or the estate, heirs, or legatees of either, the recipient is designated a constructive trustee for the amount received and shall immediately transmit such amount to Plan Participant or other person to whom the amount should have been paid.
9. If Participant, Alternate Payee, or the estate, heirs, or legatees of either receive any amount of a distribution that should not have been paid by the System, the recipient is designated a constructive trustee for the amount received and shall immediately transmit such amount to the System.
10. 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 TRS. The Plan is authorized to issue a Form W-2P, Form 1099-R, or other applicable form on any direct payment made to Alternate Payee. Plan Participant and Alternate Payee

shall allocate Participant's investment in contract in the manner established by the Internal Revenue Code and any applicable regulations.

11. Alternate Payee is ORDERED to provide the Plan prompt written notification of any changes in Alternate Payee's mailing address. TRS shall not be liable for failing to make payments to Alternate Payee if TRS does not have a current mailing address for Alternate Payee at time of payment.
12. Alternate Payee shall furnish a certified copy of this Order to TRS.
13. 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 parties shall immediately petition the Court for reformation of the Order.
14. It is the intent of this Court that this order conform to the model domestic relations order adopted by TRS. Any variance from the model order is inadvertent and shall be construed and administered by TRS in a manner consistent with the model order language.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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**[JUDGE PRESIDING]**