

## **PROCEDURES FOR DETERMINING WHETHER A DOMESTIC RELATIONS ORDER IS QUALIFIED**

### **I. RECEIPT OF ORDER**

Upon receipt of a Domestic Relations Order, the Plan Administrator will –

1. Record the receipt of a DRO on Form 1 (QDRO Recordkeeping Form).
2. Send an Initial Notification Letter (Form 2) by Certified Mail, together with a copy of these procedures to the addresses of the Participant and Alternate Payee (s) specified in the Order.
3. Send copy of the Order to Legal Counsel.
4. Complete Fact Sheet of Participant's Benefits (Form 3) and send copy to Legal Counsel.

### **II. SEGREGATION OF PAYABLE AMOUNTS**

If (i) the DRO requires the payment of amounts to an Alternate Payee(s) while the “qualified” status of the Order is being determined, and if (ii) the Participant is eligible for benefits under the Plan – whether or not he is receiving such benefits – upon the Participant's attainment of eligibility, the Plan Administrator will separately account for the amount specified in the Order, which would have been payable to the Alternate Payee(s) during such period.

### **III. TIME FRAMES FOR DETERMINATION OF STATUS OF ORDER**

1. Within thirty (30) days of the sending of the Initial Notification, each person named in the Order may furnish comments, and prior to the expiration of this thirty-day period, such person(s) may request an additional thirty-day period to submit such comments. In the latter case, the determination will be postponed for an additional thirty-day period.
2. Within ninety (90) days of the expiration of the comment period specified in Section III.1 herein, Legal Counsel will determine the Order's qualified status.

Prior to the expiration of this ninety-day period, if the Consultant deems it necessary, he will provide Legal Counsel with an interpretation of the Order's instructions on amounts payable to the Alternate Payee(s).

### **IV. REQUIREMENTS FOR QUALIFICATION**

In order to constitute a Qualified Domestic Relations Order (QDRO), the following requirements must be met:

1. The DRO must be a final judgment, decree or order (including approval of a property settlement agreement) that relates to child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of a Participant and made pursuant to a state domestic relations law (including a community property law).
2. The DRO must create or recognize the existence of an Alternate Payee (s)' right to receive all or portion of the benefits payable to a participant under the Plan.
3. The DRO must clearly specify the following information:

**IV. REQUIREMENTS FOR QUALIFICATION** (Continued)

- a. The name and the last known mailing address of the Participant and each of the Alternate Payee(s) covered by the DRO unless the Plan Administrator has reason to know that address independent of the Order;
  - b. The amount or percentage of the Participant's benefits to be paid by the Plan to each Alternate Payee(s) or the manner in which such amount or percentage shall be determined;
  - c. The number of payments or period to which such Order applies; and
  - d. The name of each plan to which such Order applies.
4. The DRO must not require:
- a. The Plan to provide any type or form of benefit or any option not otherwise provided under the Plan;
  - b. The Plan to provide increased benefits (determined on the basis of actuarial value); or
  - c. The payment of benefits to an Alternate Payee(s) that are required to be paid to another Alternate Payee(s) under another previously received DRO.
5. A DRO which requires the payment of benefits to an Alternate Payee as alimony shall:
- a. Indicate that the benefit will be payable until the first of the following events occurs: the Alternate Payee(s) death, the Participant's death, or the remarriage of the Alternate Payee(s); and
  - b. State the following: "In the event of the remarriage of the Alternate Payee(s), the Alternate Payee(s) shall notify the Fund Manager, in writing, thirty (30) days prior to the date set for marriage and thereafter forward to the Fund Manager, by certified mail, a copy of the marriage certificate. In the event the Alternate Payee(s) fails to provide notice as set forth above and benefits are paid to the Alternate Payee(s) beyond the date of remarriage, the Alternate Payee(s) hereby shall refund said benefits to the Fund, and to fully indemnify and hold harmless the Fund against any and all liabilities that may arise as a result of the benefits paid to the Alternate Payee(s) beyond the date of remarriage." If the Alternate Payee(s) fails to refund these benefits and the Fund institutes legal action to recover the overpayment, the Alternate Payee(s) shall be responsible for all legal fees and costs associated with such action.
6. A DRO which requires the payment of benefits to an Alternate Payee(s) while the Participant is still employed will not be treated as failing to meet the requirements of Subsection 4.a. solely because the DRO requires that payment of benefits be made to an Alternate Payee(s):
- a. On or after the earliest date the Participant could elect to receive retirement benefits;
  - b. As if the Participant had retired on the date on which such payment is to begin under such Order (but taking into account the present value of any employer subsidy for early retirement); and

**IV. REQUIREMENTS FOR QUALIFICATION** (Continued)

- c. In any form in which such benefits may be paid under the Plan to the Participant (other than in the form of a joint and survivor annuity with respect to the Alternate Payee(s) and his subsequent spouse).

**V. NOTIFICATION OF QUALIFICATION DETERMINATION**

Upon determining the qualified status of the Order, the Fund Administrator will send to the attorneys representing the persons named in the Order or if the attorney is not know, the persons named in the Order:

1. “NOTICE OF DETERMINATION THAT ORDER IS QUALIFIED” if Order meets the requirements of Section IV herein, or
2. “NOTICE OF DETERMINATION THAT ORDER IS NOT QUALIFIED” if Order does not meet the requirements of Section IV herein.

**VI. EFFECT OF QUALIFICATION DETERMINATION ON PAYMENT OF BENEFITS**

After the notice of determination is sent, amount separately accounted for – if any – will be administered as follows:

1. If the Order is determined to be qualified, the Plan Administrator will pay any amount separately accounted for to the Alternate Payee(s), together with interest, and future benefits will be provided according to the Order. Unless the QDRO provides otherwise, any future increases in the Participant’s benefits will not result in a recalculation of amounts payable to the Alternate Payee.
2. If the Order is determined not to be qualified, amounts payable to the Alternate Payee(s) will continue to be separately accounted for until a “NOTICE OF FINAL QUALIFICATION” or “NOTICE OF FINAL NON-QUALIFICATION” is issued

**VII. NOTICE OF FINAL QUALIFICATION**

In the event that requirement defects specified in the “NOTICE THAT ORDER IS NOT QUALIFIED” have been corrected within eighteen (18) months of the date payments are due to commence under the Order, Fund Administrator will send “NOTICE OF FINAL QUALIFICATION” to the attorneys representing each person named in the Order. If any such attorney is not known, notification will be sent directly to the person named in the Order.

**VIII. EFFECT OF FINAL QUALIFICATION ON PAYMENT OF BENEFITS**

After the “NOTICE OF FINAL QUALIFICATION” is sent, the Plan Administrator will make arrangements to pay the amounts separately accounted for (plus interest) to the Alternate Payee(s) and will ensure that future benefits will be provided according to the Order. Unless the QDRO provides otherwise, any future increases in the Participant’s benefits will not result in a recalculation of amounts payable to the Alternate Payee.

**IX. NOTICE OF FINAL NON-QUALIFICATION**

In the event that amounts payable to the Alternate Payee(s) have been separately accounted for, and if the defects specified in the “NOTICE THAT ORDER IS NOT QUALIFIED” have not been corrected within eighteen (18) months of the date payments are due to commence under the order, Fund Administrator will send “NOTICE OF FINAL NON- QUALIFICATION” to the attorneys representing each person named in the Order. If such attorney is not known, notification will be sent directly to each person named in the Order.

**X. EFFECT OF FINAL NON-QUALIFICATION**

Following the final determination of non-qualification, the Plan Administrator will either authorize distribution of the amounts separately accounted for (plus interest) to the person who is entitled to receive such amount in the absence of the Order, or if such person is not yet in payment status, restore the amounts separately accounted for (plus interest) to their prior status. If it is subsequently determined that the Order (as modified, if applicable) is qualified, then the Order will be applied on a prospective basis only.

**XI. MODIFICATION OF ORDER OR REQUEST FOR RE-DETERMINATION**

If after a “NOTICE OF FINAL NON- QUALIFICATION” is sent, the Plan receives a modified Order or a request for re-determination, Fund Administrator will determine whether the new information corrects the defects, thus causing the Order to meet the requirements of Section IV of these procedures. At the discretion of the Fund Administrator, the modification or request may be treated a new Order or as a modified Order.

Any change in the payment of a Participant’s benefit pursuant to a modified Order or request for re-determination will be on a prospective basis only and will be effective from the date of the Plan’s receipt of such modified Order or request for re-determination.