

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, SS

PROBATE & FAMILY  
COURT DEPARTMENT  
DOCKET NO. \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF

v.

QUALIFIED DOMESTIC RELATIONS ORDER

\_\_\_\_\_  
DEFENDANT

MASSACHUSETTS LABORERS' ANNUITY FUND

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

- As a part of the final Judgment in this matter, this Order creates and recognizes the existence of an Alternate Payee's right to receive a portion of the Participant's benefits payable under an employer (or union) sponsored defined contribution plan which is qualified under Section 401(a) of the Internal Revenue Code (the "Code") and the Employee Retirement Income Security Act of 1974 ("ERISA"). It is intended that this Order constitute a Qualified Domestic Relations Order ("QDRO") under Section 414 (p) of the Code, Section 206(d)(3) of ERISA and Chapter 208, Section 34 of the Massachusetts General Laws.

- Participant Information:** The name, last known address, social security number, and date of birth of the "Participant" are:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

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

Social Security Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

The Participant is a Member of the New England Laborers' Local Union # \_\_\_\_\_  
and is a Participant in the Massachusetts Laborers' Annuity Fund.

3. **Alternate Payee Information:** The name, last known address, social security number, and date of birth of the “Alternate Payee” are:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Social Security Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

The Alternate Payee is the former spouse of the Participant.

The Alternate Payee shall have the duty to notify the Plan Administrator in writing of any change in her mailing address subsequent to the entry of this Order.

4. **Marriage Date:** The Alternate Payee and the Participant were married on:

\_\_\_\_\_ (date), at \_\_\_\_\_ (location).

5. **Identification of Plan:** This Order applies to benefits under the Massachusetts Laborers’ Annuity Fund (“Plan”).

Any changes in Plan Administrator, Plan Sponsor, or name of the Plan shall not affect the Alternative Payee’s rights as stipulated under this Order.

6. **Plan Administrator:** For purposes of this Order, “Plan Administrator” shall mean:

Board of Trustees  
Massachusetts Laborers’ Annuity Fund  
Attention: Barry McAnarney, Executive Director  
14 New England Executive Park  
Burlington, MA 01803

7. **Pursuant to State Domestic Relations Law:** This Order is entered pursuant to the authority granted in the applicable domestic relations laws of the Commonwealth of Massachusetts, specifically, to Chapter 208, Section 34 of the Massachusetts General Laws.

8. **For Provision of Marital Property Rights:** This Order relates to the provision of marital property rights and/or spousal support to the Alternate Payee as a result of Judgment of Divorce Nisi between the Participant and the Alternate Payee, dated \_\_\_\_\_ (Absolute \_\_\_\_\_).

9. **Amount of the Alternate Payee's Benefit:** The Order assigns to the Alternate Payee: an amount equal to \_\_\_\_\_ (*insert percentage or exact dollar amount*) from the Participant's total account balance accumulated under the Plan as of \_\_\_\_\_ (*insert date of parties' divorce or date reached by agreement of the parties*). It is understood that such assignment to the Alternate Payee shall not exceed the Total Account balance reduced by any outstanding loans (if any such loans exist). The Alternate Payee's portion of the benefits described above shall be segregated and separately maintained in an account established on her behalf and [*shall*] or [*shall not*] be additionally credited with any investment income and any investment gains (or losses) attributable thereon from \_\_\_\_\_ (*insert date of parties' divorce or date reached by Agreement of the parties*).

Until the date of total distribution to the Alternate Payee, the Alternate Payee shall have the same rights with respect to the management of her account as does any other Plan participant.

10. **Commencement Date and Form of Payment to Alternate Payee:** If the Alternate Payee so elects, she shall be paid her benefits as soon as administratively feasible following the date this Order is approved as a QDRO by the Plan Administrator, or at the earliest date permitted under the terms of the Plan if later. Benefits will be payable to the Alternate Payee in any form or permissible option otherwise available to participants under the terms of the Plan except in the form of a qualified joint and survivor annuity with a subsequent spouse.

11. **Death of Alternate Payee:**

*Note to drafter: There are two choices:*

[In the event of the Alternate Payee's death prior to her receiving the full amount of benefits called for under this Order and under the benefit option chosen by the Alternate Payee, such Alternate Payee's beneficiary(ies), as designated on the appropriate form provided by the Plan Administrator, shall receive the remainder of any unpaid benefits under the terms of this Order, and in accordance with the benefit option selected by the Alternate Payee. If the Alternate Payee has not designated any such beneficiary(ies), then the remainder of any unpaid benefits shall be paid to the estate of the Alternate Payee];

*or*

[In the event of the death of the Alternate Payee prior to commencement of payment of benefits, or receiving the full amount of benefit called for under the Order benefits shall revert back to the Participant].

12. **Death of the Participant:** In the event the Participant dies prior to the establishment of a separate account in the name of the Alternate Payee, such Alternate Payee shall be treated as the surviving spouse of the Participant for any death benefits payable under the Plan to the extent of the full amount of the Alternate Payee's benefits called for under Paragraph 9 of this Order. Should the Participant predecease the Alternate Payee after the new account has been established on her behalf, such Participant's death shall in no way affect the Alternate Payee's right to the portion of the Participant's benefits stipulated herein.

13. **Limitations:** This Order is not intended, and shall not be construed in such a manner as to require the Plan:
- (a) to pay any type or form of benefit, or any option not otherwise provided for under the Plan;
  - (b) to provide increased benefits (determined on the basis of actuarial value); or
  - (c) to pay any benefits to the Alternate Payee which are required to be paid to another alternate payee under another Order previously determined to be a Qualified Domestic Relations Order.
14. **Continued Qualified Status of Order:** It is the intention of the parties that this QDRO continue to qualify as a QDRO under Section 414(p) of the Internal Revenue Code, as it may be amended from time to time, and that the Plan Administrator shall reserve the right to reconfirm the qualified status of the QDRO at the time the benefits become payable.
15. **Tax Treatment of Distributions Made under this Order:** The Alternate Payee shall include all of her retirement benefits if, as, and when received, in her gross taxable income. For purposes of Sections 72 and 402(a)(1) of the Internal Revenue Code, the Alternate Payee shall be treated as a distributee of any distribution or payment made to said Alternate Payee under this Order. Said retirement benefits when paid, shall not be taxable income or a deduction on the Participant's tax returns.
16. **Constructive Receipt:** In the event that the Plan Administrator inadvertently pays to the Participant any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant shall immediately reimburse the Alternate Payee to the extent that he has received such benefit payments, and shall forthwith pay such amounts so received directly to the Alternate Payee within ten (10) days of receipt.
17. **Continued Jurisdiction:** The Court retains jurisdiction over this matter to amend this Order to establish or maintain its status as a Qualified Domestic Relations Order. In the event this Order is held not to be a Qualified Domestic Relations Order within the meaning of Section 414(p) of the Internal Revenue Code and ERISA Section 206(d), the parties hereby agree to submit to and request this Probate Court or a Court of competent jurisdiction, to make it a Qualified Domestic Relations Order in such manner that will reflect the parties' intent as herein expressed and thereafter to enter an order modifying the Qualified Domestic Relations Order entered by the Court, said Modification Order to be entered nunc pro tunc, if appropriate.

18. **Plan Termination:** In the event of a Plan termination, the Alternate Payee shall be entitled to receive her portion of the Participant's benefits as stipulated herein in accordance with the Plan's termination provisions for participants and beneficiaries.

SO ORDERED

Dated: \_\_\_\_\_

\_\_\_\_\_  
Justice, Probate and Family Court Department

\_\_\_\_\_ Division