

Article XIV — Benefits: Miscellaneous Provisions

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Article XIV – Benefits: Miscellaneous Provisions

§ 18-1401 Provision of Benefits.

The Administrator shall direct the Trustees to provide benefit payments to the appropriate recipients from time to time in accordance with the provisions of this Plan. The **entire** vested portion of all accounts created with respect to a Participant shall be used to provide benefits for the Participant or his Beneficiaries or Alternate Payees under this Plan.

[Ord. 415 10-29-2003]

§ 18-1402 Determination of Marital Status by the Administrator.

Before receiving any benefits under this Plan in the form of a Joint and Survivor Annuity or a Life Annuity for the Participant's surviving spouse, the recipient must establish to the satisfaction of the Administrator the current marital status of the Participant (or the marital status of a deceased Participant at the time of his death). A Participant will be deemed not married at any

given time if no spouse can be located or if other circumstances described in regulations issued by the U.S. Secretary of the Treasury exist.

[Ord. 415 10-29-2003]

§ 18-1403 Notice Requirements.

The Administrator shall provide each person receiving benefits under this Plan with the notice required under Section 402(f) of the Code (regarding federal income tax treatment of Plan benefits and rollover rights). To the extent possible, the notice shall be based on statements supplied by the U.S. Secretary of the Treasury.

[Ord. 415 10-29-2003]

§ 18-1404 Spendthrift Provisions.

(a) **General Rule.** Except as provided in subsection (b), benefits payable under this Plan (whether made directly from the Plan or as payments under annuity contracts purchased by the Plan and transferred to the recipient) shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, change, garnishment, execution, or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for support of a spouse, former spouse, or any other relative or dependent of the Participant before actually being received by the Participant, Former Participant, Beneficiary, or Alternate Payee under the terms of the Plan, **except** with respect to federal income tax withholding. Any attempt to anticipate, alienate, transfer, assign, pledge, encumber, change, or otherwise dispose of any right to benefits payable under this Plan shall be void. The Trustees and the Employer shall not be liable for or subject to, in any manner, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits under this Plan.

(b) **Qualified Domestic Relations Orders.** Notwithstanding the provisions of subsection (a), the Administrator may direct the Trustees to comply with a Qualified Domestic Relations Order (as described in § 18-1405).

[Ord. 415 10-29-2003]

§ 18-1405 Qualified Domestic Relations Orders.

(a) **Definition.** A Qualified Domestic Relations Order is a judgment, decree, or order (including approval of a property settlement agreement) made pursuant to a state domestic relations law (including community property law) that relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child, or other dependent of a Participant (hereinafter referred to as an “Alternate Payee”), **which** was entered before January 1, 1985, **or** which—

(1) **Rights Recognized.** Creates or recognizes a right on the part of the Alternate Payee to receive all or a portion of the benefits payable on behalf of a Participant under this Plan;

(2) **Required Provisions.** Specifies—

(A) the name and last known mailing address (if any) of the Participant and each Alternate Payee covered by the order;

(B) the amount or percentage of the Participant's Plan benefits to be paid to any Alternate Payee, or the manner in which such amount or percentage is to be determined; **and**

(C) the number of payments or the period to which the order applies and each Plan to which the order relates;

(3) **Prohibited Provisions.** Does not require the Plan to do any of the following:

(A) provide any type or form of benefit or any option not otherwise provided under the Plan;

(B) pay any benefit in the form of a Joint and Survivor Annuity with respect to the Alternate Payee and his or her subsequent spouse;

(C) pay any benefits to an Alternate Payee before the **earlier** of—

(I) the date on which the Participant is entitled to a distribution under the Plan, **or**

(II) the **later** of—

(i) the date the Participant attains age 50, **or**

(ii) the earliest date on which the Participant could begin receiving benefits under the Plan if the Participant incurred a Separation of Service with the Employer;

(D) provide increased benefits; **or**

(E) pay benefits to an Alternate Payee that are required to be paid to another Alternate Payee under a prior Qualified Domestic Relations Order; **and**

(4) **Permitted Provision.** May or may not provide that an Alternate Payee who had been married to the Participant for at least one year will be treated as an Eligible Spouse with respect to the portion of the Participant's benefit in which such Alternate Payee has an interest.

(b) **Procedure.**

(1) **Notification.** Upon receipt of any judgment, decree, or order (including approval of a property settlement agreement) relating to the provision of payment by the Plan to an Alternate Payee pursuant to a state domestic relations law, the Administrator shall promptly notify the affected Participant and any Alternate Payee of:

(A) the receipt of such judgment, decree, or order; **and**

(B) the Administrator's procedure for determining whether or not the judgment, decree, or order is a Qualified Domestic Relations Order.

(2) **Establishment of Procedure.** The Administrator shall establish a procedure to determine the status of a judgment, decree, or order as a Qualified Domestic Relations Order and to administer Plan distributions in accordance with them. Such procedure shall—

(A) be in writing;

(B) permit an Alternate Payee to designate a representative for receipt of communications from the Administrator;

(C) include a provision specifying the notification requirements set forth in paragraph (1);

(D) include a provision describing the Alternate Payee Accounts provided in subsection (c); **and**

(E) include such other provisions as may be required by regulations promulgated by the Secretary of the Treasury.

(c) Alternate Payee Accounts.

(1) **Creation.** During any period in which the Administrator or a court (or other tribunal) of competent jurisdiction is determining whether a judgment, decree, or order is a Qualified Domestic Relations Order, the Administrator shall create separate accounts under this Plan (“**Alternate Payee accounts**”) and shall credit such accounts with the amounts, if any, which would have been payable to each Alternate Payee during such period (as they would have become due) if the judgment, decree, or order had already been determined to be a Qualified Domestic Relations Order. The amounts credited to the Alternate Payee accounts shall be debited from the accounts of the Participant potentially subject to the putative Qualified Domestic Relations Order. The Alternate Payee accounts need not be segregated from the general assets of the Trust Fund; they only must be accounted for separately.

(2) Disposition.

(A) **To Alternate Payee.** If a judgment, decree, or order is determined to be a Qualified Domestic Relations Order within 18 months after the date on which the first payment would be required to be made under the judgment, decree, or order, the Administrator shall direct the Trustees to pay the amounts in Alternate Payee accounts created with respect to such judgment, decree, or order to the Alternate Payees.

(B) **Return to Participant’s Accounts.** All amounts in Alternate Payee accounts created with respect to such judgment, decree, or order shall be returned to the accounts with respect to the Participant from which they were derived upon the **earliest** of the following events:

(I) the date 18 months after the date on which the first payment would be required to be made under the judgment, decree, or order;

(II) the conclusive determination that such judgment, decree, or order is **not** a Qualified Domestic Relations Order; **or**

(III) the termination, partial termination, or complete discontinuance of Employer contributions to the Plan and Trust.

Such returned amounts shall be paid at such time and in such manner as is otherwise provided in this Plan (*except* that any amounts already due for distribution shall be paid to the proper recipient immediately).

(d) **Compliance with Qualified Domestic Relations Order.** If a judgment, decree, or order is conclusively determined to be to be a Qualified Domestic Relations Order, the Administrator shall direct the Trustees to provide benefits under the Plan in accordance with such Qualified Domestic Relations Order.

§ 18-1406 Facility of Payment.

Whenever the Administrator determines that a person entitled to receive any payment of a benefit or installment is under a legal disability or is incapacitated in any way so as to be unable to manage his financial affairs, the Administrator may direct the Trustees to make payments to such person, to his legal representative, to a relative, or to a friend of such person for his benefit. Any payment of a benefit or installment in accordance with the provisions of this Section shall be a complete discharge from any liability for the making of such payment under the provisions of the Plan.

[Ord. 415 10-29-2003]

§ 18-1407 Unclaimed Distribution.

(a) **Segregation.** If, after diligent inquiry, the Administrator is unable to locate a person for the purpose of distribution of benefits under this Plan by the end of the Plan Year following the Plan Year in which the distribution was to have been made, the Administrator shall direct the Trustees to segregate the person's unclaimed Plan benefits in a separate interest bearing account under the Plan. Such separate account shall be entitled to all income it earns and shall bear all expenses it incurs.

(b) **Payment.** If a person entitled to benefits segregated in an account under subsection (a) files a claim for benefits under this Plan and the Administrator approves such claim, the Administrator shall direct the Trustees to pay the segregated amounts over to the claimant.

(c) **Escheat.** Amounts which remain unclaimed in an account under subsection (a) upon the termination and liquidation of this Plan and Trust or, if earlier, at the time when such property shall escheat under applicable state law (or be delivered to the state under applicable abandoned and unclaimed property law), shall be distributed to the state with jurisdiction over the amounts. In the event of a distribution under this subsection, the Plan and Trust shall have no further responsibility for such amounts.

[Ord. 415 10-29-2003]

§ 18-1408 Survivors of Participant Who Dies While Performing Qualified Military Service.

Notwithstanding any provision of this Plan to the contrary, the survivors of any Participant who dies while performing qualified military service are entitled to any additional benefits (*other than* contributions relating to the period of qualified military service, but including vesting service credit for such period and any ancillary life insurance or other survivor benefits) that would have been provided under the Plan had the Participant resumed employment on the day preceding the Participant's death and then terminated employment on account of death.

[Ord. 561 01-29-2020]