**MODEL LANGUAGE FOR**

**SEPARATION AGREEMENT OR JUDGMENT ENTRY**

**OPERS / STRS / SERS PENSION PLANS**

*This language is for use when the participant has not yet commenced benefits under the plan. For participants in pay status, several modifications would need to be made. Special care is also required for divorces that occur shortly before retirement.*

**Division of Retirement Benefits in the [Ohio Public Employees Retirement System OR State Teachers Retirement System of Ohio OR School Employees Retirement System of Ohio].**

The **[**Defendant/Plaintiff**]** is a Participant in the **[**Ohio Public Employees Retirement System **OR** State Teachers Retirement System of Ohio **OR** School Employees Retirement System of Ohio**]** (“**Plan**”). For purposes of dividing marital property, the **[**Defendant/Plaintiff**]** is an Alternate Payee who is granted a portion of the Participant’s Plan benefit as described below.

**1. Amount of Benefits Assigned:** The Alternate Payee is assigned fifty percent (50%) of the Marital Portion of the Participant’s Plan benefit at retirement, including any partial lump sum payment (“**PLOP**”), utilizing the following traditional coverture fraction:

Marital Portion = $\frac{Years of Credited Service During the Marriage}{Total Years of Credited Service at Retirement}$

For purposes of this fraction, the marriage began \_\_\_\_\_\_\_\_\_\_\_ and ended \_\_\_\_\_\_\_\_\_\_. Any service credits that were purchased during the marriage will be treated as marital, and included in the numerator of the fraction.

If the Participant is in the Member-directed or Combined Plan, the Marital Portion of the defined contribution component shall be determined by tracing passive growth using actual account performance from the date of assignment to the date of total distribution to the Alternate Payee. In the event that the information necessary for a tracing cannot be obtained, the Marital Portion shall be determined using a ratio of marital contributions to total contributions.

**[Optional – Social Security Offset:** As permitted by ORC §3105.171(F)(9), the percentage of the Marital Portion of the Participant’s Plan benefit that is assigned to the Alternate Payee shall be reduced by offsetting the present value of the Marital Portion of the Participant’s Plan benefit by the present value of the Marital Portion of the Alternate Payee’s Social Security benefit.**]**

**2. Cost of Living Adjustment:** The Alternate Payee is assigned a pro rata share of any cost-of-living adjustments or other post-retirement benefit increases that the Participant receives from the Plan.

**3. Joint and Survivor Election:** Upon retirement, the Participant shall elect to receive Plan benefits in the form of a reduced joint and survivor annuity with the Alternate Payee as beneficiary. The Participant shall elect a survivor percentage for the Alternate Payee that is equal to the percentage (determined above) of the Participant’s total Plan benefit at retirement that is assigned to the Alternate Payee.

The joint and survivor payment amounts to the Alternate Payee are based on the Plan benefits assigned above, and on the Alternate Payee being the Participant’s sole beneficiary. If the Participant elects multiple beneficiaries, such an election may reduce the monthly payment amounts that would otherwise have been made to the Alternate Payee. In this event, the parties shall promptly prepare and submit to the Plan a revised division of property order that utilizes a dollar amount assignment and that reflects a reduction only for the Alternate Payee’s survivor benefit.

**Notice –** The parties shall promptly notify the Plan about the Participant’s requirement to elect a joint and survivor annuity by sending a certified copy of this Agreement to the Plan’s legal department, and by including a cover letter that directs attention to this page, section, and paragraph.

**4. Refund of Plan Contributions:** If the Participant is vested in a monthly pension benefit, the Participant shall not request a refund of employee/employer contributions from the Plan. If the Participant is not vested in a monthly pension benefit, and if the Participant elects a refund of employee/employer contributions from the Plan, the Alternate Payee is assigned a pro rata share of the refund, including any interest.

**5. Pre-Retirement Life Insurance Protection:** The Alternate Payee shall have the right to obtain term life insurance on the Participant’s life in an amount no greater than **[**$\_\_\_\_\_**]**, with the Alternate Payee as the policy owner. The Participant shall cooperate by providing information, submitting to physical exams, and taking other reasonable measures that are necessary for the Alternate Payee to secure and maintain the insurance.

The Alternate Payee shall be responsible for making all insurance premium payments. However, the Participant shall reimburse the Alternate Payee for 50% of any such payment within 7 days of receiving written notice from the Alternate Payee.

The Participant’s obligations regarding the insurance policy shall cease upon the earliest of (1) the Participant’s death, (2) the Alternate Payee’s death, or (3) the Participant’s joint and survivor election required above.

**6. DOPO Preparation:** The Alternate Payee shall cause his/her attorney to retain QDRO Group to prepare a division of property order (**DOPO**), as described in Sections 3105.80 – 3105.90 of the Ohio Revised Code, that is consistent with this Agreement.  The Alternate Payee shall submit the DOPO to the Plan. The Participant shall cooperate and provide any plan documents or authorization necessary to complete the DOPO process.

**7. Continued Jurisdiction:** The court shall retain jurisdiction to amend the provisions of this **[**Agreement / Order**]**, to amend the DOPO, to issue new orders to enforce the parties’ intent regarding the Participant’s Plan benefits that are assigned to the Alternate Payee, and to issue other orders that are just and equitable and not inconsistent with any other provisions in the **[**Agreement / Order**]**. The court also retains jurisdiction to determine the portion of the Participant’s Plan disability benefit that is paid in lieu of old-age retirement benefits, which is marital property and subject to equitable division.

**8. Participant’s Actions:** The Participant shall not act, or refuse to act, in any manner that could diminish the Alternate Payee’s rights in this Agreement or in the related DOPO. If the Participant does take such action or inaction, the Participant shall make payments directly to the Alternate Payee to the extent necessary to restore the Alternate Payee to the position he/she would otherwise have been in without the Participant’s action/inaction.

**9. Participant Payments to the Alternate Payee:** If the Plan does not pay any portion of the assigned benefit to the Alternate Payee (e.g., if the assigned benefit exceeds the amount the Plan is legally permitted to pay to someone other than the Participant), the Participant shall pay that portion directly to the Alternate Payee within 7 days after the date the Alternate Payee would otherwise have received it. Such payment(s) to the Alternate Payee shall be net of any income and similar taxes the Participant incurs with respect to that portion of Plan benefits.