**MODEL LANGUAGE FOR**

**SEPARATION AGREEMENT OR JUDGMENT ENTRY FOR
OHIO POLICE & FIRE PENSION FUND**

*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, and where the participant purchased service credit (which cannot be assigned in a DOPO). Also note that an alternate payee’s portion of a DROP account is not protected if the participant fails to take a DROP distribution before the alternate payee’s death.*

**Division of Retirement Benefits in the Ohio Police & Fire Pension Fund**

The **[**Defendant/Plaintiff**]** is a Participant in the Ohio Police & Fire Pension Fund (“**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 Deferred Retirement Option Plan (“**DROP**”) payment, 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 \_\_\_\_\_\_\_\_\_\_.

**[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. Although the benefits assigned to the Alternate Payee above (including Social Security offset if applicable) are expressed as a percentage of the Marital Portion of the Participant’s Plan benefit, the Participant shall elect a survivor percentage for the Alternate Payee that is equal to the amount of assigned benefits expressed as a percentage of the Participant’s total Plan benefit at retirement. As a result, the survivor percentage will be less than the percentage of the Marital Portion that is assigned unless the total Plan benefit is marital, in which case the percentages will be the same.

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 an amended 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 / Order**]** 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.

**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 makes the joint and survivor election required above and the Alternate Payee receives his/her entire interest in the Participant’s DROP account.

**6. Initial DOPO Preparation (DOPO #1):** 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.

The DOPO will assign to the Alternate Payee the portion of the Participant’s Plan benefit (including DROP) determined above, including Social Security offset if applicable.

**7. Amended DOPO for DROP (DOPO #2):** The Plan’s current DOPO form does not accurately describe, prior to the Participant’s actual retirement, the marital portion of the Participant’s DROP account. The initial DOPO will not accurately account for the Participant’s post-marital DROP contributions or a situation where the Participant works past the maximum DROP date (causing the Participant to forfeit his/her DROP account, but gain years of credited service for years worked during DROP participation). Therefore, the parties will take action as follows:

1. If the Participant retires without entering DROP, then the parties do not need to amend the DOPO and the initial DOPO will remain in effect.
2. If the Participant and Alternate Payee divorce prior to the Participant entering DROP and if the Participant works past the maximum DROP date, then the parties do not need to amend the DOPO and the initial DOPO will remain in effect.
3. If the Participant and Alternate Payee were married when the Participant entered DROP, and if the Participant works past the maximum DROP date then,
	1. The Participant shall provide written notice to the Alternate Payee, at least 30 days prior to retirement, of the date on which the Participant will retire. The Participant shall also cooperate and provide any plan documents or authorization necessary to complete the amended DOPO process; and
	2. The Alternate Payee shall cause his/her attorney to retain QDRO Group to prepare an amended DOPO. The amended DOPO will take into account the years of credited service the Participant earned during DROP that are marital.
4. If the Participant enters DROP and does not work past the maximum DROP date, then not less than 30 days before terminating employment, the Participant shall cause his/her attorney to retain QDRO Group to do the following:
	1. Determine the lump sum amount that the Alternate Payee is entitled to receive from the DROP account; and
	2. Prepare an amended DOPO (including DROP) which assigns to the Alternate Payee the marital portion of Plan deferrals and Participant contributions, plus interest, but does not assign to the Alternate Payee any portion of the Participant’s post-marital DROP contributions, non-marital Plan deferrals, and related interest.

**8. DROP Distribution and Second Amended DOPO (DOPO #3):** Plan provisions do not permit an Alternate Payee to receive a distribution of funds from DROP unless the Participant initiates a distribution, and further limit the Alternate Payee to only receiving fifty percent of any distribution. Therefore, if the Participant enters DROP and terminates work at or before the maximum DROP date, Participant shall do the following:

1. Not more than 30 days after terminating employment and becoming eligible for a DROP distribution, the Participant shall submit a DROP Distribution Request form to the Plan requesting a lump sum distribution in an amount large enough for the Alternate Payee to receive his/her share assigned in the first amended DOPO (DOPO #2).
2. Once the DROP distribution has been processed and the Alternate Payee has received his/her assigned share of the DROP account, the Participant shall prepare and submit to the Plan a second amended DOPO that assigns to the Alternate Payee the portion of the Participant’s Plan benefit (excluding DROP) determined above, including Social Security offset if applicable. This third DOPO ensures that the Alternate Payee does not receive any portion of future DROP distributions that the Participant may initiate.

**9. 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 any Plan disability benefit that is paid in lieu of old-age retirement benefits, which is marital property and subject to equitable division.

**10. 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 / Order**]** 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.

**11. Participant Payments to the Alternate Payee:** If the Plan does not pay some 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 Participant 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.