SHEET METAL WORKERS' NATIONAL PENSION FUND
DOMESTIC RELATIONS ORDER PROCEDURES
Effective 7/1/2015

INTRODUCTION

Section 206(d) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. §1056(d), was added to ERISA by the Retirement Equity Act of 1984. Section 206(d) provides that, although pension benefits under an ERISA-governed fund are not assignable or alienable, a qualified domestic relations order ("QDRO") made pursuant to a state domestic relations law may divert some or all of the pension benefit of an individual who is or may be entitled to receive a benefit, called a "Participant," to a spouse, former spouse, or dependent of the Participant. These possible recipients of benefits are called "Alternate Payees." ERISA requires that plans such as the Sheet Metal Workers' National Pension Fund (the "NPF") comply with qualified domestic relations orders.

Section 206(d) of ERISA also requires that a plan establish rules and procedures to determine the qualified status of a domestic relations order and to administer distributions under such orders. These requirements are also set forth in Section 401(a)(13) and 414(p) of the Internal Revenue Code ("Code"). In addition, the NPF has developed Model QDROs to facilitate review and NPF approval of domestic relations orders. Use of these Model QDROs will expedite the qualification process.

These procedures supply information concerning the allocation of benefits from the NPF in a divorce or other domestic relations proceeding. It is the legal responsibility of the NPF to determine if a domestic relations order is a QDRO. Therefore, any domestic relations order must be submitted to the NPF for review.

There are many options to consider and many decisions that must be made by the parties in establishing a QDRO. To achieve your goals, it is strongly recommended that you read this entire booklet.

The information contained herein is not intended to be nor should it be construed as legal advice to Participants or prospective Alternate Payees. The NPF urges that the parties to a domestic relations order consult their attorneys to ensure that their intentions and interests are accurately reflected in any order.

THE NPF IS A MULTIEMPLOYER, DEFINED BENEFIT PLAN

The NPF is a multiemployer, defined benefit plan that is funded exclusively by employer contributions. A defined benefit plan provides a formula for calculating an individual's pension at retirement. It does not maintain individual accounts into which contributions are made.

The NPF provides retirement benefits to employees who work for employers that contribute to the NPF. Employers make contributions for each hour worked by the employees under a collective bargaining agreement. Coverage is not based on union membership; rather, it is based on hours worked in employment covered by the NPF. Covered employees do not make contributions to the NPF themselves, and they do not have individual accounts in the NPF.

Employees accumulate credited service pursuant to the provisions of the Plan Document based upon their years of employment covered by the NPF. Eligibility for benefits and the amount of those benefits are determined by an employee's credited service pursuant to the provisions of the Plan Document and his or her age at retirement.

Because the NPF is a defined benefit plan, the QDRO will not divide money held in an individual account. Rather, the QDRO will allocate portions of the Participant's accrued benefit (based on years of service credited pursuant to the provisions of the Plan Document) between the Participant and the Alternate Payee. There are two methods of assigning a portion of a Participant's benefit to an Alternate Payee. The first is to award the Alternate Payee a shared interest in the Participant's benefit, and the second is to award the Alternate Payee a separate interest in the Participant's benefit.

a. **Shared Interest Approach**. Under the shared interest approach, the QDRO assigns the Alternate Payee a share of each monthly benefit made to the Participant. Typically, the QDRO will provide that the assignment continues until the earlier of the Participant or Alternate Payee's death. **If the Participant is already receiving benefits from the NPF at the time that the QDRO is entered, then a shared interest QDRO is the only type of QDRO available to the Alternate Payee.** If the Alternate Payee predeceases the Participant, the amount awarded to the Alternate Payee under the QDRO shall revert to the Participant unless the QDRO names one or more Successor Alternate Payees for receipt of the benefit.

If the Participant has not commenced benefits, a shared interest QDRO may designate the Alternate Payee as the Participant's surviving spouse with respect to all or a portion of the pre-retirement surviving spouse benefit or post-retirement surviving spouse benefit, as applicable. If the Participant has commenced benefits, there is no pre-retirement surviving spouse benefit payable, and any elections made by the Participant concerning the post-retirement surviving spouse benefit cannot be changed.

b. **Separate Interest Approach**. Under the separate interest approach, the QDRO assigns the Alternate Payee a portion of the Participant's total benefit under the NPF, to be paid to the Alternate Payee as his/her own separate benefit, however, the two separate benefits cannot have a greater total value than the Participant's accrued benefit before the division. The QDRO may direct that the Alternate Payee's portion be paid in a particular form of benefit permitted by the Plan Document, or may allow the Alternate Payee to elect the form of benefit; however, benefits are not payable in the form of a Joint & Survivor Annuity Option with the Alternate Payee's current spouse. The portion of the Participant's benefit that is awarded to the Alternate Payee is actuarially adjusted to be paid over the Alternate Payee's lifetime or over the Participant's lifetime and is not affected by the form of benefit chosen by the Participant.

The QDRO may provide that the Alternate Payee may begin receiving benefits on or after the date that the Participant reaches the earliest retirement age under the terms of the Plan Document. *If the Participant dies prior to either party commencing benefits, then no benefits will be payable under the QDRO unless the QDRO designates the Alternate Payee as the Participant's surviving spouse for purposes of the pre-retirement surviving spouse benefit.* If the Alternate Payee dies before commencing benefits, the amount awarded to the Alternate Payee under the QDRO shall revert to the Participant unless the QDRO names one or more Successor Alternate Payees for receipt of the assigned benefit. If the Alternate Payee dies after his/her benefits commence, any remaining benefits will be paid in accordance with the terms of the Plan Document and the form of benefit elected by the Alternate Payee.

It is strongly suggested that the parties and their legal counsel prepare their proposed order pertaining to the Participant's benefits and submit it to the NPF at the earliest possible date, and then finalize the order as promptly as possible after the NPF has responded with any comments on the proposed order. If the Participant should die before a domestic relations order is first entered by a court, the NPF may not be able to honor an order to pay benefits to an Alternate Payee. The reason is that on the date of the Participant's death, rights to benefits may vest immediately in individuals other than the Participant. If the NPF has notice that there is an assignment of the Participant's benefit, the NPF will suspend payment of benefits for 60 days after the death of the Participant. If within 60 days after the death of the Participant, the NPF has not received an Order that was entered prior to the date of the Participant's death, the NPF will pay any benefits that are payable with respect to the deceased Participant in accordance with the terms of the Plan Document. Thereafter, notwithstanding the receipt of any order entered prior to the death of the Participant, the NPF will not modify or reverse any payments made as a result of the Participant's death.

The following provisions explain the legal requirements an Order must satisfy to constitute a QDRO.

The NPF's Procedures For Reviewing Domestic Relations Orders

1. Upon receipt of an entered court order ("Order"), the NPF shall send the Participant and the Alternate Payee a notice stating that it has received the Order and instructions describing how to access a copy of these procedures.

2. The NPF will determine the "qualified" status of the Order. An Order must meet all of the following requirements in order to be qualified by the NPF as a QDRO:

    a. The Order must clearly state the name and last known mailing address of the Participant, Alternate Payee and any Successor Alternate Payee(s). However, the NPF shall consider the "address" requirement satisfied if the identity of the Participant, Alternate Payee and, if applicable Successor Alternate Payee(s) is sufficiently clear and the NPF knows their current addresses.

b. The Order must state the relationship of the Alternate Payee and any Successor Alternate Payees to the *Participant*.

c. The Order must clearly state the amount of the benefit to be paid to the Alternate Payee. This requirement may be met by: (1) specifying a fixed amount, (2) specifying a percentage of the Participant's benefit, or (3) providing a formula by which the NPF can determine the amount due the Alternate Payee at any given time.

d. The Order must clearly state when the Alternate Payee's benefits will commence. Under the separate interest approach, the Alternate Payee's benefits may commence on the Participant's earliest retirement date or such later date as the Alternate Payee may elect, but no later than the date on which the Participant begins receiving benefits. Under the shared interest approach, the Alternate Payee may begin to receive benefits once the Participant retires and begins receiving benefits, or, if the Participant is in pay status, as soon as administratively feasible after the Order is qualified by the NPF. Under either approach, if the Alternate Payee dies before his/her benefits commence, the QDRO will have no effect and benefits will revert to the Participant, unless a Successor Alternate Payee is designated in a QDRO.

e. The Order must clearly state the period of time that the order will remain in effect.

i. Separate Interest QDRO. In the case of a separate interest QDRO, the period of time that the QDRO is in effect is determined by the form in which the Alternate Payee’s benefit is payable under the terms of the Order, which must be a form permitted by the Plan Document. The Order may permit the Alternate Payee to elect any form of benefit permitted by the Plan Document, except a Joint & Survivor Annuity with a current spouse designated as the beneficiary.

ii. Shared Interest QDRO. In the case of a shared interest QDRO, this requirement can be met by specifying: (1) a specific time period (e.g., “for 24 months”), (2) the total amount to be paid over time (e.g., “until $___ has been paid”), or (3) an indefinite duration (e.g., “until further order of the court”). However, the Order must contain a caveat that, notwithstanding the time period stated in the QDRO, payments to the Alternate Payee will cease upon the earlier of the date that the Alternate Payee dies, the Participant dies, or the Participant otherwise stops receiving benefits under the NPF. Generally, payments to the Participant are in the form of a *monthly* benefit for life, not a lump-sum benefit.

f. The Order must directly identify the Sheet Metal Workers’ National Pension Fund as the plan to which it applies.

g. The Order may not require the NPF to provide any type of benefit or form of benefit or option that is not otherwise provided for under the Plan Document. A separate interest QDRO may permit the Alternate Payee to elect any form of payment allowed under the Plan Document, except a Joint & Survivor Annuity with a current spouse designated as the beneficiary. A separate interest QDRO may also allow payment of a benefit to an Alternate

Payee on or after the date that the Participant attains the earliest retirement age under the terms of the Plan Document, irrespective of whether the Participant is still in active employment. The payments may take into account only the present value of benefits the Participant would receive and must disregard any early retirement subsidy that may be payable to the Participant. The Order may provide, however, that a portion of the early retirement subsidy is payable to the Alternate Payee when such subsidy is paid to the Participant.

h. The Order may not require the plan to provide a larger benefit than it would otherwise provide. For purposes of this requirement, benefits that are actuarially equivalent are considered to be equal.

i. The Order may not require payment to an Alternate Payee which is required to be paid to another Alternate Payee.

j. A separate interest QDRO may not assign any portion of a disability benefit. A disability benefit may only be assigned in a shared interest QDRO.

3. If the NPF determines that the Order is qualified, it will notify the Participant and the Alternate Payee (or their designated representatives) of this determination and the manner in which the NPF will apply the QDRO.

4. If the Order is determined *not* to be a QDRO, the NPF shall notify both the Participant and the Alternate Payee (or their designated representatives) of this determination.

5. In the event that the NPF receives a *court-entered* order pertaining to a Participant who is in pay status, the NPF will withhold from the Participant's benefit and segregate the amounts that the Order states shall be awarded to the Alternate Payee for up to 18 months from the date the first payment would be required to be made under the Order pending determination of the "qualified" status of the Order and, if necessary, subsequent receipt of a QDRO. The NPF, however, will only withhold and segregate amounts that can be reasonably ascertained from the Order and the segregation of which would not violate the terms of the NPF or applicable law. The Participant and the Alternate Payee, or their designated representatives, shall be advised of this action on the initial notice provided for in paragraph 3 of these procedures. If the Order is determined to be a QDRO, the withheld amounts will be released to the Alternate Payee upon qualification and after receipt of a certified copy of the QDRO. If the Order, or any subsequent Order submitted by the parties within 18 months of the date on which the first payment would be required to be made under the Order, does not satisfy the requirements to constitute a QDRO, then any amounts withheld pursuant to this paragraph will be released to the Participant. Any Order that is determined to be a QDRO after the expiration of the 18-month period set forth above shall be applied prospectively only.

6. In order to commence receiving benefits after an Order has been entered by a court and qualified by the NPF, the Alternate Payee must request from and submit to the NPF an application for benefits.