

**Soft Drink and Brewery Workers Union,  
Local 812 Retirement Plan  
Qualified Domestic Relations Order Procedures**

This document sets forth the procedures which will be followed by the Plan Administrator of the Soft Drink and Brewery Workers Union, Local 812 Retirement Plan (the “Plan”) in determining whether a Domestic Relations Order (“DRO”) received by the Plan satisfies the requirements for a “qualified domestic relations order” (“QDRO”) under Section 414(p) of the Internal Revenue Code of 1986, as amended and Section 206(d)(3) of the Employee Retirement Income Security Act of 1974, as amended.

**I. Definitions**

A. “Alternate payee” means any spouse, former spouse, child, or other dependent of a Plan participant who is designated by a DRO as having a right to receive all or a portion of the benefits payable under the Plan with respect to the Plan participant.

B. “DRO” means a judgment, decree or order (including an approval of a property settlement agreement) which relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Plan participant and which is made pursuant to a state domestic relations law (including a community property law).

C. “QDRO” means a domestic relations order which creates or recognizes the existence of an Alternate Payee’s right to, or assign to an Alternate Payee the right to, receive all or portion of the benefits payable with respect to a participant under a plan.

**II. Determination Procedures.**

A. Upon receipt of a DRO, the Plan Administrator shall promptly notify the Plan participant and each Alternate Payee (each, a “Party” and together, the “Parties”) that the DRO has been received. The Plan Administrator shall include with the notice a copy of these procedures and a model QDRO. Notification will be sent to the addresses of the Parties included in the DRO. Each Alternate Payee listed in the DRO may name a representative to receive any notices with respect to the QDRO determination by providing written notification to the Plan Administrator of the name and address of such representative.

B. The Plan Administrator will, upon request, accommodate a preliminary review of a proposed DRO, and may, in its discretion, impose the restrictions and segregation described in Paragraph C below in response to a proposed DRO pending receipt of the final DRO, in order to minimize the likelihood of conflicting claims.

C. During any period when the issue of whether a DRO is a QDRO is being determined by the Plan Administrator, (i) the benefits of the Plan participant affected by the DRO shall be restricted and no distributions of any kind shall be permitted and (ii) the Plan Administrator shall cause the Plan to separately account for the amounts which would be

payable to the Alternate Payee during such period if the DRO were determined to be a QDRO.

D. The Plan Administrator will refer the DRO issued by the state court to the Plan's legal counsel for a determination as to whether the DRO is a QDRO.

E. The Parties, and any named representatives, will be notified promptly, in writing, of the Plan Administrator's determination as to the status of a DRO at the addresses specified in the DRO. If the Plan Administrator determines that the DRO is not a QDRO, the Plan Administrator shall include in its written notice the specific reasons for its decision and a description of modifications necessary for the DRO to be a QDRO.

The Party preparing the DRO may resubmit the DRO to the Plan Administrator for its review, and the other Party may submit comments or objections to the Plan Administrator for its consideration. The DRO may be resubmitted more than one time until the Plan Administrator is satisfied that the DRO meets the requirements of a QDRO. However, if no response to the Plan Administrator's notification is received within 60-days, the participant's benefit entitlements under the Plan will no longer be restricted as described in Part II.C and payments will be made according to the terms of the Plan.

If the Plan Administrator determines that the DRO is a QDRO, the Plan Administrator shall include in its written notice a statement that the QDRO shall be administered and benefits paid in accordance with the terms and directions contained in the QDRO.

F. The final determination of the Plan Administrator shall be made not later than eighteen (18) months after the date on which the first payment would be required to be made under the DRO (after receipt of the DRO by the Plan) (the "18-month period") if it were determined to be a QDRO.

### III. Payment Administration Procedures.

A. If, prior to the expiration of the 18-Month Period, the Plan Administrator makes a final determination that the DRO is a QDRO, the Plan Administrator will notify the Plan participant and the Alternate Payee of its determination and will establish on the Alternate Payee's behalf a benefit entitlement under the Plan and thereafter follow the terms of the QDRO. At such time as the benefit entitlement is established on behalf of the Alternate Payee, the restrictions described in Part II.C above shall cease to apply.

If, on or before the last day of the 18-Month Period the Plan Administrator makes a final determination that the DRO is not a QDRO, the Plan participant's benefit entitlements under the Plan no longer will be restricted, and payments under the Plan will be made according to the terms of the Plan.

B. Notwithstanding Part II.F above, if there has been no final determination on or before the last day of the 18-Month Period as to whether the DRO is a QDRO, the restrictions on the Plan participant's benefits described in Part II.C above shall cease to apply and all such amounts may be paid to the Plan participant pursuant to the terms of the Plan. If

it is determined after the expiration of the 18-Month Period that the DRO is a QDRO, the benefits will be paid pursuant to the QDRO on a prospective basis only and from the date on which the determination is made. The Plan Administrator will notify the Parties within 30 days after it takes action pursuant to this Paragraph.

C. The benefit to be provided to the Alternate Payee pursuant to a QDRO shall not affect or be affected by subsequent accruals or benefit subsidies earned by the Plan participant after the date of the QDRO, unless expressly otherwise provided in the QDRO.

D. Each Alternate Payee under a QDRO shall provide the Plan Administrator with written notice of each change of his or her name and address and of each change in the provisions of the QDRO or in any circumstance set forth therein or affecting the Alternate Payee's entitlement to benefits thereunder or the amount thereof, as soon as practicable after any such change. The Plan Administrator shall be required to act with respect to any such notice prospectively and only to the extent that such notice is consistent with the provisions of the QDRO and the Plan.

E. The provisions of the Plan shall be fully applicable to any Alternate Payee entitled to payments or benefits under the Plan pursuant to a QDRO, limited only by applicable law and the express terms of the QDRO. Copies of documents, announcements, descriptive materials and other information given to or generally made available to participants under the Plans shall be furnished to the Alternate Payee at his or her address currently on file with the Plan Administrator, to the extent required by law. With respect to the administration of the Plan as applied to Alternate Payees, no Alternate Payee shall have any right to exercise any election, privilege, option or direction rights, or to interfere with the exercise by the Plan participant or by any beneficiary of their respective rights privileges and obligations, with respect to the portion of the accrued benefit retained by the Plan participant under the Plan, except as may be specifically provided in an applicable QDRO.

F. The Plan Administrator shall not be required to modify or reverse any payment, transaction, or application of funds made pursuant to the information available at the time and occurring before the receipt of any notice that would have affected such payment, transaction, or application of funds, nor shall the Plan Administrator or any other person be liable for any such payment, transaction or application of funds.

G. If the Plan Administrator is advised or becomes aware of any fact or circumstance affecting an Alternate Payee's entitlement to payments or other benefits pursuant to any QDRO, and if such Alternate Payee should have, but did not, timely notify the Plan Administrator of such fact or circumstance, in addition to any other remedy that may be available at law or equity, the Plan Administrator, in its sole discretion, may adjust any subsequent payments to such Alternate Payee so as to recover any excess amounts that were paid to such Alternate Payee. Any such adjustment shall be limited to the excess amounts erroneously received by such Alternate Payee, except that, in the sole discretion of the Plan Administrator, such amounts maybe adjusted to reflect a reasonable interest rate as determined by the Plan Administrator in its sole discretion, both for the period of such erroneous payment and for the period of recovery.

H. No payments shall be made to a party pursuant to these Procedures until such

party has executed and provided to the Fund any applications or other documents required by the Fund in connection with these Procedures. Any monies otherwise due to a Participant or Alternate Payee which are delayed because of this provision shall be paid to the Participant or Alternate Payee, with appropriate interest, as soon as practicable after the necessary applications and/or documents have been received by the Fund Office.

IV. Miscellaneous.

A. All notices required hereunder shall be made in writing by certified or registered mail (return receipt requested). Any notice required to be sent to the Plan Administrator should be sent to:

Plan Administrator  
Soft Drink and Brewery Workers Union,  
Local 812 Retirement Plan  
445 Northern Blvd., Suite 30  
Great Neck, NY 11021

All notices to the Parties pertaining to any matter under consideration will be mailed to the address of each such Party shown on the QDRO (or if there is none, the address believed by the Plan Administrator to be such Party's address) or to such other address as provided to the Plan Administrator by written notice.

B. All, determinations and actions to be made or taken by the Plan Administrator hereunder shall be made or taken in the sole discretion of the Plan Administrator and shall be conclusive and binding on each Party and each other person.

C. These procedures may be amended or modified from time to time at the discretion of the Plan Administrator, without notice to any person, except that in the event that any such amendment or modification becomes effective while a matter is pending, the Plan Administrator will provide a copy of such amended or modified procedures to the Parties to such matter (or their representatives).

D. Neither the Plan Administrator nor any other person shall be liable to any Plan participant, beneficiary, Alternate Payee or any other person for any amounts paid or not paid to any such person as a result of the Plan Administrator's determination or failure to determine that any DRO is or is not a QDRO.

**[SAMPLE SEPARATE INTEREST QDRO]**

[At an IAS Part \_\_\_\_ of the Supreme Court of the State  
of \_\_\_\_\_, held in and for the County of \_\_\_\_\_, at  
the \_\_\_\_\_ County Courthouse, [address], on the  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.]

PRESENT: HON. \_\_\_\_\_

-----X

\_\_\_\_\_  
Plaintiff,

vs.

Docket/Index No. \_\_\_\_\_

\_\_\_\_\_  
Defendant.

**QUALIFIED DOMESTIC  
RELATIONS ORDER**

-----X

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

1. **Effect of This Order as a Qualified Domestic Relations Order:** This Order creates and recognizes the existence of an Alternate Payee's right to receive a portion of the Participant's benefits payable under a multi-employer sponsored defined benefit pension plan that is qualified under Section 401 of the Internal Revenue Code (the "Code") and the Employee Retirement Income Security Act of 1974 ("ERISA"). It is intended to constitute a Qualified Domestic Relations Order ("QDRO") under Section 414 (p) of the Code, Section 206(d)(3) of ERISA and the Retirement Equity Act of 1984, P.L. 98-397.

2. **Parties:** The parties hereto were husband and wife, and a divorce action is in this Court at the above number, and this Court has personal jurisdiction over the parties. The parties were married on \_\_\_\_\_ and divorced on \_\_\_\_\_.

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

Name: \_\_\_\_\_ ("Participant")

Address:

Social Security Number:

Birth Date:

The Participant shall have the duty to notify the plan administrator in writing of any changes in his mailing address subsequent to the entry of this Order.

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

**[SAMPLE SEPARATE INTEREST QDRO]**

Name: \_\_\_\_\_ ("Alternate Payee")  
Address:  
Social Security Number:  
Birth Date:  
Relationship to Participant: Former Spouse.

The Alternate Payee shall have the duty to notify the plan administrator in writing of any changes in her mailing address subsequent to the entry of this Order.

5. **Plan Name:** The name of the Plan to which this Order applies is the Soft Drink & Brewery Workers Union, Local 812 Retirement Plan (hereinafter referred to as "Plan"). Further, any successor plan to the Plan or any other plan(s), to which liability for provision of the Participant's benefits described below is incurred, shall also be subject to the terms of this Order. Also, any benefits accrued by the Participant under a predecessor plan of the Trustees or any other defined benefit plan sponsored by the Trustees, where liability for benefits accrued under such predecessor plan or other defined benefit plan has been transferred to the Plan, shall also be subject to the terms of this Order.

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

The Plan Administrator is the Board of Trustees of the Soft Drink & Brewery Workers Union, Local 812 Retirement Fund. The Plan Administrator's mailing address is 445 Northern Blvd, Suite 30, Great Neck, New York 11021. The Plan Administrator's telephone number is (516) 303-1455.

6. **Pursuant to State Domestic Relations Law:** This Order is entered pursuant to the authority granted in the applicable domestic relations laws of the State of [\_\_\_\_\_].

7. **For Provisions of Marital Property Rights:** This Order relates to the provision of marital property rights to the Alternate Payee as a result of the Decree of Divorce between the Participant and the Alternate Payee issued on \_\_\_\_\_.

8. **Amount of Alternate Payee's Benefit:** This Order assigns to the Alternate Payee [example: Fifty Percent (50.00 %)] of the "Marital Portion" of the Participant's accrued benefit under the Plan calculated as of \_\_\_\_\_. The Marital Portion of the Participant's accrued benefit shall be determined by multiplying the Participant's accrued benefit by a fraction (less than or equal to 1.0), the numerator is the Participant's credited service in the Plan earned during the marriage (from \_\_\_\_\_ to \_\_\_\_\_) and the denominator of which is the total number of months of the Participant's credited service in the Plan as of \_\_\_\_\_.

9. **Commencement Date and Form of Payment to Alternate Payee:** The Alternate Payee may elect to commence her benefits under the Plan at any time on or after the date the Participant attains the "earliest retirement age" as such term is defined in the Plan and Section 414(p) of the Internal Revenue Code. Notwithstanding the above, the Alternate Payee shall commence her share of the benefits no later than the Participant's actual date of benefit commencement.

The Alternate Payee may elect to receive her benefits in any one of the allowable benefit distribution options permitted under the terms and provisions of the Plan, other than a Qualified Joint & Survivor Annuity with a subsequent spouse as the beneficiary.

**[SAMPLE SEPARATE INTEREST QDRO]**

10. **Separate Interest Approach:** This QDRO utilizes a separate interest approach, whereby the Alternate Payee's assigned share of the benefits is to be "actuarially adjusted" to the life expectancy of such Alternate Payee. Any actuarial adjustment that may be necessary to convert the Alternate Payee's benefits to her own lifetime should be applied to the Alternate Payee's benefits. Therefore, should the Participant predecease the Alternate Payee after the Alternate Payee's benefit commencement date, his death shall not effect the Alternate Payee's right to continued benefits.

11. **Early Commencement Reductions:** Should any early commencement reduction be necessary in the event that the Alternate Payee commences benefits prior to Participant's Normal Retirement Date, such reduction shall be applied to Alternate Payee's benefits in accordance with applicable Plan provisions.

12. **Death of Participant Before Benefit Commencement Date: Treatment of Alternate Payee as Surviving Spouse for Purposes of Determining Qualified Preretirement Survivor Annuity as Such Term is Defined in Section 417 of the Code:** In the event that the Participant predeceases the Alternate Payee, and neither the Participant nor the Alternate Payee has commenced their benefits under the Plan, such Alternate Payee shall be designated as the surviving spouse of the Participant for purposes of establishing the Alternate Payee's entitlement to receipt of this monthly preretirement survivor annuity, but only to the extent of the Alternate Payee's assigned interest as set forth in Section 8. The Participant's eligible surviving spouse will receive the portion of the survivor benefit not assigned to the Alternate Payee. For purposes of determining the eligibility for such surviving spouse benefits, the Alternate Payee and the Participant have satisfied the one (1) year marriage requirement as enumerated in Sections 401(a)(11) and 417(d) of the Code and as may be required under the provisions of the Plan.

**Participant Required to Maintain Preretirement Survivor Annuity Coverage:** In the event the costs associated with providing this preretirement survivor annuity benefit are not fully subsidized by the Participant's employer, the Participant must make an affirmative election for such preretirement survivor annuity benefit coverage in a timely manner and in accordance with the employer's election procedures.

13. **Death of Participant After Alternate Payee's Benefit Commencement Date:** Pursuant to the terms of Section 11 of this Order, the Alternate Payee's benefits are to be actuarially adjusted to the Alternate Payee's own life expectancy. Once the Alternate Payee commences her assigned share of benefits in accordance with the terms of this Order, the Alternate Payee's right to continued benefits shall be unaffected by the subsequent death of the Participant.

14. **Death of Alternate Payee:** If the Alternate Payee predeceases Participant prior to the commencement of the Alternate Payee's benefits, the Alternate Payee's portion of Participant's benefits, as stipulated herein, shall become payable to the Alternate Payee's designated beneficiary (or estate), but only to the extent permitted under the terms of the Plan. If the Plan does not permit the Alternate Payee to designate a beneficiary (or estate) for such purposes, then the Alternate Payee's assigned share of the benefits shall revert to the Participant. Should the Alternate Payee predecease the Participant after the Alternate Payee's benefit commencement date, then such remaining benefits, if any, will be paid in accordance with the form of benefit elected by such Alternate Payee.

15. **Savings Clause:** This Order is not intended, and shall not be construed in such a manner as to require the Plan:

**[SAMPLE SEPARATE INTEREST QDRO]**

- (a) to provide any type or form of benefit option not otherwise provided under the terms of the Plan;
- (b) to require the Plan to provide increased benefits determined on the basis of actuarial value;
- (c) to require the payment of any benefits to the Alternate Payee which are required to be paid to another alternate payee under another order that was previously deemed to be a QDRO; or
- (d) to make any payment or take any action which is inconsistent with any federal or state law, rule, regulation or applicable judicial decision.

16. **Certification of Necessary Information:** All payments made pursuant to this Order shall be conditioned on the certification by the Alternate Payee and the Participant to the Plan Administrator of such information as the Plan Administrator may reasonably require from such parties to make the necessary calculation of the benefit amounts contained herein.

17. **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 Order at the time benefits become payable hereunder.

18. **Tax Treatment of Distributions Made Under This Order:** For purposes of Sections 402(a)(1) and 72 of the Internal Revenue Code, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution.

19. **Constructive Receipt:** In the event that the Plan Trustee 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 the Participant has received such benefit payments, and shall forthwith pay such amounts so received directly to the Alternate Payee within ten (10) days of receipt.

In the event that the Plan Trustee inadvertently pays to the Alternate Payee any benefits that are to remain the sole property of the Participant pursuant to the terms of this Order, the Alternate Payee shall immediately reimburse the Participant to the extent that the Alternate Payee has received such benefit payments, and shall forthwith pay such amounts so received directly to the Participant within ten (10) days of receipt.

20. **Continued Jurisdiction:** The court shall retain jurisdiction to establish and/or maintain the qualified status of this Order as a QDRO under ERISA, and to effectuate the original intent of the parties as stipulated herein. The court shall also retain jurisdiction to enter such further orders that are just, equitable, and necessary to enforce, secure, and sustain the benefits awarded to the Alternate Payee, in the event that the Participant and/or the Plan Administrator fail to comply with any or all of the provisions contained herein.

21. **Effect of Plan Termination:** In the event that the Plan is terminated, whether on a voluntary or an involuntary basis, and the Participant's benefits become guaranteed by the Pension Benefit



**[SAMPLE SEPARATE INTEREST QDRO]**

Guaranty Corporation ("PBGC"), the Alternate Payee's benefits, as stipulated herein, shall also be guaranteed to the same extent in accordance with the Plan's termination rules and in the same ratio as the Participant's benefits are guaranteed by the PBGC.

22. **IRC Section 415 Limitations:** Notwithstanding the provisions of this Order to the contrary, it is understood that Internal Revenue Code Section 415 and applicable provisions of the Plan impose maximum benefit payment limitations, which may not be exceeded, and testing for such limitations requires aggregation of the Participant's benefit with those assigned to the Alternate Payee herein. In the event the aggregated benefits payable under the Plan to both the Participant and the Alternate Payee would exceed such Section 415 limitations, the Participant and Alternate

Payee shall share, on a "pro rata" basis any benefit reduction imposed by the Plan in order to comply with Section 415. Any such "pro rata" reductions shall be determined at the time benefit payments commence to the Participant or Alternate payee, as applicable.

Further, as the Section 415 limits increase from time to time, the plan administrator may increase the amounts payable to the affected Participant's under this qualified Plan. In this case, the Participant's and Alternate Payee's respective share of the benefits shall increase in a proportionate manner.

23. **Overpayments:** In the event that the Plan Administrator determines that an overpayment has been made to the Participant and/or the Alternate Payee for any reason, including but not limited to, the Participant's retroactive eligibility for Social Security disability payments, and the parties cannot come to an agreement regarding their respective liability towards the Plan's recoupment of such overpayments, the Court shall reserve jurisdiction regarding the allocation of such repayments to the Plan between the Participant and the Alternate Payee.

24. **Actions by Participant:** The Participant shall not take any actions, affirmative or otherwise, that can circumvent the terms and provisions of this Qualified Domestic Relations Order, or that could diminish or extinguish the rights and entitlements of the Alternate Payee as set forth herein. Should the Participant take any action or inaction to the detriment of the Alternate Payee, he (or his estate) shall be required to make sufficient payments directly to the Alternate Payee to the extent necessary to neutralize the effects of his actions or inactions and to the extent of the Alternate Payee's full entitlements hereunder.

25. **Notice of Pending Retirement:** Pursuant to the terms of Section 10 above, the Alternate Payee shall be required to commence her share of the benefits no later than the Participant's actual date of benefit commencement. Therefore, the Participant shall be required to notify the Alternate Payee, in writing, within thirty (30) days prior to his actual date of retirement. Such notice shall indicate his intention to retire and his elected benefit commencement date. The notice shall be sent via regular first-class mail. For this purpose, the Alternate Payee shall notify the Participant of any changes in her mailing address.

26. The parties shall cause a copy of this Order to be served on the Plan Administrator for the Plan forthwith. This order shall remain in effect until further order of this Court

IT IS SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

[SAMPLE SEPARATE INTEREST QDRO]

BY THE COURT:

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**[SAMPLE SHARED INTEREST QDRO]**

[At an IAS Part \_\_\_\_\_ of the Supreme Court of the  
State of \_\_\_\_\_, held in and for the County of  
\_\_\_\_\_, at the \_\_\_\_\_ County Courthouse,  
[address], on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.]

PRESENT: HON. \_\_\_\_\_  
-----X

\_\_\_\_\_

Plaintiff,

vs.

Docket/Index No. \_\_\_\_\_

\_\_\_\_\_

Defendant.

**QUALIFIED DOMESTIC  
RELATIONS ORDER**

-----X

This Order creates and recognizes the existence of an Alternate Payee's right to receive a portion of the Participant's benefits payable under a multi-employer sponsored defined benefit pension plan that is qualified under Section 401 of the Internal Revenue Code (the "Code") and the Employee Retirement Income Security Act of 1974 ("ERISA"). It is intended to constitute a Qualified Domestic Relations Order ("QDRO") under Section 414 (p) of the Code, Section 206(d)(3) of ERISA and the Retirement Equity Act of 1984, P.L. 98-397.

The name of the Plan to which this Order applies is the **Soft Drink & Brewery Workers Union, Local 812 Retirement Plan (hereinafter referred to as "Plan")**.

The Plan Administrator is the Board of Trustees of the Soft Drink & Brewery Workers Union, Local 812 Retirement Fund. The Plan Administrator's mailing address is 445 Northern Blvd, Suite 30, Great Neck, New York 11021. The Plan Administrator's telephone number is (516) 303-1455.

This Order is entered pursuant to the authority granted under the applicable domestic relations or community property laws of the State of \_\_\_\_\_.

This Order relates to the provisions of Marital Property Rights.

**Section (1) - Participant Information:**

Name:

Date of Birth:

**[SAMPLE SHARED INTEREST QDRO]**

Social Security Number:

Last Known Mailing Address:

The "Participant" is an employee or former employee who has accrued a vested benefit under the defined benefit plan as noted above.

**Section (2) - Alternate Payee Information:**

Name:

Date of Birth:

Social Security Number:

Last Known Mailing Address:

An "Alternate Payee" as defined by Section 414(p)(8) of the Internal Revenue Code is a spouse, former spouse, child or other dependent of the Participant.

**Marital Interest:** The marital interest is the Participant's accrued benefit as of the Participant's retirement, multiplied by the following fraction:

The service credited to the Participant under the terms of the plan that were earned during the marriage: from the Participant's date of initial Plan participation or the date of the parties' marriage, that being \_\_\_\_\_, whichever is later, through \_\_\_\_\_. The service credited to the Participant under the terms of the Plan that were earned: from the Participant's date of initial Plan participation, up to the date of the Participant's retirement.

**Section (3) - Allocation of Benefits:** The Order assigns to the Alternate Payee an amount equal to [example: FIFTY PERCENT (50%)] of the "marital interest" in the Participant's vested accrued benefit under the Plan.

The benefit to be paid to the Alternate Payee by the Plan shall be paid until the earlier of the death of the Alternate Payee or the death of the Participant.

**Section (4) - Form of Benefit and Commencement of Benefits to Alternate Payee:** Benefits assigned to the Alternate Payee pursuant to Section 3 above shall commence to the Alternate Payee simultaneously with the commencement of benefit payments to the Participant (the "Annuity Start Date").

**[SAMPLE SHARED INTEREST QDRO]**

**Participant Already in Pay Status:** If the Participant is currently in pay status, the only option available to the Alternate Payee is to receive the Allocation of the Participant's monthly lifetime benefit described in Section 3 pursuant to a shared interest formula. The Alternate Payee's allocated portion will commence as soon as administratively feasible after the Order has been entered by a court and qualified by the Plan. If the Alternate Payee was not named as the Surviving Spouse at the commencement of the Participant's retirement benefits, she will not receive any payments after the Participant's death. If the Alternate Payee predeceases the Participant, the Participant's benefit will be restored as though no Order existed.

**Section (5) Understandings and Conditions:**

- (a) **Remarriage** - The subsequent remarriage of either party shall not affect the allocation of pension benefits as described in this Order.
- (b) **Modification of Benefit Level** - The Alternate Payee shall be entitled to a proportionate share of any subsequent increases or decreases in benefits for pensioners which are based on the value of benefits in pay status as determined by the Plan Administrator, unless otherwise specified.
- (c) **Death Benefits** - Except as otherwise provided in this Order, all death benefits under the defined benefit Plan shall be for the benefit of the Participant's estate or named beneficiary(ies).
- (d) **Terms** - Terms used in this Order shall have the same meaning as in the Plan Document unless the context requires otherwise.
- (e) **Name and Address** - The Participant and the Alternate Payee shall advise the Plan Administrator of any changes in their mailing address or legal name as set forth in Section (1) and Section (2) respectively.
- (f) **Federal Tax Treatment** - For purposes of Section 402(a)(1) of the Internal Revenue Code of 1986 as amended (the "Code"), an Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee for any distribution made to the Alternate Payee

**[SAMPLE SHARED INTEREST QDRO]**

under the terms of this Order. As such, the Alternate Payee will be required to pay the appropriate Federal income tax on such distributions. Further, the tax basis of any distribution to the Alternate Payee shall be on a proportionate basis pursuant to Section 72(m)(10) of the Code.

- (g) **Constructive Receipt** - In the event the Plan Trustee inadvertently pays to the Participant any benefits that are allocated to the Alternate Payee pursuant to the terms of this Order, the Participant shall immediately reimburse such payments directly to the Alternate Payee.
- (h) **Retention of Jurisdiction** – In the event the Plan Administrator determines that an overpayment has been made to the Participant and/or the Alternate Payee for any reason, and the parties cannot come to an agreement regarding the return of such overpayments, this Court shall reserve jurisdiction regarding the allocation of such repayments to the Plan between the Participant and Alternate.
- (i) **Qualified Domestic Relations Order** - This Order is intended to fulfill the requirements of a qualified domestic relations order pursuant to the Retirement Equity Act of 1984 (REA) and Section 414(p) of the Internal Revenue Code. As such, this Order shall not require the Plan to provide any increased benefits (in actuarial value) over those benefits otherwise provided for under the Plan.
- (j) **Notice of Prior Order** - By the submission of this Domestic Relations Order, the interested parties in this cause certify that they are not aware of any prior orders which purport to dispose of the benefits described herein. Should a prior order exist, it is the responsibility of the interested parties to advise the QDRO Department prior to the determination of the "qualified status" of this Order.
- (k) **Applicable Plan(s)** - This Order shall apply to the Soft Drink and Brewery Workers Union, Local 812 Retirement Plan and to successor employer Plan(s) or any other plan(s) to which liability for payment of the

[SAMPLE SHARED INTEREST QDRO]

benefit described in this Order may be transferred.

- (l) **Change in Plan Sponsor** – Changes in Plan Sponsor, Plan Administrator or change of Plan name shall not affect the terms of this Order.
- (m) **Copy of Order** – The parties are required to serve on the Plan Administrator forthwith a signed copy of this Order.

IT IS SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ENTER:

HON.\_\_\_\_\_