

**V. Sample QDRO Form
for the
Averitt Express, Inc. Profit Sharing and 401(k) Plan**

[This sample QDRO Form is provided for the convenience of legal counsel. It is intended as illustrative guidance of provisions that are consistent with the terms of the Averitt Express, Inc. Profit Sharing and 401(k) Plan. It is intended solely as a guide and does not represent legal advice. It is not the only form of order that is acceptable to the Plan, nor is it a mandatory form. It is not intended to be a substitute for the independent judgment and acumen of counsel to the parties. This form does not take into consideration any state laws or local court rules which may be applicable.]

Instructions and editorial comments are contained in brackets [] and should be removed from the actual order. All blanks should be filled in on the actual order with information provided by the parties or counsel prior to submission to the court.

[Enter Proper Court Name]

Case Number: _____

[insert Alternate Payee's name]

Complainant,

Qualified Domestic Relations
Order to the Averitt Express, Inc.
Profit Sharing and 401(k) Plan

[insert Participant's name]

Defendant,

This Order applies to benefits under the Averitt Express, Inc. Profit Sharing and 401(k) Plan (hereafter referred to as the "Plan"), and is entered with respect to the interest of *[Participant's name]*, a participant in the Plan, whose interest was divided between the parties as set forth in the *[specify decree - e.g. property settlement agreement or divorce decree]* dated *[date of agreement]*. This Order is granted pursuant to section _____ of the laws of the State of _____.

This Order is intended to provide for the division and disposition of the interest of the *[specify appropriate party, e.g., defendant]*, *[insert Participant's name]*, in the Plan and to grant the *[specify other party, e.g., complainant]*, *[insert Alternate Payee's name]*, as an Alternate Payee, rights in such interest as set forth in this Order.

This Order shall apply to the Plan and to any successor employer plan or any other plan to which liability for payment of the benefit described herein may be transferred.

This Order is intended to constitute a "Qualified Domestic Relations Order" within the meaning of Sections 401(a)(13) and 414(p) of the Internal Revenue Code of 1986, as amended (the "Code"), Section 206 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and the terms and procedures of the Plan referenced in Part C of this Order.

It is hereby ordered by the Court as follows:

Part A – Participant Information

This order pertains to the Plan account of the following Participant:

[Insert the following information for the Participant:

*Name
Date of Birth
Social Security Number
Mailing Address
Telephone number (optional)]*

Part B – Alternate Payee Information

This order intends to assign an interest in the Participant account referred to in Part A to the following Alternate Payee:

[Insert the following information for the Alternate Payee:

*Name
Relationship to Participant
Date of Birth
Social Security Number
Mailing Address
Telephone number (optional)]*

Part C – Identification of Plan

This order applies to benefits under the Averitt Express, Inc. Profit Sharing and 401(k) Plan, a 401(k) defined contribution plan, the Plan Administrator for which is:

Averitt Express, Inc.
1415 Neal Street
Cookeville, Tennessee 38501-4328

Part D – Payment Information

(1) Amount of payment to Alternate Payee. – There is hereby assigned to the Alternate Payee, and, as otherwise provided in this order and subject to the Plan Administrator’s determination that this order is indeed a Qualified Domestic Relations Order, the Plan shall pay to the Alternate Payee, from the Participant’s Plan account the following amount: *[select and complete the desired option; see the Instructions to the Sample QDRO Form for guidance]*

[option 1] \$_____ [enter a specific dollar amount] determined as of the following specified date _____ (known as the Valuation Date).*

[option 2] ____ percent (__%) of the Participant’s vested account balance (net of any outstanding loans taken by the Participant) determined as of the following specified date _____ (known as the Valuation Date).*

Investment gains and losses will be allocated to the Alternate Payee's portion from the Valuation Date.*

****[The Valuation Date may not precede 12 months prior to the implementation of the Account Freeze.]***

(2) Form and Time of payment – Once this order is determined by the Plan Administrator to be a Qualified Domestic Relations Order, a separate account shall be established for the benefit of the Alternate Payee, if the Plan Administrator so requires. Thereafter, upon receipt of a properly completed distribution request of the Alternate payee, a distribution to the Alternate Payee shall be made in a single lump sum payment in cash; provided, however, that if the Alternate Payee's account balance is \$5,000 or less, the Plan Administrator may distribute such amount without prior consent of the Alternate Payee to the extent permitted by the Plan and Section 401(a)(11) of the Code.

(3) Source of payment and Participant's remaining interest – The Alternate Payee shall not be deemed or considered to be a spouse, former spouse or surviving spouse of the Participant for any purpose of the Plan. The Plan Administrator may, but shall not be required to, cause the trustee of the Plan to segregate in a separate account under the Plan the interest awarded to the Alternate Payee under this order pending the order's determination as a QDRO and the actual distribution to the Alternate Payee. To the extent that the Participant's Account consists of monies coming from (a) employee contributions, employer contributions or rollover contributions, or (b) monies that have been divided for investment purposes into different classes or categories of investments, the Plan Administrator shall cause the trustee to withdraw the monies for payment to the Alternate Payee in reasonable proportion to such contributions and investments as they exist on the date payment is made under this order to the Alternate Payee.

Part E – Death of Alternate Payee

Except as provided in this Part E, payments required under this order shall be made only to the Alternate Payee. If the Alternate Payee dies after this order is deemed a QDRO by the Plan Administrator but before the actual distribution is made to the Alternate Payee, then distribution of the benefit awarded to the Alternate Payee hereunder shall be made to the Alternate Payee's beneficiary, if any, that is on file with the Plan Administrator in accordance with beneficiary procedures established by the Plan. In the event that no beneficiary form is on file, the Plan shall pay the benefit to the Alternate Payee's estate upon the Plan Administrator's receipt of an application by the legal representative of the estate.

Part F – Other Orders

By submission of this order, the parties to this order certify that, except as specified below, they are not aware of any prior orders which purport to dispose of the benefits described herein *[specify other order]*:

Part G – Understandings and Conditions

(1) Definition of Terms. Terms used in this order shall have the same meaning as in the Plan unless otherwise noted herein.

(2) Change in Name and Address. The Participant and the Alternate Payee shall advise the Plan Administrator of any changes in their mailing address. If the most recent address provided to the Plan Administrator is incorrect, the Plan Administrator shall have no obligation beyond that required by ERISA or the Code to locate the correct address for the Participant or the Alternate Payee and shall be entitled to rely on the most recent address provided.

(3) Qualified Domestic Relations Order. This order is intended to be a Qualified Domestic Relations Order within the meaning of Sections 401(a)(13) and 414(p) of the Code and Section 206(d)(3) of ERISA and comply with the terms and written procedures of the Plan.

(4) No Interest Following Distribution. Upon distribution by the Plan of the benefits provided for in this order, the Alternate Payee's claim against the Plan shall forever terminate. The Alternate Payee waives any right to Plan benefits that are not expressly described in this order.

(5) Participant as Constructive Trustee. While it is anticipated that the Plan Administrator will pay directly to the Alternate Payee the benefit that is awarded by this order, the Participant is designated as constructive trustee to the extent that she/he receives any benefits under the Plan that are due to the Alternate Payee but paid to the Participant. The Participant is hereby ORDERED AND DECREED to pay the benefit defined above directly to the Plan within three days after receipt of said benefits.

(6) Extent and Effect of Order. The parties herein shall cause a certified copy of this order to be served on the Plan Administrator. This order shall remain in effect until further order of this Court. Nothing contained in this order shall be construed to require the Plan or Plan Administrator:

- (A) to provide to the Alternate Payee any type or form of benefit not otherwise available to the Participant under terms of the Plan;
- (B) to provide to the Alternate Payee increased benefits from the Plan that are not available to the Participant; or
- (C) to pay any benefits to the Alternate Payee that are required to be paid to another Alternate Payee under the terms of another order that the Plan Administrator has determined was a QDRO before this order was determined to be a QDRO.

(7) Hold Harmless. The Alternate Payee and the Participant shall hold the Plan (and its sponsor and fiduciaries) harmless from any liabilities that arise in following this order, including all attorney fees that may be incurred in connection with any claims that are asserted because the Plan honors this order.

(8) Effect of Plan on Order. In the case of a conflict between the terms of this order and the terms of the Plan, the terms of the Plan shall prevail. This order shall not be interpreted to provide anything otherwise impermissible under the terms of the Plan.

(9) Power of Plan Administrator. The Plan Administrator shall have full discretion and final authority to implement and interpret this order, including any uncertain vague or unclear terms, in order to comply with the Plan and all legal requirements.

Part H – Additional Provisions

[Add additional provisions as deemed necessary; however, be aware that such provisions may affect the qualification of the order.]

IT IS SO ORDERED this _____ day of _____ *[enter month]* _____ *[enter year]*.

Judge

[The following signature lines may be deleted if not required by the court.]

Participant Signature: _____ Date: _____

Alternate Payee Signature: _____ Date: _____

Attorney for Participant: _____ Date: _____

Attorney for Alternate Payee: _____ Date: _____

Attorney for the Participant
*[include Name, Address and Phone
Number]*

Attorney for the Alternate Payee
*[include Name, Address and Phone
Number]*

