NORTH CAROLINA                                     IN THE GENERAL COURT OF JUSTICE

\_\_\_\_\_\_ COUNTY                                                       DISTRICT COURT DIVISION

\_\_-CVD-\_\_\_\_

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PLAINTIFF,

**QUALIFIED DOMESTIC RELATIONS ORDER**

V.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

            DEFENDANT,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

            This Order creates and recognizes the existence of an Alternate Payees right to receive a portion of the benefits received by a participant in an employer-sponsored defined contribution plan that is qualified under section 401 of the Internal Revenue Code of 1986, as amended (the Code) and the Employee Retirement Income Security Act of 1974 (ERISA).

            The parties intend this Order to be a qualified domestic relations order (QDRO), as that term is defined in Section 206(d) or ERISA, Section 414(p) of the Code, and the Retirement Equity Act of 1984, as amended. This Order is granted in accordance with the domestic relations law of the State of North Carolina, which relates to marital property rights, child support, and/or spousal support between spouses and former spouses in matrimonial actions.

**SECTION 1. IDENTIFICATION OF THE PLAN**

This Order applies to benefits under SchwabPlan Retirement Savings and Investment Plan (Plan), maintained by Charles Schwab & Co., Inc., the Plan Administrator, for the exclusive benefit of its eligible employees and their beneficiaries.

            This Order shall also apply to any successor plan to the Plan or any other plan(s) to which liability for provision of the Participants benefits described below is incurred. No change in the identity of the Plan Administrator or the name of the Plan shall affect the right of the Alternate Payee, as set forth herein.

**SECTION 2. IDETIFICATION OF PARTICIPATE AND ALTERNATE PAYEE**

            The name, Social Security number, birth date, and last known address of the Participant and Alternate Payee are as follows:

1. Participant Information:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Social Security #: \_\_\_\_\_\_\_\_\_\_\_\_\_

Birth Date: \_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Social Security #: \_\_\_\_\_\_\_\_\_\_\_\_

Birth Date: \_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, North Carolina \_\_\_\_\_\_\_\_

            The Participant has a vested interest in the Plan, and the Alternate Payee is the former spouse of the Participant, and has an interest in a portion of the Participants interest under the Plan, as described in Section 4 below.

            The Alternate Payee shall have the duty to notify the Plan Administrator in writing of any change in mailing address subsequent to the entry of this Order.

**SECTION 3. DETERMINATION OF THIS ORDERS QUALIFIED STATUS**

Upon receipt of this Order, the Plan Administrator shall notify the Participant and the Alternate Payee of receipt hereof and the Plans procedures for determining the qualified status of this Order. Within a reasonable period of time following the Plan Administrators receipt hereof, the Plan Administrator shall determine whether this Order satisfied the requirements of a QDRO, and shall notify the Participant and each Alternate Payee of such determination.

**SECTION 4. ALTERNATE PAYEES BENEFITS**

The Court recognizes the Alternate Payees right to receive benefits otherwise payable to the Participant. From benefits payable to the Participant, the Alternate payee shall receive 43% of the Participants vested account balance in the Plan determined as of \_\_\_\_\_\_\_\_\_ and adjusted for any gains or losses from \_\_\_\_\_\_\_\_\_2005 through the date of distribution.

Such account balance shall include all amounts (including plan forfeitures, if applicable) allocated to the Participants account in the Plan after the date above that are attributable to periods of employment prior to the date above. Under no circumstances shall the Alternate Payees portion of the account balance include any loan obligation due the Plan from the Participant.

            Said amount shall be segregated and maintained in a separate account solely in the name and for the benefit of the Alternate Payee as if the date this Order becomes qualified. On and after the date that a determination is made that this Order is a QDRO, but before the Alternate Payee receives her total distribution under the Plan, the Alternate Payee shall be entitled to all of the rights that are afforded to participants under the Plan including, but not limited to, the right to direct investments.

**SECTION 5. COMMENCEMENT AND FORM OF BENEFITS**

            Benefits in the amount specified in Section 4 may commence as of the earliest date permitted under the Plan, but no later than the earliest date on which the Participant could begin receiving benefits under the Plan if the Participant separated from service or, if later, the date the Participant attains age 50. Benefits shall be payable to the Alternate Payee in any form in which benefits may be paid under the Plan to the Participant (other than in the form of a joint and survivor annuity with respect to the Alternate Payee and her subsequent spouse).

            Any benefits paid under this Order must comply with the minimum distribution requirements of Code Section 401(a)(9).

            For purposes of sections 402(a)(1) and 72 of the Code, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as distribute of any distribution of payments made to the Alternate Payee under the terms of this Order and, as such, will be responsible for payment of all taxes attributable to such distribution.

            In the event that the Participant is paid any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant will immediately reimburse the Alternate Payee to the extent that she has received such payments.

            In the event of the Alternate Payees death prior to receiving the full amount required under this Order, such Alternate Payees beneficiary(ies), as designated on a form provided by the Plan Administrator, shall receive the full balance paid of any unpaid amounts under the terms of this Order.

            In the event of the Participants death before the Alternate Payees separate account is established under the terms of this Order, such Alternate Payee shall be treated as the surviving spouse of the participant for purpose of receiving any death benefits payable under the Plan, to the extent of the full amount set forth in Section 4 of this Order.

**SECTION 6. LIMITATIONS**

            In the event there is a conflict between this Order and the terms of the Plan, the provisions of the Plan shall control. This Order is not intended, and shall not be construed in such a manner as to require the Plan:

a.       To provide any type or form of benefit, or any 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; or

c.       To pay any benefits to the Alternate Payee that are required to be paid to another alternate payee under another Order previously deemed to be a QDRO.

**SECTION 7. JURISDICTION**

            This Court, having jurisdiction over the parties and the Plan subject to this Order, shall retain jurisdiction to enforce this Order and to amend this Order for the purpose of establishing and maintaining this Order as a QDRO.

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Participant, \_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney for the Participant, \_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Alternate Payee\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney for the Alternate Payee, \_\_\_\_\_\_\_\_\_\_\_\_\_

IT IS SO ORDERED.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_               \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE