

# SUPREME COURT OF NOVA SCOTIA (FAMILY DIVISION)

## Index of Order Clauses

THIS DOCUMENT PROVIDES STAFF AND LAWYERS AN INDEX OF STANDARD CLAUSES WHICH CAN BE USED WHEN DRAFTING ORDERS ON FILES BEFORE THE SUPREME COURT OF NOVA SCOTIA (FAMILY DIVISION)

## Table of Contents

Header and Style of Cause .....	5
Background .....	6
Context .....	6
Optional Provisos .....	6
Children.....	6
Leave.....	6
Decision-making .....	7
Day-to-day Decisions .....	7
Shared Decision-making .....	7
Sole Decision-making .....	7
Emergency Medical Decisions .....	8
Information access.....	8
Attendance .....	10
Custody Upon a Party’s Death .....	10
Communication.....	11
Communication Guidelines for the Parties.....	11
Communication with the Child(ren).....	12
Higher Conflict Situations.....	13
Communication Through Third Parties .....	13
Travel .....	14
Itinerary.....	14
Travel Inside Nova Scotia.....	14
Travel Outside Nova Scotia and Within Canada.....	14
International Travel.....	14
Passports.....	15
Parenting Arrangements .....	17
Primary Residence .....	17
Shared Parenting .....	17
Week On/Week Off: .....	17
4/3/3/4: .....	17
Other Shared Parenting Schedule:.....	18
Supervised Parenting Time.....	19
Third-party Supervisor .....	19
Veith House .....	19

Supervised Exchange Program .....	19
Contact Time.....	20
Interaction .....	20
Transportation .....	20
Transportation Provided by Parties.....	20
Third Party Transport.....	20
General Clauses.....	21
Contact Information .....	21
Scheduling Activities .....	21
Right of First Refusal.....	22
Conditions and Restrictions.....	22
Safety .....	22
Alcohol and Drugs .....	22
Corporal Punishment.....	22
Custody .....	23
Contact time .....	23
Interaction .....	23
Child Support .....	24
Income.....	24
Court Determined Income.....	24
Income Below Tables.....	24
Agreed Upon Income .....	24
Average Income .....	24
Self-Employment .....	24
Imputing Income.....	24
Table Child Support .....	25
Table - Paid Every Two Weeks.....	25
Rounding Up / Excess of Table Amount .....	25
Reasonable Arrangements.....	25
Shared Custody Set Off.....	26
Child Support Arrears .....	27
Retroactive Child Support.....	28
Special or Extraordinary Expenses.....	29
Undue Hardship .....	30

Support for Children Over the Age of Majority .....	31
Child(ren) Over the Age of Majority .....	31
Termination of Child Support .....	32
Future Child Support / Support for Child Over the Age of Majority .....	32
Payment of Child Support Directly to Child Over the Age of Majority .....	32
Disclosure.....	33
Administrative Recalculation of Child Support.....	34
General .....	34
Review and Recalculation.....	34
Recalculation Restrictions.....	35
Right to Object to Recalculated Amount .....	35
Notice to Recalculation Clerk .....	35
Health Insurance.....	36
Life Insurance.....	37
Life Insurance - Child Support.....	37
Life Insurance - Spousal Support .....	37
Spousal Support .....	38
Entitlement .....	38
No Entitlement .....	38
No Ability to Pay.....	38
Periodic Payment .....	38
Spousal Support Review .....	38
Spousal Support Arrears.....	38
Lump Sum Spousal Support.....	38
End of Spousal Support.....	39
End - Conditional .....	39
End - Date .....	39
Reimbursement of Tax .....	39
Support Enforcement.....	40
Director of Maintenance Enforcement .....	40
Property Division .....	41
Matrimonial Assets Division.....	41
Payment.....	41
Matrimonial Home / Family Residence.....	42

Exclusive Occupation/Use of Matrimonial Home/Family Residence.....	42
Transfer of Title to Matrimonial Home.....	42
Release from Mortgage Covenants and Encumbrances .....	42
Transfer of Matrimonial Home .....	43
Sale of Matrimonial Home.....	44
Sale Where One Party Occupies the Home and the Other is the Sole Recipient of the Sale Proceeds.....	46
Sale by Auction.....	48
Sale by Tender .....	48
Joint Conduct of Sale .....	49
Sole Conduct of Sale.....	49
Expenses Pending Sale.....	49
Disposition of matrimonial home sale proceeds .....	49
Vehicles.....	50
Registered Retirement Savings Plans .....	51
Joint Accounts.....	53
Household Contents .....	54
Debt Division .....	55
Pension Division .....	56
Pension Division at Source .....	56
No Division of Pension .....	56
Canada Pension Plan.....	56
Concluding Clauses.....	57
Variation.....	57
Enforcement .....	57
Consent .....	58
Conciliation Orders .....	59
Recitals for Conciliation Consent Orders .....	59

## Header and Style of Cause

The header is comprised of the year when the litigation began (in the upper left-hand corner), the court file number (in the upper right-hand corner) and the name of the court.

The style of cause is the parties' names and positions in the litigation.

The year when the litigation began never changes. A later application (a variation application or enforcement proceeding, for example) does not mean the case is assigned a new year. The year shown in the upper left-hand corner never changes.

The court file number never changes. Though a file may move from one courthouse to another or the name of the legislation is amended the court file number never changes.

The name of the court never changes. This will look awkward because the Family Division has the jurisdiction of a unified family court and frequently handles cases which began in the Family Court in Halifax or Dartmouth. Just as a case transferred to Halifax from the Family Court in Antigonish retains its header, so does a case that started in the Family Court in Dartmouth.

The parties' names and positions in the litigation never change; they remain as they were when the original proceeding was filed. The petitioner may be the respondent in an interim motion, but the style of cause does not change. Similarly, if a party changes its name, the style of cause remains unchanged – unless there is an Order changing the style of cause.

Always refer to the statute or Rule under which the order is made. Family law orders can have a long and travelled life. They may be varied here or elsewhere. Knowing whether the order was made under provincial or federal legislation is important, so later applications are dealt with in the proper court and following the appropriate procedure.

The order should be titled: Interim Order, Variation Order, Corollary Relief Order, Divorce Order, for example. If the order is made by consent, this should be included in the title: i.e., Consent Interim Order, Consent Variation Order.

## Background

### Context

[Name] has applied under [name and citation of statute];

[Name of other party] has been served;

Upon hearing [describe whether parties, parties' counsel, one party and the other's counsel];

Having considered the evidence and submissions;

### Optional Provisos

The parties are [not] married.

### Children

The parties are the parents of the following child[ren] who are referred to as “the child[ren]” in this order:

Name of Child	Date of Birth
---------------	---------------

[Or]

[name] admits he is [the father/a possible father] of:

Name of Child	Date of Birth
---------------	---------------

[Or]

[Name] reserves his right to challenge paternity in the future.

### Leave

[Name of party seeking leave], [describe connection of party seeking leave to the child(ren)], has applied for leave to apply for [custody and/or access] to the child(ren):

Name of Child	Date of Birth
---------------	---------------

[Names of other parties] agree [name of party seeking leave] will have leave to apply for [custody and/or access];

## Decision-making

### Day-to-day Decisions

The party caring for the child(ren) will make decisions related to the child(ren)'s daily care while the child(ren) is/are in their care.

### Shared Decision-making

Each party will meaningfully consult with the other on all major health, education and religion decisions respecting the child(ren).

If the parties cannot agree, they will seek a mediator's assistance to reach an agreement. The cost of mediation will be: [shared equally/paid in proportion to each party's gross annual income].

[Or]

If the parties cannot agree, they will follow the advice of a professional who provides care to the child(ren).

[Or]

If the parties cannot agree, [Name] will make the final decision.

### Sole Decision-making

[Name] will make all major health, education and religion decisions respecting the child(ren).

[Name] will make decisions about the child(ren)'s daily care.

[Name] will consult with [name of other party] before making any non-emergency decisions in the child(ren)'s life. The consultation shall occur as soon as [name] becomes aware of an issue requiring decision and, if possible, at least 30 days before the date when a decision must be made. [Name of other party] can make inquiries, provide feedback and suggestions. After consulting, [name] will make the decision.

[Name] can choose a daycare or pre-school program, and pre- and after-school care for the child(ren).

[Name] can enroll the child(ren) in French Immersion.

[Name] can choose any professionals or service providers for the child(ren), including the doctor, dentist, counsellor, tutors, etc. [Name] has the authority to determine the need for professional involvement. Except for emergency medical treatment, [name of other party] cannot take the child(ren) to any health care provider or counsellor, without [name]'s prior consent.



## Emergency Medical Decisions

In an emergency, each party can authorize the child(ren)'s emergency medical care.

In an emergency, the party solely authorizing emergency medical care must notify the other party as soon as it is practical to do so, considering the nature of the emergency.

## Information access

*To preserve the parties' privacy, orders that permit them to access information should be discrete (contain no other relief). A sample third party information order follows on the next page.*

Each party is can make inquiries and receive information from the child(ren)'s educators, counselors, care-givers, healthcare providers and religious leaders.

Each party can receive the child(ren)'s school report cards, medical reports, dental reports, specialist reports, and information regarding the child(ren)'s recreational activities.

[Name] will keep [name of other party] informed about the institutions and individuals involved with the child(ren). Institutions include schools, hospitals, churches, care programs, and recreational associations. Individuals include teachers, school staff, day care and child care staff, doctors, dentists, medical specialists, counselors, therapists, coaches, and trainers. Information will be in writing. Information will include the name, address and contact details (telephone, fax, email, and website).

If contacts are required for the child(ren), both parties will be listed as contacts.

[Name] will notify [name of other party] in writing about all the child(ren)'s medical and professional appointments as soon as they are booked and provide full particulars immediately after the appointment.

Both parties can speak directly with the child(ren)'s teachers, caregivers, physicians, dentists, and other healthcare providers about the child(ren).

This order is each party's consent and authorization to all persons, including teachers, doctors, dentists and others involved with the child(ren), to speak fully and openly with both parties.

Each party must immediately notify the other if the child(ren) has/have a serious illness or accident while in his or her care.

*Sample Information Order*

20

1201-; SFH-D; SFH-PSA

**IN THE SUPREME COURT OF NOVA SCOTIA  
(FAMILY DIVISION)**

**BETWEEN:**

\*

**PETITIONER/APPLICANT****-and-**

\*

**RESPONDENT**

**ORDER**

**BEFORE THE HONOURABLE JUSTICE**

**UPON** [Name]'s motion, of seeking orders about \*, born on \* and \*, born on \*, who is/are called "the child(ren)" in this Order;

**WHEREAS** the parties have notice of this motion;

**UPON** hearing reading the motion, and hearing the parties;

**WHEREAS** the parties are the parents of the child(ren);

**NOW UPON MOTION IT IS ORDERED THAT:**

1. Both parties are entitled to receive copies of all medical, dental, school and other reports about the child(ren).
2. Both parties are entitled to communicate directly with the child(ren)'s teachers, caregivers, physicians, dentists and other health care providers about the child(ren).

**DATED** at Halifax, Nova Scotia on \_\_\_\_\_, 20 .

\_\_\_\_\_  
Court Officer

## **Attendance**

Both parties may attend the child(ren)'s appointments.

Both parties may attend the child(ren)'s activities, such as concerts, recitals, games, practices, medical and dental appointments, and recreational activities.

Both parties may attend the child(ren)'s functions, such as their birthday parties.

Both parties may attend meetings relating to the child(ren), such as parent-teacher meetings.

## **Custody Upon a Party's Death**

Each party will make and maintain a valid Will providing the other party will be guardian of the child(ren)'s property on his or her death.

## **Communication**

### **Communication Guidelines for the Parties**

Neither party will speak negatively to, or about, the other party or permit others to do so in the child(ren)'s presence.

Neither party will allow any person to make negative or disparaging comments to the child(ren) about the other party or members of their family or household.

At all times, the parties will encourage the child(ren) to have a positive and respectful relationship with the other party and members of the other party's family and household.

Neither party will discuss adult matters with the child(ren) or in their presence.

The parties will not communicate about issues or non-emergency arrangements when the child(ren) is/are present or nearby.

The parties will not involve the child(ren) in conveying messages or documents between them.

The parties will not question the child(ren) or comment to the child(ren) about the other party.

The parties will communicate civilly and will only discuss the child(ren).

The parties will communicate mainly by email. For time-sensitive matters, they will call or text and a response will be provided as soon as the party receives the communication.

Each party will check their email at least once daily.

Each party will respond to email inquiries within 24 hours of receipt (except during vacations).

Email communications will be brief, civil and focused on parenting.

The child(ren) will not be shown emails and written communications between the parties.

## **Communication with the Child(ren)**

Each party can communicate with the child(ren) at any time by any means;

[OR]

Each party can communicate with the child(ren) at reasonable times by telephone, Facetime, Skype, or other means.

[Or]

Each party can communicate with the children by telephone, Facetime, Skype or other means at the following times: [specify times].

[Or]

Each party can communicate with the child(ren) by telephone, Facetime, Skype or other means on the following terms: [specify terms - times and conditions].

[Or]

Unless there is an emergency, neither party will communicate with the child(ren) when the child(ren) [is/are] in the other party's care.

### **Higher Conflict Situations**

The parties will share relevant information in a bound journal. Relevant information is information about everyday issues that affect the child(ren)'s care and upbringing. Journal entries are to be in pen and dated. Neither party may change or delete any journal entry. Journal entries must be child-focused.

Unless there is an emergency, the parties communication must be in writing (e-mail or text).

Unless there is an emergency, the parties will communicate through a software program, such as Our Family Wizard.

If there is an emergency, the parties can communicate by telephone.

### **Communication Through Third Parties**

The parties will communicate through [name of third party] or another person agreed upon between them in advance.

## **Travel**

### **Itinerary**

When a party proposes to travel with the child(ren), he or she will provide an itinerary to the other party a minimum of [number] days before the proposed travel.

The itinerary will contain the dates of travel, the destination, the address at the destination where the child(ren) will be staying, and a telephone number where the child can be reached.

### **Travel Inside Nova Scotia**

The child(ren) can travel within Nova Scotia when it does not interfere with their scheduled time with the other party.

### **Travel Outside Nova Scotia and Within Canada**

The child(ren) can travel outside Nova Scotia and within Canada, without the written consent of the other party.

The child(ren) can only travel outside Nova Scotia and within Canada with the written consent of the other party.

### **International Travel**

Each party will provide the other with no less than [number] days' notice of any proposal to travel with the child(ren) outside Canada, along with a proposed itinerary.

A party may not unreasonably withhold consent for the child(ren) to travel outside Canada, if proposed travel is in the child(ren)'s best interests.

Both parties will cooperate in signing documents for the child(ren)'s international travel (i.e., passport applications, passport renewal applications, travel consent letters).

Both parties will facilitate the child(ren)'s international travel by providing the child(ren)'s passport(s) at least [number] days before the departure date.

## **Passports**

*Orders for obtaining and renewing passports should be discrete (contain no other relief) so passport authorities have no more information than required. Other passport clauses follow. A sample passport order follows.*

Both parties will cooperate in obtaining and renewing the child(ren)'s passport(s).

[Name] will store the child(ren)'s passport(s) until they are needed for travel.



*Sample Passport Order*

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1201-; SFH-D-; SFH-PSA

**IN THE SUPREME COURT OF NOVA SCOTIA  
(FAMILY DIVISION)**

BETWEEN:

\*

PETITIONER/APPLICANT

AND

\*

RESPONDENT

**ORDER FOR PASSPORTS**

**BEFORE THE HONOURABLE JUSTICE \*:****UPON THE MOTION** of \*;

**SERVICE** of the motion has been proven, and the motion and \*'s submissions have been considered;

**WHEREAS** the parties are the parents of \*, (born on \*); \* (born on \*); and \* (born on \*) who are called "the child(ren)" in this Order;

**IT IS HEREBY ORDERED:**

1. Passports shall be provided for the children; and
2. \*'s signature of shall not be required on the application for the child(ren)'s passports or the renewal of the child(ren)'s passports, and this order is sufficient authorization for the issuance and renewal of the child(ren)'s passports.

[Or]

\*'s signature of shall be required on the application for the child(ren)'s passports and the renewal of the child(ren)'s passports.

**ISSUED** at Halifax, Nova Scotia, , 20 .

\_\_\_\_\_  
**COURT OFFICER**

## Parenting Arrangements

*Not all children may be in the same parenting arrangement. Parenting arrangements may be split, shared or hybrid. Each arrangement has different consequences for the calculation of child support, so be clear about the parenting arrangements for each child and the children, overall.*

### Primary Residence

The child(ren)'s primary residence will be with [name].

The child(ren) will have parenting time with [name] as follows:

Every second weekend from [day] at [time] to [day] at [time], starting on [insert start date];

[Or]

Starting [insert date], on a two-week rotating schedule as follows:

Week One: [day] at [time] to [day] at [time].

Week Two: [day] at [time] to [day] at [time].

[Or]

[Other dates and times].

### Shared Parenting

#### Week On/Week Off:

Starting [insert start date], the child(ren) will spend equal amounts of time in each party's home, on a week-on, week-off schedule, with exchanges on [day] at [time].

#### 4/3/3/4:

The child(ren) will spend equal amounts of time in both parties' homes, on a 4/3/3/4 schedule, so the child(ren) are with [name] starting on [date] for four overnights; with [name of other party] for the next three overnights; with [name] for the next three overnights; and with [name of other party] for the next four overnights and so on. Exchanges will occur at [time].

**Other Shared Parenting Schedule:**

The parties will spend parenting time with the child(ren) as follows:

The child(ren) will be with [name] from [day] at [time] to [day] at [time] and with [name of other party] from [day] at [time] to [day] at [time].

### **Supervised Parenting Time Third-party Supervisor**

[Name]'s parenting time with the child(ren) will be supervised. Supervisors may be [names] and any other person the parties agree upon;

Supervised parenting time will be: [day(s)] at [time(s)] to [day(s)] at [time(s)].

[Or]

Supervised parenting time will occur as agreed between the parties and the supervisor.

### **Veith House**

[Name]'s parenting time with the child(ren) will occur through Veith House's supervised access program.

The first three visits will be no more than one hour long and the other visits will be for the maximum amount allowed by Veith House's supervised access program.

Visits will be at least [weekly/bi-weekly/bi-monthly/monthly].

Visits will start no earlier than [date].

This order for supervised access through Veith House's supervised access program may be renewed after 12 visits.

Either party may ask to renew this order for supervised access through Veith House's supervised access program.

The parties will return to court for a conference on [date].

### **Supervised Exchange Program**

The parties will use Veith House's supervised access exchange program. [Specify details].

## Contact Time

[Name of non-parent/non-guardian party] will have contact time with the child(ren), as follows: [specify].

[Name of non-parent/non-guardian party]'s contact time is subject to these conditions: [specify].

## Interaction

[Name] will have interaction with the child(ren). [Name] may:

- (a) attend specified activities;
- (b) send gifts to the child(ren)
- (c) receive gifts from the child(ren);
- (c) communicate with the child(ren) by telephone, Skype or Facetime;
- (d) communicate with the child(ren) by cards, letters or email; and
- (d) receive photographs of the child(ren) and information about the children's health, education and well-being from a designated source.

## Transportation

### Transportation Provided by Parties

[Name] will transport the child(ren) to and from [specify location].

[Or]

Each party will pick up the child(ren) from [specify location] at the beginning of his or her parenting time.

[Or]

The parties will meet at an agreed upon neutral location [or specify location] to exchange the child(ren).

### Third Party Transport

The parties will agree on a person to transport the child(ren).

[Name] may not transport the children.

## General Clauses

### Contact Information

Each party will inform the other of all changes to his or her:

home address

home phone number

work address

work phone number and

any other means of contact such as cell phone numbers, fax numbers or email addresses.

### Scheduling Activities

Neither party will schedule child(ren)'s activities during the other's time with the child(ren), unless the other party agrees.

Neither party will unreasonably withhold their consent to scheduling an activity for the child(ren).

Where the parties have agreed to an activity, each party is responsible for transporting the child(ren) to the activity during his or her parenting time.

[OR]

The parties shall share selection of the child(ren)'s extracurricular activities as follows:

Each year they will take turns selecting activities.

In even-numbered years, [name] will select first, and make a selection by January 31. [Name of other party] will select second by March 31. [Name] will select third by May 31. [Name of other party] will select fourth by July 31. If a party misses a deadline for selection, the other party may proceed with his or her selection. In odd-numbered years, the pattern is reversed.

Unless the parties agree otherwise, neither party shall be entitled to select more than two activities for the child(ren) annually.

Selections may be for an activity that occurs during any part of the year. A selection may not overlap or conflict with the schedule for a previously selected activity.

Only the party who has physical care of the child(ren) during the activity may attend the activity. Both parties may attend school events, religious events, play offs, final competitions and presentations.

The party who has physical care of the child(ren) is responsible for preparing the child(ren) for the activity.

Each party will use best efforts to ensure the child(ren) attend(s) most activity commitments during the time the child(ren) are with him/her.

If a party has difficulty arranging transportation to an activity but does not otherwise have plans involving the child(ren), the other party will be asked to transport the child(ren) to the activity.

### **Right of First Refusal**

During work hours when one party is working and the other is not, the party who is not working may have time with the child(ren).

Outside of work hours if [Name] is not available to care for the child(ren) for more than [number] hours, [Name of other party] may have time with the child(ren).

Grandparents:

This clause does not apply to reasonable time the child(ren) may spend with their grandparents.

### **Conditions and Restrictions**

#### **Safety**

The parties will follow all provincial laws for the child(ren)'s use of motor vehicles, including ATVs and 4-wheelers.

The parties will follow all provincial laws about car seats.

#### **Alcohol and Drugs**

Neither party will consume any alcohol, non-prescription drugs or marijuana, during their parenting time.

Neither party will consume alcohol, non-prescription drugs or marijuana, for [number] hours before their parenting time.

Neither party will consume alcohol or marijuana to excess during their parenting time.

Each party will use prescribed medications as required for [number] of hours before and during their parenting time.

#### **Corporal Punishment**

Physical discipline will not be used on the child(ren).

## Grandparent Clauses

### Custody

[Grandparent(s)' name(s)] has/have leave to apply for [custody/access/interaction/contact time] with [child(ren)'s name(s)].

[Or]

[Grandparent(s)' name(s)] will have joint custody of [child(ren)'s name(s)] with [name(s) of other parties with custodial rights].

### Contact time

[Grandparent(s)' name(s)] will have contact time with the child(ren) at the following times [and subject to the following conditions]: [dates, times and conditions, if any, of contact time].

### Interaction

[Grandparent(s)' name(s)], will have interaction with the child(ren).

[Grandparent(s)' name(s)] may:

- (a) attend specified activities;
- (b) send gifts to the child(ren)
- (c) receive gifts from the child(ren);
- (c) communicate with the child(ren) by telephone, Skype or Facetime;
- (d) communicate with the child(ren) by cards, letters or email; and
- (d) receive photographs of the child(ren) and information about the children's health, education and well-being from a designated source.



## Child Support

*If child support is calculated under section 7, 8, 9 or 10 of the Guidelines, state each parties' income.*

### Income

#### Court Determined Income

[Name]'s annual income is \$[amount] for the purpose of determining child support.

#### Income Below Tables

[Name]'s annual income is less than the lowest income that requires support to be paid on the Nova Scotia Tables of the *Child Support Guidelines*.

#### Agreed Upon Income

[Name]'s annual income is agreed by the parties to be \$ [amount], without the court's determination.

#### Average Income

[Name]'s an annual income is \$[amount], calculated as an average of his/her employment income earned from [employment name] for [list years].

[Name]'s annual income is \$[amount], determined by the court based on the pattern of annual income for [list years].

#### Self-Employment

[Name]'s annual income is \$[amount], based on the parties' agreement that, on average, [name] earns this amount from self-employment.

#### Imputing Income

[Name]'s annual income is \$[amount]. This amount is imputed under clause [19(1)][insert clause] of the *Child Maintenance Guidelines / Federal Child Support Guidelines*.

## Table Child Support

[Payor] will pay monthly child support of \$[amount] to [recipient] under the *Nova Scotia Child Maintenance Guidelines / Federal Child Support Guidelines* and in accordance with the Nova Scotia table, starting [date].

## Table - Paid Every Two Weeks

[Payor] will pay child support of \$[amount] each month to [recipient] under the *Nova Scotia Child Maintenance Guidelines / Federal Child Support Guidelines* and in accordance with the Nova Scotia table, starting [date]. Payments of \$[amount] will be made every two weeks.

## Rounding Up / Excess of Table Amount

[Payor] will pay monthly child support of \$[amount] to [recipient] under the [*Nova Scotia Child Maintenance Guidelines / Federal Child Support Guidelines*] based on an annual income in excess of \$150,000.00, starting [date].

## Reasonable Arrangements

*Where an order is made under these provisions, be sure to record the judge's reasons for deviating from the applicable Guidelines.*

[Name] pays the following expenses which directly or indirectly benefit the child(ren): [list expenses and amounts annually paid].

Under subsection 15.1(7) of the *Divorce Act* [if an originating child support application] / OR Under subsection 17(6.2) of the *Divorce Act* [if a child support variation application] / OR Under subsection 15.1(7) of the *Parenting and Support Act* and with the parties' consent, having regard to the applicable *Guidelines*, [Name]'s payment of these expenses constitutes reasonable arrangements for the child(ren)'s support and [Name] will pay an amount of child support that is different from the amount determined in accordance with the applicable *Guidelines*.

**Shared Custody Set Off**

*Remember to refer to both parties' incomes in the order.*

Taking into account the amounts set out in the applicable tables for each of the parties, the increased costs of shared custody arrangements and the condition, means needs and other circumstances of each party and of the child(ren) for whom support is sought, [payor] will pay monthly child support of \$[amount] starting [date], based on the amounts set out in the applicable tables for each of the parties.

## Child Support Arrears

[Payor] owes [recipient] arrears of child support of \$[amount], calculated as follows:

Dates	A Amount previously ordered	B Amount Paid	C Arrears (A-B)	Total
-------	-----------------------------------	------------------	--------------------	-------

[Payor] will pay child support arrears to [recipient] of \$ [amount] each month. Payments are due on [date] each month, starting [date] for [number] months until [date].

## Retroactive Child Support

[Payor] owes [recipient] retroactive child support of \$[amount], calculated as follows:

Dates	A Retroactive award	B Amount paid	C Retroactive amount (A-B)	Total
-------	---------------------------	------------------	-------------------------------	-------

[Payor] will pay retroactive child support to [recipient] of \$[amount] each month. Payments are due on [date] each month, starting [date] for [number] months until [date].

## Special or Extraordinary Expenses

[Payor] will pay monthly child support of \$[amount] to [recipient] as a contribution to the following special / extraordinary expense:

[Child(ren)'s name(s)]

Description of Expense: [description]

Total monthly net expense: \$ [amount]

Monthly amount to be paid: \$ [amount]

Percentage: % [percentage]

## Undue Hardship

[Payor] lives in Nova Scotia.

[name of person] shares household expenses with [payor] and has an annual income of \$ [amount].

[Recipient] lives in Nova Scotia.

[name of person] shares household expenses with [recipient] and has an annual income of \$ [amount].

[Payor]'s household has a higher standard of living than [recipient]'s household.

[Payor/recipient/child] would suffer undue hardship by reason of [use language of subsection 10(2) of the *Guidelines*] if child support was determined under section [3, 4, 5, 8, 9 or 10] of the *Child Maintenance Guideline / Federal Child Support Guidelines*].

## **Support for Children Over the Age of Majority**

### **Child(ren) Over the Age of Majority**

[Child, (birthdate)] has an annual income of \$[amount].

[Payor] will pay monthly child support of \$[amount] to [recipient]. Payments are due on the [date] of each month, starting [date].

[And/Or]

[Child (birthdate) or Name of recipient] will provide confirmation of [child's name] full/part-time enrollment in a post-secondary institution by [date] annually. On confirmation, [Payor] will pay monthly child support of \$[amount] to [recipient]. Payments are due on the [date] of each month, starting [date].



### **Termination of Child Support**

The child(ren) [name, birthdate] [has/have] reached the age of majority, is/are employed on a full-time basis and [does/do not] attend(s) an educational institution. Neither party will pay child support.

If the child(ren) resume full/part-time studies at a post-secondary institution, either party may make apply to the court for child support.

### **Future Child Support / Support for Child Over the Age of Majority**

The child(ren), [name, birthdate], is/are over the age of majority and intend(s) to pursue a post-secondary education on a full/part-time basis starting [date].

### **Payment of Child Support Directly to Child Over the Age of Majority**

The child(ren), [name, birthdate], [is/are] enrolled on a full/part-time basis at [name of post-secondary institution] and remain(s) dependent.

[insert paragraph for payment of child support, using the child's name instead of the party's]

## Disclosure

No later than [date] each year, [name] will provide [name of other party] with a copy of his/her income tax return, completed and with all attachments, even if the return is not filed with the Canada Revenue Agency. This disclosure will include business financial statements and records for any corporation controlled by [name].

No later than 15 days after they are received, [name] will provide [name of other party] with a copy of all notices of assessment or re-assessment received from the Canada Revenue Agency.

## Administrative Recalculation of Child Support

### General

The most recent order requiring [name] to pay child support is dated [date] and it is referred to in this order as “the child support order”.

In this order “review date” means, in relation to a recalculation authorization order, the day and month in every year that is the anniversary of the issuance of the recalculation authorization order.

### Review and Recalculation

On the review date, the Recalculation Clerk will review and recalculate the table amount of child support payable under the *Child Support Guidelines* by applying the following process:

- a) In each year, no later than 60 days before the review date, [name] will provide to the Recalculation Clerk at Nova Scotia Administrative Recalculation of Child Support Program, P.O. Box 23, Halifax, Nova Scotia, B3J 2L4, the following financial information that will permit calculation of annual income in accordance with section 16 of the *Child Support Guidelines* for the most recent taxation year:
  - i. A copy of [name]’s personal income tax return, as filed, and a copy of each notice of assessment and re-assessment issued to the payor, including all schedules and attachments,
  - ii. If [name] has filed an income tax return but has not yet received a notice of assessment or reassessment, a copy of the income tax return, including all schedules and attachments, and any document or documents that further set out his/her annual income from all sources,
  - iii. If the annual recalculation takes place before [name] has filed an income tax return, any document or documents that set out his/her annual income from all sources.
- b) If [name] does not provide financial information sufficient to determine his/her annual income from all sources for the most recent taxation year in accordance with section 16 of the *Child Support Guidelines*, his/her income will be deemed to be 10% more than the annual income attributed to him/her in the more recent of the previous child support order or recalculated order.
- c) [Name] will become liable to pay the recalculated amount of child support 31 days after both parties are notified of the recalculation.
- d) If a recalculation order is made, a copy of the recalculated order will be sent to the parties at their designated addresses.

### **Recalculation Restrictions**

The Recalculation Clerk will not recalculate child support if any of the circumstances outlined in section 15 of the *Administrative Recalculation of Child Support Regulations* exists.

If the Recalculation Clerk has not recalculated the child support to be paid, the Clerk will send a statement to the parties explaining why no recalculation was made.

### **Right to Object to Recalculated Amount**

A party who does not agree with the recalculated amount may object within 30 days after receiving notification of the recalculated amount, by making an application to vary, rescind or suspend the recalculated order.

### **Notice to Recalculation Clerk**

A copy of this order will be filed with the Recalculation Clerk for the purpose of referral to the administrative recalculation program no later than five working days after the order is made.

Both parties will notify the Recalculation Clerk at the Nova Scotia Administrative Recalculation of Child Support Program, P.O. Box 23, Halifax, Nova Scotia, B3J 2L4, in writing of a change to any of the following contact information no later than 10 days after the date of the change:

- i. street address,
- ii. email address,
- iii. telephone number,
- iv. fax number.

## **Health Insurance**

Both parties will maintain their employment-based health insurance for the child(ren) for so long as it is available.

Each party will sign any documents allowing the other party to deal directly with the health insurance provider.

A party who is reimbursed for health expenses paid by the other will immediately forward the reimbursement to the other.

## **Life Insurance**

### **Life Insurance - Child Support**

[Name] will keep life insurance with a face value of no less than \$[amount] in place for the equal benefit of the child(ren) with [name of other party] as trustee while the child(ren) is/are entitled to support.

Each party will designate the child(ren) as beneficiary(ies) of the first \$[amount] of life insurance on his or her life, with the other party and a nominee designated by the insured as joint trustees, holding the insurance in trust for the child(ren). This obligation continues while the child(ren) are entitled to support. The amount of life insurance may be reviewed.

The parties will provide each other with proof of life insurance annually by [date].

### **Life Insurance - Spousal Support**

[Name] will keep life insurance with a face value of no less than \$[amount] in place for [name of other party]'s benefit while she/he is entitled to spousal support.

## Spousal Support

### Entitlement

[Name] is entitled to spousal support on a [compensatory/contractual/non-compensatory/mixed compensatory and non-compensatory] basis.

### No Entitlement

[Name] is not entitled to spousal support.

Neither party is entitled to spousal support.

### No Ability to Pay

[Name] is entitled to spousal support on a [compensatory/contractual/non-compensatory/mixed compensatory and non-compensatory] basis. [Name] has no current ability to pay spousal support. Spousal support is suspended until further court order.

### Periodic Payment

[Payor] will pay [recipient] monthly spousal support of \$[amount].

Payments will be made on the [day] of each month starting on [date].

[Or]

Payments will be made in installments of \$[amount], payable on [days] starting on [date].

### Spousal Support Review

Spousal support will be reviewed by the court on [date], having regard to [explain the circumstances that make a review order appropriate: *Leskun*, 2006 SCC 25].

### Spousal Support Arrears

[Payor] will pay [recipient] \$[amount] for spousal support arrears accumulated during from [start date] to [end date].

### Lump Sum Spousal Support

[Payor] will pay [recipient] lump sum spousal support of \$[amount] to be paid no later than [date].

## **End of Spousal Support**

### **End - Conditional**

Spousal support will end on the earlier/earliest of the following: [list events].

### **End - Date**

Spousal support will end on [date].

## **Reimbursement of Tax**

[Payor's name] will reimburse [recipient's name] for all lost tax credits and benefits and all consequent income tax, interest, penalties and all other costs incurred as a result of claiming spousal support during the retroactive period calculated by treating that spousal support as the last dollars received in the year.

[Or]

[Name of payor] will reimburse [name of recipient] for all lost tax credits and benefits and all consequent income tax, interest, penalties and all other costs incurred as a result of claiming spousal support during the retroactive period. Consequent income tax, interest and penalties will be calculated by treating the retroactive spousal support as the last dollars received in the year. For greater clarity, the reimbursement will be calculated as follows:

1. [recipient's name]'s income tax will be calculated including all relevant income, deductions and credits.
2. [recipient's name]'s income tax will be calculated including all relevant income, deductions and credits including the retroactive spousal support.
3. The difference between the total tax payable from these two calculations, plus interest and penalties will represent the amount of the reimbursement.



## Support Enforcement

### Director of Maintenance Enforcement

All support payments will be made payable to the [name of recipient].

Support payments will be sent by the [name of payor] to the Maintenance Enforcement Program, P.O. Box 803, Halifax, Nova Scotia B3J 2V2, while the order is filed for enforcement with the Director.

A court officer will send the parties' current designated addresses and a copy of this order to the Maintenance Enforcement Program as required by section 9 of the *Maintenance Enforcement Act*.

Each party will advise the Maintenance Enforcement Program of every change to their address, within 10 days of the date of the change, as required by section 42(1) of the *Maintenance Enforcement Act*.

The [name of payor] will advise the Maintenance Enforcement Program of every change in the location, address and place of his/her employment, including the start or end of employment, within 10 days of the date of the change, as required by section 42(2) of the *Maintenance Enforcement Act*.

## Property Division

*Not all property division is done under the Matrimonial Property Act. Division can occur under the Partition Act and the common law. Choose your words to reflect the appropriate statute and cite the legislative authority for the division.*

## Matrimonial Assets Division

Matrimonial assets will be divided between [Name] and [Name of other party] in accordance with the chart attached to this order.

[Or]

[Name] will own: [list asset].

[Name of other party] will own: [list assets].

## Payment

[Name] will pay [Name of other party] \$\_\_\_\_ by [date].

The payment will be made by [manner of payment – certified cheque/bank draft/lawyer's trust cheque/personal cheque].

### **Matrimonial Home / Family Residence**

*Under the Matrimonial Property Act, it's a "matrimonial home". Section 11 of the Act provides for "exclusive occupation". Under the Parenting and Support Act, it's a "family residence" (which can include a leased property). Under section 7 of the Act only the Supreme Court has the power to award determine use of the family residence. In these clauses "matrimonial home" is used where the home is being divided because the Parenting and Support Act doesn't permit the home's division. If the home's division is under the Partition Act or common law, you may want to avoid reference to the "matrimonial home" because that term is restricted to the Matrimonial Property Act.*

### **Exclusive Occupation/Use of Matrimonial Home/Family Residence**

[Name] will have [interim] exclusive [possession/use] of the [matrimonial home/family residence].

### **Transfer of Title to Matrimonial Home**

[Name] will forthwith transfer his/her interest in the matrimonial home to [Name of other party] by quit claim deed / warranty deed.

### **Release from Mortgage Covenants and Encumbrances**

[Name] will have [Name of other party] released from the [Name of bank]'s mortgage covenants and [all other encumbrances] against the matrimonial home.

[Name of other party] will provide [Name] with a quit claim deed in escrow to be used to secure [Name of other party]'s release from the mortgage covenants and [all other encumbrances] against the matrimonial home.

[Name] will provide [Name of other party] with sufficient proof of these releases before registering the quit claim deed.

[Name] must provide [Name of other party] with a copy of all registered releases and the registered quit claim deed.

### **Transfer of Matrimonial Home**

1. Title to property described in Schedule “A” (called the “matrimonial home”) shall be transferred to [name] absolutely.
2. [Name of other party] will convey his/her interest in the matrimonial home to [name] by warranty deed within 30 days of receiving the blank deed from [name].
3. If the warranty deed is not signed and returned within 30 days, [name] can apply to the court for an order constituting the Sheriff as trustee for [name of other party]’s interest in the matrimonial home, with the power to convey to [name] the [name of other party]’s interest in the matrimonial home.

## Sale of Matrimonial Home

The matrimonial home will be listed for sale by [date].

OR

1. The matrimonial home will be listed with a realtor of [name]'s choice (called the "listing agent") within 7 days.
2. [Name] and [name of other party] will execute any documents and do all things required by the listing agent.
3. [Name] will make the matrimonial home available for all showings requested by the listing agent.
4. [Name] will instruct the listing agent to provide the parties with written notice, by email or other electronic means, not later than 24 hours before the listing agent proposes to conduct a showing of the matrimonial home.
5. The parties will make every reasonable effort to sell the matrimonial home without further delay and will accept any legally binding offer made for its purchase at a purchase price of \$\_\_\_\_\_ or more.
6. The parties will in good faith consider any legally binding *bona fide* third party offers to purchase the matrimonial home that are below the purchase price of \$\_\_\_\_\_.
7. Vacant possession of the matrimonial home will occur by [date], when [name] will vacate the matrimonial home. [Name] will continue to be responsible for paying the matrimonial home's existing mortgage, property taxes and utilities until [the date of vacant possession].
8. From [the date of vacant possession], the parties will have vacant possession of the matrimonial home and they will be equally responsible for paying the matrimonial home's existing mortgage, property taxes and utilities until the sale date.
9. After [the date of vacant possession], neither party will have exclusive possession of the matrimonial home nor will either occupy the matrimonial home without an order of the court or written agreement between them.
10. If the matrimonial home does not sell within a reasonable period, [name of other party] may enter into a lease agreement for the matrimonial home on behalf of both parties, after first obtaining [name]'s written consent, which shall not be unreasonably withheld. [Name of other party] shall keep a record of all income and expenses relating to the matrimonial home and shall provide this accounting to [name] and the court upon final settlement of property matters between the parties.

11. [Name of other party] will have unrestricted access to the matrimonial home during the following times for the sole purpose of repairs and maintenance. During these times, [name] shall vacate the matrimonial home.
  - a. [list dates and hours]
12. [Name of other party] will provide written confirmation to [name] by email of his/her intention to access the matrimonial home in accordance with paragraph 11. Written confirmation will be provided by [name of other party] no later than 12 noon on the Friday immediately preceding any weekend access.
13. Neither party will communicate any part of this order, or any part of these proceedings to the child(ren) in any way and neither party will permit the child(ren) to be in circumstances or present when these proceedings or outcomes are being discussed with or by the parties or others.
14. [Name of other party] will be permitted to inspect [name]'s repairs to the matrimonial. The inspection will be conducted by a third party, chosen by [name of other party], who will give [name] at least 5 days' notice of the inspection's date and time and the name of the person conducting the inspection. Both parties may be present during the inspection.
15. [Name] will give [name of other party] the security code for access to the matrimonial home. Each party will keep the other and the listing agent advised of any change to the security code.

### **Sale Where One Party Occupies the Home and the Other is the Sole Recipient of the Sale Proceeds**

1. The matrimonial home will be immediately listed for sale for a total sale price of [\$price.00]. This listing will end [date].
2. [Name] will provide [name of other party] with the names of three accredited real estate agents by [date]. [Name of other party] will choose the listing agent from the names provided within 72 hours.
3. If [name of other party] does not receive three names from [name], she/he will choose an accredited real estate agent as the listing agent.
4. The listing agent will choose the parties' lawyer for the sale. This will not be a lawyer or at a firm that has previously represented either party.
5. [Name of other party] can continue to have exclusive possession of the matrimonial home and will continue to be responsible for the mortgage, property taxes and insurance until the matrimonial home is sold.
6. [Name of other party] will cooperate with the listing, showing and sale of the matrimonial home as a condition of his/her continued exclusive possession.
7. The court expressly reserves its jurisdiction to review [name of other party]'s exclusive possession if there are allegations that establish in evidence that [name of other party]'s cooperation is not forthcoming.
8. The court expressly reserves its jurisdiction to review the terms and manner of the matrimonial home's sale and to direct that the sale occur other than as hereby ordered, including its sale by auction, sheriff or other expedited process.
9. If the matrimonial home has not sold by [date], an order can issue that it be sold in an expedited process. The court may further adjourn the matter if there is an accepted offer with a closing date after [date].
10. [Name] has the exclusive right to accept or reject any offer and will give [name of other party] with a copy of any offer, whether accepted or not, within 18 hours of receipt.
11. [Name] will give [name of other party] a copy of his/her acceptance or rejection of any offer within 18 hours of its execution.
12. If an offer, acceptance or rejection is made on a weekend, [name]'s communication to [name of other party] will be by 10 a.m. on the first working day following the weekend.

13. The net proceeds of sale are the proceeds after the usual adjustments on closing as between the purchaser and vendor, real estate commission, legal fees and disbursements on migrating title and closing, payment of the outstanding mortgage. The net proceeds of sale shall be held in trust by the listing agent's lawyer and shall be distributed as follows:
  - a. [note adjustments]



## Sale by Auction

1. The matrimonial home will be sold by the sheriff at public auction on terms similar to a foreclosure sale on a date set by the sheriff no earlier than \_\_\_\_\_. The auction will not occur if both parties agree in writing to an alternate disposition.
2. The court expressly reserves jurisdiction under the [*Matrimonial Property Act*] to any justice of this court to provide further direction or orders related to the matrimonial home's sale.

## Sale by Tender

The property shall be sold by written tender as follows:

1. The property shall be advertised once in each of the following publications:
  - a. [newspaper]; and
  - b. [online].
2. [Name] will pay the cost of the advertisements and will be reimbursed for the full amount of the advertisements from the tender proceeds.
3. The advertisement will require that all tenders be submitted to the Prothonotary in [location] for opening on [date] at 12:00 noon and all tenders shall include a certified cheque payable to the Prothonotary for 10% of the tender bid.
4. The highest bid will be awarded the property for a closing date agreed upon by the successful bidder and the vendor's solicitor.
5. The parties will nominate a representative by no later than 20 days before the opening of the tenders, who will represent them at the property's showing to be held 4 days before the opening of the tenders between the hours of 1:00 p.m. and 5:00 p.m.
6. Upon the tender being awarded to the successful bidder and the closing date completed, all funds in relation to the sale will be held by the Prothonotary pending further submission to the court with respect to expenses associated with the property or remaining under the terms of the order.
7. The parties will agree on a lawyer to represent the vendor if neither party is the successful bidder and the legal work to effect the sale to the successful bidder will be agreed to by the parties, a neutral lawyer will be retained to complete the closing.
8. Neither party may attend the property, which shall remain in "as is" condition pending sale.

### Joint Conduct of Sale

The parties will share all decisions relating to the matrimonial home's listing and sale, including, but not limited to, the selection of realtor, the terms of the listing agreement, the sale price, accepting or rejecting offers, making counter-offers, and the closing terms.

### Sole Conduct of Sale

[If the parties cannot agree,] [Name] will be responsible for matrimonial home's sale, including, but not limited to, the selection of realtor, the terms of the listing agreement, the sale price, accepting or rejecting offers, making counter-offers, and the closing terms.

[Name of other party] will execute all documents reasonably required for the matrimonial home's listing and sale.

### Expenses Pending Sale

Until the sale of the matrimonial home is closed, the parties will equally share the following expenses: [delete or add] mortgage, property tax, utilities, property insurance, maintenance, costs to ready for sale.

[Or]

[Name] will pay the following expenses relating to the matrimonial home: [delete or add] mortgage, property tax, utilities, property insurance, maintenance, preparation for sale .

As between the parties, [Name of other party] is not required to contribute to the following expenses relating to the matrimonial home: [delete or add] mortgage, property tax, utilities, property insurance, maintenance, preparation for sale.

[Name] will indemnify [Name of other party] if [Name of other party] is required to pay any is required to pay any amount to the following expenses relating to the matrimonial home: [delete or add] mortgage, property tax, utilities, property insurance, maintenance, preparation for sale.

[Name] will immediately take all necessary steps to have [Name of other party] released from liability for the following expenses relating to the matrimonial home: [delete or add] mortgage, property tax, utilities, property insurance, maintenance, preparation for sale.

### Disposition of matrimonial home sale proceeds

The following debts will be paid with the proceeds from the matrimonial home's sale: [list debts].

Once the debts have been paid, any money left will be divided equally between the parties.

## Vehicles

[Name] will transfer the [describe motor vehicle]'s registration to [Name of other party], executing all documents needed to do so.

[Name of other party] will be the sole owner of the [describe motor vehicle].

[Name] will have no claim to [describe motor vehicle].

Or

[Name] will own the [describe motor vehicle] without further claim by [name of other party].

**Registered Retirement Savings Plans**

*To preserve the parties' privacy, the RRSP roll-over order should be a discrete order. A sample follows.*

[Name] will own the following registered retirement savings plans: [list].

[Name of other party] has no claim to the following registered retirement savings plans: [list].

[Or]

[Name] will equally divide the following registered retirement savings plans by way of tax-deferred inter-spousal rollover: [list RRSP holders and account numbers].

The parties will execute all documents required to divide the registered retirement savings plans.

*Sample Registered Retirement Savings Plan Order*

20

Prothonotary No. 1201- ; SFH-D; SFH-MPA

**IN THE SUPREME COURT OF NOVA SCOTIA  
(FAMILY DIVISION)**

**BETWEEN:**

\*

**PETITIONER/APPLICANT****-and-**

\*

**RESPONDENT****ORDER****BEFORE THE HONOURABLE JUSTICE \*.**

**UPON** [NAME]'s **APPLICATION** under the *Matrimonial Property Act*, R.S.N.S. 1989, c. 275 / under the common law;

**WHEREAS** both parties have received notice of the application;

**NOW UPON MOTION IT IS ORDERED** that [name] shall transfer [dollar amount or percentage amount] from his/her registered retirement savings plan [plan holder and number] to [name of other party] by way of tax-free inter-spousal transfer immediately.

**DATED** at Halifax, Nova Scotia on \_\_\_\_\_, 20 .

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COURT OFFICER

## **Joint Accounts**

[Names] will close all joint bank accounts: [list].

Any balance in a joint bank account will be retained by [Name].

[Or]

Any balance in a joint bank account will be equally divided between the parties.

## Household Contents

Each party will retain the household contents currently in [his/her] possession.

Neither party has any claim to the household contents in the possession of the other party.

[Or]

[Name] will remove the following items from the matrimonial home: [list items or attach list].

[Name] will remove items from the matrimonial home no later than [date].

[Or]

[Name] will prepare a complete inventory of all household contents and divide the inventory into two lists of equivalent value. The complete inventory and lists must be provided to [name of other party] by [insert date]. By [deadline], [name of other party] must tell [name] which of the two lists he/she wants to keep. Items on the other list will belong to [name].

[Name of other party] has until [specify deadline] to remove the items on the list she/he has chosen. [Name of other party] has [specify] hours to remove the items. Any items which are not removed will belong to [Name] who may do what she/he wishes with them.

[Or]

[Name] will prepare a complete inventory of all household contents. The parties shall flip a coin to determine who will have first choice of items on the inventory. The parties will alternate choosing items on the inventory until all items are chosen.

## Debt Division

As between the parties, [Name] is solely responsible for the following [joint] debt(s): [list].

As between the parties, [Name of other party] is not required to contribute to the following [joint] debts: [list].

[Name] will immediately take all necessary steps to have [Name of other party] released from liability for the following [joint] debts: [list].

[Name] will indemnify [Name of other party] if [Name of other party] is required to pay any amount to the following [joint] debts: [list].

[Name] will have sole responsibility for the following debt(s): [specify debts]. [Name of other party] will have no responsibility to contribute to the following debt(s): [list].



## **Pension Division**

*To preserve the parties' privacy, pension division orders should be discrete and contain no relief other than the pension division. It is wise to contact the pension administrator and ask for its preferred language for a pension division order.*

### **Pension Division at Source**

[Name]'s employment pension with [employer or agency] will be divided at source under the [*Pension Benefits Division Act*, S.C. 1992, c. 46 /*Pension Benefits Act*, S.N.S. 2011, c. 41/relevant pension legislation] by transferring [percentage]% of the pension benefit earned from [date of cohabitation] to [date of separation].

If the pension administrator requires a separate pension division order, the parties will consent to it.

The parties will equally share all costs the pension administrator charges to divide the pension and pay their equal share directly to the pension administrator within ten business days of receiving notice of the cost.

Either party may apply to the Supreme Court of Nova Scotia (Family Division) for an order for further directions about the interpretation or administration of these provisions, or their implementation by the pension plan administrator.

### **No Division of Pension**

[Name] will retain [his / her] employment pension with [employer/agency] and [name of other party] has no claim to it.

### **Canada Pension Plan**

*This provision is only needed if the parties are not divorcing. If they are divorcing, this will be included in their Divorce Order.*

Each party can apply for a division of credits under the *Canada Pension Plan*, R.S.C. 1985, c. C-8.

## Concluding Clauses

### Variation

This order continues until varied by an order of a court of competent jurisdiction.

### Enforcement

A requirement to pay money under this order may be enforced by execution order, or periodic execution order, where it is not enforced under the *Maintenance Enforcement Act*, S.N.S. 1994-95, c. 6.

The sheriff will do those things necessary to enforce this order and, to do so, may exercise any power of a sheriff permitted in a recovery or execution order.

All constables and peace officers are to do all acts needed to enforce this order's terms and they have full power and authority to enter upon any lands and premises to enforce this order.

DATED at Halifax, Nova Scotia, on \_\_\_\_, 20\_\_.

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**COURT OFFICER**

## Consent

*When a judge decides a motion or application, each party should review the order so they can confirm its contents reflect the judge's decision.*

*When parties review an order where a judge has determined its contents, the parties consent to the form of the order . . . if they had consented to its contents, the judge would not have needed to decide the case.*

*When parties agree on the terms of the order and no judge was required to make a decision, the order is a consent order and the parties consent to the form of the order (how it is written) and its content (what the order says).*

**CONSENTED TO:**

**CONSENTED TO AS TO FORM AND CONTENT:**

**CONSENTED TO AS TO FORM:**

\_\_\_\_\_  
**NAME**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**NAME**

\_\_\_\_\_  
**DATE**

## **Conciliation Orders**

### **Recitals for Conciliation Consent Orders**

This proceeding is before the court for a determination of custody and parenting arrangements, parenting time, and child support. The parties have reached an agreement through the conciliation process.

Proof of service of the notice has been established and the application and positions put forward by the parties, through the conciliation process, have been considered by each party.