

# **CREATIVE POSSESSION SCHEDULES**

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## **CHAPTER 15**



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## TABLE OF CONTENTS

I. INTRODUCTION AND SCOPE.....	1
II. STATUTORY BASIS FOR DEVIATING FROM THE SPO.....	1
A. Code Provisions to Emphasize When Advocating MORE Than the SPO .....	1
1. Best Interest.....	1
2. Public Policy.....	1
3. Presumptive Minimum .....	2
4. Pick Up When School Recesses and Return When School Resumes.....	2
B. Code Provisions to Emphasize When Advocating LESS Than the SPO.....	3
1. Best Interest.....	3
2. Minimizing Disruption .....	3
3. Texas Family Code §153.001(a)(2) Public Policy.....	3
4. Domestic Violence.....	3
5. Child Less Than Three Years of Age .....	4
6. Thursdays Which are Not in the Child’s Best Interest.....	4
7. Minimal Restriction on Parent’s Possession or Access .....	4
8. Showing of Good Cause Required for Non-Specific Orders - i.e., “Reasonable Visitation as Agreed” ..	4
C. Factors for Court to Consider .....	5
D. Code Provision to Consider When SPO is Unworkable or Inappropriate .....	5
E. Written Findings Required for Variance from Standard Possession Order .....	5
F. Statutory Help for Problem Situations.....	5
1. Counseling.....	6
2. Arbitration/Mediation.....	6
3. Parenting Facilitation/Coordination.....	7
4. Parenting Education Courses.....	7
III. DRAFTING OUTSIDE THE SPO BOX .....	7
A. Thinking Outside the Box .....	7
B. Right of First Refusal Language.....	8
C. Variations on 50/50 Possession Schedules.....	8
D. Split Custody .....	8
E. Children Less Than Three Years of Age.....	8
F. Teenagers.....	9
G. Individuals With Variable Work Schedules/Specific Jobs.....	9
H. Substance Abuse Problems.....	9
IV. ADVOCACY TIPS FOR DEVIATING FROM THE SPO .....	9
A. Have a Plan and Be Specific .....	9
B. There is Not a Form for Everything - Drafting Your Own Forms and Orders .....	10
V. FORMS .....	10
VI. CONCLUSION .....	10
APPENDICES	
<u>ALTERNATIVE SCHEDULES</u>	
Appendix 1 2-2-5-5 OR 5-2 Wrap Schedule.....	11
Appendix 2 2-2-3/2-2-3 Possession Schedule.....	12
Appendix 3 Week On/Week Off - Alternating Weeks With No Summer .....	14
Appendix 4 Week On/Week Off – Alternating Weeks With One Weekday During Other Parent’s .....	15
Week and One Extra Week (Totaling 3 consecutive weeks) in the Summer	

Appendix 5	Week on/Week Off – Alternating Weeks With 10 Consecutive Days in the Summer .....	18
Appendix 6	Child Under Three #1 .....	20
Appendix 7	Child Under Three #2 (With Step-Up Provisions Moving Towards SPO at Age 3).....	25
Appendix 8	Child Over 15 .....	29
Appendix 9	Nesting Agreement.....	30
Appendix 10	Split Custody of Two (2) Children .....	38

#### SCHEDULES FOR SPECIFIC TYPES OF JOBS

Appendix 11	Airline Employee .....	42
Appendix 12	Form for Notice by Airline Employee of Election .....	44
Appendix 13	Firefighter #1 .....	47
Appendix 14	Firefighter #2.....	49
Appendix 15	Police Officer .....	52
Appendix 16	Form for Notice by Police Office of Election .....	54
Appendix 17	Contractor/Consultant .....	61

#### SCHEDULES FOR PARENT WITH SUBSTANCE ABUSE PROBLEM

Appendix 18	Parent with Substance Abuse Problem with Increasing Levels of Possession and Continued Testing as a Condition to Possession .....	62
Appendix 19	Parent with Substance Abuse Problem and Child Under 3 .....	70
Appendix 20	Terms and Conditions for Alcohol Monitoring .....	78
Appendix 21	Terms and Conditions for Breathalyzer/Ignition Lock.....	81
Appendix 22	Terms and Conditions for Children to be Required to Have Cell Phone to Report Alcohol Use .....	83
Appendix 23	Terms and Conditions for Drug Testing.....	84

#### ALTERNATIVE HOLIDAY SCHEDULES

Appendix 24	Equally Dividing Christmas Break.....	87
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#### ALTERNATIVE SUMMER SCHEDULES

Appendix 25	Each Parent Elects 14 Consecutive Days in the Summer with Alternating First Choice .....	88
Appendix 26	Week On/Week Off – Alternating Weeks During the Summer .....	90
Appendix 27	2 Weeks On/2 Weeks Off – Alternating 2 Weeks During the Summer .....	92
Appendix 28	Form for Notice of Summer Election – Primary Parent .....	94
Appendix 29	Form for Notice of Summer Election – Non Primary Parent .....	96
Appendix 30	Right to Elect Summer Camp.....	98

#### GENERAL TERMS AND CONDITIONS

Appendix 31	Right of First Refusal – Parent Absent Certain Number of Hours .....	99
Appendix 32	Right of First Refusal – Parent Absent Overnight(s) .....	101
Appendix 33	Right of First Refusal – When Other Parent is Working.....	102
Appendix 34	Counseling as a Condition to Possession .....	104

#### ADDITIONAL PROVISIONS RELATED TO POSSESSION ORDERS

Appendix 35	Provision for Appointment of Parenting Coordinator .....	105
Appendix 36	Provision for Appointment of Parenting Facilitator .....	107
Appendix 37	Provision for Mediation if Disagreement or Confusion Over Schedule.....	109

## CREATIVE POSSESSION SCHEDULES

### I. INTRODUCTION AND SCOPE

Do you ever wonder what kind of schedules our clients would come up with if they had never heard of the “Standard Possession Order”? What schedule would they think is in their child’s best interest or most workable for their family?

When I was told that I was assigned this topic, I thought great...but then I realized that it is really hard to add something new and fresh to a paper that has been around since 2005 and was fabulous the first time around. I did, however, add new forms and restructured the previous ones to hopefully make them more user-friendly.

There are advantages to the predictability of a “one-size-fits-all” possession schedule. However, the reality of life is that one size does not fit all. There are many individuals who have work schedules which are not compatible with the Texas Standard Possession Order (SPO), including firemen, policemen, pilots, doctors, and second and third shift workers. There are also situations where the SPO is not the best choice, including situations involving family violence, abuse or neglect, substance abuse, parental alienation, children with special needs, parents who live great distances from each other, blended families, teenagers, or children under three years of age.

When you are dealing with parents who have shown an ability to cooperate, it may be tempting to simply use the SPO and point out to your client the fact that the schedule only becomes important in the absence of agreement between them. However, if you are representing the nonprimary conservator who has an unusual work schedule, by using the SPO, you are potentially placing that parent at the mercy of the primary conservator.

In order to get around the SPO, you must rebut the statutory presumptions in its favor. This means (1) coming up with a unique schedule that fits the facts of your case, (2) showing the court how your unique schedule is supported by statute or case law, and (3) persuading the court to adopt your unique schedule in its order. Hopefully this outline will guide you through that process in a way that helps you get more effective results for your clients.

This outline is designed to help you think of ways to vary from the SPO when it does not serve the best interests of the children from your client's point of view. This outline first reviews the relevant statutes from the Texas Family Code in such a way to help you argue to either expand or limit the times of possession called for in the SPO. Second, this offers some advocacy tips to consider when you are asking the Court to vary from the SPO. Finally, included as

appendices to this article are a number of forms which deviate from the SPO to help you in your drafting.

### II. STATUTORY BASIS FOR DEVIATING FROM THE SPO

The Texas Family Code has a number of provisions that you might consider citing to the court when you are attempting to deviate from the SPO. What follows is a grouping of the code provisions in such a manner to help you articulate a position to the court to either expand or limit the SPO.

#### A. Code Provisions to Emphasize When Advocating MORE Than the SPO

##### 1. Best Interest

Texas Family Code §153.002, entitled Best Interest of Child, provides:

“The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.” (emphasis added)

The starting point for any argument to vary from the guidelines is the code's emphasis on "best interest." In articulating a best interest argument, you should emphasize that following the guidelines is not the primary consideration of the court. The primary consideration is the child's best interest. However, you still must overcome the rebuttable presumption in Texas Family Code §153.252 (discussed below) that the SPO is in the best interest of the child.

The trial court is given wide latitude in determining the best interest of a minor child. *Gillespie v. Gillespie*, 644 S.W.2d 449, 451 (Tex. 1982). The judgment of the trial court will be reversed only when it appears from the record as a whole that the court has abused its discretion. *Id.* at 451. The test for abuse of discretion is whether the trial judge acted without reference to any guiding rules or principles; in other words, whether the act was arbitrary or unreasonable. *Worford v. Stamper*, 801 S.W.2d 108, 109 (Tex. 1990).

##### 2. Public Policy

###### a. Texas Family Code §153.001(a)(1). Public Policy Texas Family Code §153.001 provides:

“(a) The public policy of this state is to:  
(1) assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child;” (emphasis added)

###### b. Texas Family Code §153.251. Policy and General Application of Guidelines

Texas Family Code §153.251 provides:

“(a) The guidelines established in the standard possession order are intended to guide the courts in ordering the terms and conditions for possession of a child by a parent named as a possessory conservator or as the minimum possession for a joint managing conservator.

(b) It is the policy of this state to encourage frequent contact between a child and each parent for periods of possession that optimize the development of a close and continuing relationship between each parent and child.

(c) It is preferable for all children in a family to be together during periods of possession.

(d) The standard possession order is designed to apply to a child three years of age or older.” (emphasis added)

If you are asking a court to give your client more than the SPO, argue that your position is supported by these public policy statements of the code. You should emphasize the code's policy of frequent and continuing access and of optimizing the development of a close and continuing relationship between each parent and child.

### 3. Presumptive Minimum

#### a. Texas Family Code §153.252. Rebuttable Presumption

Texas Family Code §153.252 provides:

“In a suit, there is a rebuttable presumption that the standard possession order in Subchapter F:

(1) provides reasonable minimum possession of a child for a parent named as a possessory conservator or joint managing conservator;

and

(2) is in the best interest of the child.”(emphasis added)

It is interesting to note that §153.252(1) says the SPO is the presumed minimum schedule for both a possessory conservator and a joint managing conservator, whereas §153.251 still makes a distinction between a possessory conservator and a joint managing conservator by saying the SPO is the presumed schedule for a possessory conservator but the presumed minimum schedule for a joint managing conservator.

#### b. Texas Family Code §105.001(g). Rebuttable Presumptions Apply to Temporary Orders

Texas Family Code §105.001(g) provides:

“(g) The rebuttable presumptions established in favor of the application of the guidelines for a child support order and for the standard possession order under Chapters 153 and 154 apply to temporary orders. The presumptions do not limit the authority of the court to render other temporary orders.”

If you are asking for more time than is provided in the SPO, emphasize to the court that the standard order only provides for the minimum amount of time and in no way annotates or implies that the SPO is to be considered the maximum amount of time, or even the appropriate amount of time, that should be ordered. You can also provide a comparison of the amount of time involved between the SPO and the schedule you are advocating, and point out to the court that the presumption applies to the amount of time, rather than to the particular schedule.

#### 4. Pick Up When School Recesses and Return When School Resumes

Texas Family Code §153.317, entitled Alternate Beginning & Ending Possession Times, provides:

“(a) If elected by a conservator, the court shall alter the standard possession order under Sections 153.312, 153.314, and 153.315 to provide for one or more of the following alternate beginning and ending possession times for the described periods of possession, unless the court finds that the election is not in the best interest of the child:

(1) for weekend periods of possession under Section 153.312(a)(1) during the regular school term:

(A) beginning at the time the child’s school is regularly dismissed; or

(B) ending at the time the child’s school resumes after the weekend;

(2) for Thursday periods of possession under Section 153.312(a)(2):

(A) beginning at the time the child’s school is regularly dismissed; or

(B) ending at the time the child’s school resumes on Friday;

(3) for spring vacation periods of possession under Section 153.312(b)(1), beginning at the time the child’s school is dismissed for those vacations;

(4) for Christmas school vacation periods of possession under Section 153.314(1), beginning at the time the child’s school is dismissed for the vacation;

(5) for Thanksgiving holiday periods of possession under Section 153.314(3),

- beginning at the time the child's school is dismissed for the holiday;
- (6) for Father's Day periods of possession under Section 153.314(5), ending at 8:00 a.m. on the Monday after Father's Day weekend;
- (7) for Mother's Day periods of possession under Section 153.314(6):
- (A) beginning at the time the child's school is regularly dismissed on the Friday preceding Mother's Day; or
- (B) ending at the time the child's school resumes after Mother's Day; or
- (8) for weekend periods of possession that are extended under Section 153.315(b) by a student holiday or teacher in-service day that falls on a Friday, beginning at the time the child's school is regularly dismissed on Thursday.

(b) A conservator must make an election under Subsection (a) before or at the time of the rendition of a possession order. The election may be made:

- (1) in a written document filed with the Court; or
- (2) through an oral statement made in open court on the record." (emphasis added)

### **B. Code Provisions to Emphasize When Advocating LESS Than the SPO**

The Texas Family Code contains a number of provisions that address limitations on the SPO. Some of these provisions seem to invite limitations on the standard orders, while others make imposing limitations on the guidelines more difficult. Regardless of whether these code provisions aid or inhibit a request to limit the times or conditions of the SPO, you need to be familiar with them.

#### **1. Best Interest**

Texas Family Code §153.002 provides:

"The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child."

Again, any time the SPO is not in the best interest of the child, this should be your first argument. The key is articulating to the court exactly and specifically how the standard order or provision is not in the best interest of the child. You need to argue and prove to the court how and why the order is inappropriate so that some basis exists for the court to make specific findings justifying a variance from the guidelines.

#### **2. Minimizing Disruption**

Texas Family Code §§153.133(a)(3) and 153.134(b)(3) provide that when joint managing conservators are appointed, whether by written agreement of the parties or by court order in the absence of agreement, the court must include provisions to minimize disruption of the child's education, daily routine, and association with friends.

#### **3. Texas Family Code §153.001(a)(2) Public Policy** Texas Family Code §153.001 provides:

"(a) The public policy of this state is to:  
(2) provide a safe, stable, and nonviolent environment for the child;" (emphasis added)

This section may be particularly appropriate when you are arguing the need for stability and consistency for a child under three years of age, for whom the SPO does not presumptively apply.

#### **4. Domestic Violence**

Texas Family Code §153.004 provides:

"(b) The court may not appoint joint managing conservators if credible evidence is presented of a history or pattern of past or present child neglect, or physical or sexual abuse by one parent directed against the other parent, a spouse, or a child, . . .

\* \* \*

(c) The court shall consider the commission of family violence in determining whether to deny, restrict, or limit the possession of a child by a parent who is appointed as a possessory conservator.

(d) The court may not allow a parent to have access to a child for whom it is shown by a preponderance of the evidence that there is a history or pattern of committing family violence during the two years preceding the date of the filing of the suit or during the pendency of the suit, unless the court:

- (1) finds that awarding the parent access to the child would not endanger the child's physical health or emotional welfare and would be in the best interest of the child; and
- (2) renders a possession order that is designed to protect the safety and well-being of the child and any other person who has been a victim of family violence . . ."

Obviously, when there are facts establishing abuse or neglect, this can be a basis for limitation of the SPO. However, in presenting a case for limitation of the guidelines based on abuse or neglect, be sure to show the court exactly how the requested limitation relates to

the abuse or neglect. For instance, it may not be a convincing argument to show the court that the father bruised the mother's arm two years ago and therefore should only have the children for two weeks in the summer instead of four.

5. Child Less Than Three Years of Age  
Texas Family Code §153.254 provides:

“(a) The court shall render an order appropriate under the circumstances for possession of a child less than three years of age.”

Now the code provides that in rendering an order for a child under three (3) years of age, the Court shall consider evidence of all relevant factors, including:

- “(1) the caregiving provided to the child before and during the current suit;
- (2) the effect on the child that may result from separation from either party;
- (3) the availability of the parties as caregivers and the willingness of the parties to personally care for the child;
- (4) the physical, medical, behavioral, and developmental needs of the child;
- (5) the physical, medical, emotional, economic, and social conditions of the parties;
- (6) the impact and influence of individuals, other than the parties, who will be present during periods of possession;
- (7) the presence of siblings during periods of possession;
- (8) the child’s need to develop healthy attachments to both parents;
- (9) the child’s need for continuity of routine;
- (10) the location and proximity of the residences of the parties;
- (11) the need for a temporary possession schedule that incrementally shifts to the schedule provided in the prospective order under Subsection (d) based on:

- (A) the age of the child; or
- (B) minimal or inconsistent contact with eh child by a party.”

See Texas Family Code §153.254(a).

6. Thursdays Which are Not in the Child’s Best Interest  
Texas Family Code §153.312(a)(2), under Parents Who Reside 100 Miles or Less Apart, provides for

Thursdays each week “unless the court finds that visitation under this subdivision is not in the best interest of the child”. This provision of the code expressly invites a showing that Thursdays would not be appropriate for a specific child or family. Reasons for not allowing visitation on Thursdays might include the child’s schooling or other scheduled activities, the distance between the parents’ homes, or the work schedules of the parents.

7. Minimal Restriction on Parent’s Possession or Access  
Texas Family Code §153.193 provides:

“The terms of an order that denies possession of a child to a parent or imposes restrictions or limitations on a parent’s right to possession of or access to a child may not exceed those that are required to protect the best interest of the child.” (emphasis added)

8. Showing of Good Cause Required for Non-Specific Orders - i.e., “Reasonable Visitation as Agreed”  
Texas Family Code §153.006(c), entitled Appointment of Possessory Conservator, provides:

“(c) The court shall specify and expressly state in the order the times and conditions for possession of or access to the child, unless a party shows good cause why specific orders would not be in the best interest of the child.”(emphasis added)

Throughout the Texas Family Code, the trial court is expressly encouraged to enter specific orders that can be enforced by contempt. If you are requesting a possession order that provides for visitation only at times when the primary conservator agrees, you need to make a very persuasive showing of good cause to the court. Reasons for such an order might include a parent's consistent failure to exercise specific visitation, substance abuse problems, a parent’s unpredictable work schedule, or other situations in which a specific order would be completely inappropriate. One of the arguments to consider making if you request such an order, is that although the code requires specificity to enforce periods of possession, it does not require the nonprimary conservator to exercise that possession. This situation is often unfair to the primary conservator who must either be at home every first, third, and fifth weekend of each month, even if the nonprimary conservator never shows up, or risk contempt on the occasional attempt of the nonprimary conservator to exercise possession.

**C. Factors for Court to Consider**

Texas Family Code §153.256 provides:

“In ordering the terms of possession of a child under an order other than a standard possession order, the court shall be guided by the guidelines established by the standard possession order and may consider:

- (1) the age, developmental status, circumstances, needs, and best interest of the child;
- (2) the circumstances of the managing conservator and the parent named as a possessory conservator; and
- (3) any other relevant factor.”

This provision of the code allows the court to consider literally anything you might think is relevant to the court in considering what possession schedule to order or what terms and conditions to impose. These factors might include the following:

- the wishes and desires of the children
- the parenting history of the parties
- the health or psychological needs or condition of the children or the parties
- the living environment of the parties
- the level of conflict between the parties
- the developmental needs of the children
- the children’s school or extracurricular activity schedules
- the ages of the children
- the children's tolerance for change and flexibility
- any substance abuse problems of the parties
- the distance between the parties’ residences
- the financial situations of the parties

**D. Code Provision to Consider When SPO is Unworkable or Inappropriate**

Texas Family Code §153.253 provides:

“The court shall render an order that grants periods of possession of the child as similar as possible to those provided by the standard possession order if the work schedule or other special circumstances of the managing conservator, the possessory conservator, or the child, or the year-round school schedule of the child, make the standard order unworkable or inappropriate.”

This code provision requires that variations from the guidelines be done in a manner similar to the format of the guidelines. What this seems to suggest is that alternative language be couched in terms of an identifiable schedule, i.e., first, third, and fifth

Saturdays or each Sunday from 9:00 a.m. to 4:00 p.m. Included in the appendix are a number of forms which vary significantly from the guidelines, but attempt to preserve the format of the guidelines to the extent possible.

**E. Written Findings Required for Variance from Standard Possession Order**

Texas Family Code §153.258, entitled Request for Findings When Order Varies From Standard Order, provides that in contested cases where the court deviates from the SPO, “on written request made or filed with the court not later than 10 days after the date of the hearing or on oral request made in open court during the hearing, the court shall state in the order the specific reason for the variance from the standard order.” (emphasis added)

At least one court has held that if the variance from the SPO is for the period while a child is under three years of age, specific findings are not required. See *Ray v. Burns*, 832 S.W.2d 431, 437 (Tex.App. - Waco 1992, no writ). Although the wording of §153.258 does not specifically exclude orders for children under three, it makes sense to exclude them, as the SPO presumption does not apply to children under three. See §§153.251(d) and 153.254.

Any time you are asking the court for a significant variance from the guidelines, you should have these findings already prepared before you begin your trial or hearing. You want to make it easy for the judge to rule for you, so prepare these findings and present them to the court in advance so the judge will not have to struggle with attempting to articulate the detailed findings required by this code provision. The finding should state the specific reasons for the variance. For example, if you are requesting no overnight possession, an appropriate finding might read as follows:

“The court finds that (1) the father does not have a separate bedroom for the children, (2) the father lives in an environment that the court finds is dangerous to the children, (3) the father has a long history of abuse of alcohol and drugs, and (4) the father has a history of neglect of the children. Therefore, the court, at this time, orders that the father shall not have overnight possession of the children and his possession shall be on the first, third, and fifth Saturday of each month beginning at 10:00 a.m. and ending at 4:00 p.m., subject to the other limitations of this order.”

**F. Statutory Help for Problem Situations**

Many times our system, whether by trial or settlement, simply gives the family a result without addressing the underlying problems the family is

experiencing. As family law attorneys, it is easy to get caught up in the guidelines and the forms, and lose sight of the real problem. In the majority of cases, the real problem is that the parties do not trust each other, do not respect each other, do not like each other, and cannot even communicate to each other on a basic level. In these situations, even the most brilliantly worded orders will not help and will not work.

Helping the parties agree on orders, rather than litigating their case, can help. Rarely are contested trials or hearings useful in bringing people together or paving the way for future harmony. Additionally, if counseling or using an ongoing mediator or parent coordinator would be helpful to a family experiencing continuing conflict, consider using those tools before resorting to litigation. This can sometimes be a fruitless and frustrating effort, but where it is successful, the long term benefits can far outweigh any result obtained in court.

### 1. Counseling

Texas Family Code §153.010 provides:

“(a) If the court finds at the time of a hearing that the parties have a history of conflict in resolving an issue of conservatorship or possession of or access to the child, the court may order a party to:

“(1) participate in counseling with a mental health professional who:

- (A) has a background in family therapy;
- (B) has a mental health license that requires as a minimum a master’s degree; and
- (C) has training in domestic violence if the court determines that the training is relevant to the type of counseling needed; and

(2) pay the cost of counseling.”

This provision of the Code presents a significant tool to help families overcome decision-making and possession order problems. Sometimes no form, no guideline, no schedule is going to help a problem situation. This provision of the code authorizes the court to appoint someone the court believes is qualified to help counsel families through problems.

The best SAPCR final order in the world is still going to create a nightmare for the children if there are unresolved open hostilities between the parties. Mental health professionals consistently tell us that the level of hostility between the parents is a very significant factor in how well children do after divorce. This provision of the Code provides a mechanism for us to help families truly resolve their conflicts.

Appendix 34 provides sample language requiring counseling prior to possession of the child.

### 2. Arbitration/Mediation

Texas Family Code §153.0071 provides:

“(a) On written agreement of the parties, the court may refer a suit affecting the parent-child relationship to arbitration. The agreement must state whether the arbitration is binding or non-binding.

(b) If the parties agree to binding arbitration, the court shall render an order reflecting the arbitrator’s award unless the court determines at a non-jury hearing that the award is not in the best interest of the child. The burden of proof at a hearing under this subsection is on the party seeking to avoid rendition of the order based on the arbitrator’s award.

(c) On the written agreement of the parties or on the court’s own motion, the court may refer a suit affecting the parent-child relationship to mediation.

(d) A mediated settlement agreement is binding on the parties if the agreement:

- (1) provides in a separate paragraph an underlined statement that the agreement is not subject to revocation;
- (2) is signed by each party to the agreement; and
- (3) is signed by the party’s attorney, if any, who is present at the time the agreement is signed.

(e) If a mediated settlement agreement meets the requirements of Subsection (d), a party is entitled to judgment on the mediated settlement agreement notwithstanding Rule 11, Texas Rules of Civil Procedure, or another rule of law.”

Obviously mediation is a great tool to use in disputes involving allocation of rights and duties and possession schedules. Less common is the use of arbitration; however, arbitration is an excellent tool to resolve disputes more quickly than a trial. When selecting an arbitrator or mediator for issues relating to rights/duties or possession schedules, you should choose an arbitrator or mediator with a background in resolving parent-child situations. In some cases, you might even consider using a qualified child psychologist instead of a family law attorney.

### 3. Parenting Facilitation/Coordination

Another approach to resolving ongoing family problems, including issues concerning conservatorship, rights and duties, and possession schedules, is to use a parenting facilitator or parenting coordinator. Among other things, parenting facilitators/coordinators can help the parties identify disputed issues, reduce their misunderstandings, clarify the parties' priorities, explore potential problem-solving solutions, develop methods of collaboration in parenting, and settle disputes and reach proposed joint resolutions. See Texas Family Code §153.606; 153.6061.

A "Parenting Coordinator" as defined under §153.601(3) means an impartial third party:

- (A) who, regardless of the title by which the person is designated by the court, performs any function described by Section 153.606 in a suit; and
- (B) who:
  - (i) is appointed under this subchapter by a court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues **through confidential procedures**; and
  - (ii) is not appointed under another statute or a rule of civil procedure.

A "Parenting Facilitator" as defined under §153.601(3-1) means an impartial third party:

- (A) who, regardless of the title by which the person is designated by the court, performs any function described by Section 153.6061 in a suit; and
- (B) who:
  - (i) is appointed under this subchapter by a court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues **through procedures that are not confidential**; and
  - (iii) is not appointed under another statute or a rule of civil procedure.

The main difference between a parenting facilitator and a parenting coordinator is that the parenting facilitator operates on a non-confidential basis, meaning that the parenting facilitator can testify in court, does not have to maintain the confidentiality requirements of a parenting coordinator, and must submit a written report to the court and to the parties as ordered by the court. Texas Family Code §153.6083; 153.6081. On the contrary, a parenting coordinator may only report to the court an opinion as to whether their efforts should continue. Texas Family Code §153.608.

The parenting coordinator and parenting facilitator have identical requirements for their

appointment and for objecting to their appointment. Texas Family Code §153.605; 153.6051. The duties that they may perform are almost identical, as are the limitations on those duties. Texas Family Code §153.606; 153.6061.

If a court appoints a parenting coordinator or parenting facilitator to work on your case, it is recommended that you contact them prior to drafting the order and obtain suggestions on language to include in the order. Sample provisions to include in your orders appointing a parenting facilitator and parenting coordinator are attached hereto as Appendix 35 and Appendix 36, respectively.

### 4. Parenting Education Courses

One simple and inexpensive solution that is gaining more and more popularity among courts across the state is the use of parenting education courses and divorce education courses. In fact, some counties are now requiring parents to complete this type of course. These courses can be helpful in educating the parents about the effects of divorce and contested litigation on children, the effects of parental hostility on children, common reactions of children going through divorce, and ways for the parents to constructively communicate with each other about issues involving the children. Sometimes simply educating the parents can make their possession disputes easier to resolve. If these programs exist in your county, you should strongly consider requesting the court to order both parties to attend such an education course.

## **III. DRAFTING OUTSIDE THE SPO BOX**

### **A. Thinking Outside the Box**

In today's fast-paced and ever-changing world, each family has more and more unique circumstances that are not adequately handled by forcing them into the SPO box. While it can be tempting to simply tell your client that "whatever possession schedule you two can mutually agree on will be your possession schedule if the SPO doesn't work," this scenario is ripe for ongoing dispute, confusion, instability, and ultimately, a trip back to the courthouse. Take the time to consider adding unique provisions to your decree that more accurately reflect the current possession arrangement; any anticipated future changes to the current possession arrangement, the ages and needs of the child, the parents' work schedules, and any other contributing factor.

Keep in mind that the more creative and unique you get in the drafting of your possession schedule, the more problems your client may run into down the road with regard to enforceability. Remember to make the schedule as specific as possible so that there can be no question that each parent understood exactly when their possession times began and ended, and where they were each to pick up or surrender the child.

As another tool to helping clients resolve any future disputes peacefully, contemplate adding a paragraph in your possession schedule that reads:

“It is agreed that before filing any suit for modification, clarification or enforcement of the terms and conditions of possession of the child, except in an emergency, the parties shall mediate the controversy in good faith. It is agreed that the party wishing to modify, clarify or enforce the terms and conditions of possession of the child shall give written notice to the other party of a desire to mediate the controversy. If, within five days after receipt of the written notice, the parties cannot agree on a mediator or the other party does not agree to attend mediation or fails to attend a scheduled mediation of the controversy, the party desiring modification shall be released from the obligation to mediate and shall be free to file suit for modification, clarification or enforcement.”

#### **B. Right of First Refusal Language**

Some judges like it and some hate it. Attached as Appendices 31, 32 and 33 are sample drafting provisions for Right of First Refusal.

#### **C. Variations on 50/50 Possession Schedules**

50/50 possession schedules, while still not terribly favored by many judges, seem to be occurring more and more in an agreed parenting plan situation. As such, careful drafting of these possession schedules becomes paramount in order to protect your client, as much as possible, from future confusion and conflict. Attached to this article in Appendices are the following 1-5 are alternative schedules including wrap schedules and week on/week off.

Attached as Appendix 9 is a Nesting Agreement where the parties will alternate staying in the house with the children which some Courts will use on a temporary basis.

One thing to keep in mind when drafting any possession schedule where a period of time (i.e. weekends) alternates back and forth between the parties is to MAKE CLEAR whether the alternations continue on after a holiday break, or whether they start over based on which parent had the child last. For example, this author included in a recent 2-2-3 possession schedule:

“IT IS ORDERED that in calculating these weekend and weekday periods of possession, the periods shall continue to count for the purposes of alternating them even if they are superseded by Spring Break, Extended Summer, or Holiday periods of possession.”

Any 50/50 possession schedule is also going to need attention paid to the summer schedule. Talk to your client about what would work best for everyone when it comes to summer, and get creative with the extended summer possession provisions. At the very least, the parties should alternate which years each parent gets “first choice” for their extended summer possession. For an example, see Alternative Summer Schedules in Appendix 25, 26 and 27. Also remind your clients of the need to make the written election required and suggest a form similar to Appendix 28 and 29. Also included as Appendix 30 is language for a parent to have the right to elect summer camp.

Alternate holiday schedules can be helpful as well. Appendix 24 has a Christmas holiday schedule where the parents exchange at the “mid-point” of the Christmas break.

#### **D. Split Custody**

Although rare, there are times when siblings are split up with each parent having one child. Appendix 10 is a schedule for split custody of two (2) children.

#### **E. Children Less Than Three Years of Age**

The issue of possession under the age of three can be very controversial. On the one hand, there are fathers who have sole custody of infants and do very well with their children. On the other hand, there are those that argue there should be no overnight visitation for children under three years of age. These differing opinions can be further complicated if you have a mother who is still breastfeeding.

While Texas Family Code §153.252 provides a rebuttable presumption that the SPO is in the best interest of the child, that presumption only applies to children over three years of age. Texas Family Code §153.254. Now we have factors that the Court shall consider in rendering a possession order for a child under three as provided in Texas Family Code §153.254. The court in which your case is pending may have a known position on the issue of possession of children younger than three. If that position is against you, you should challenge the court’s policy with a relevant mental health study or article, presented through a mental health expert.

Generally speaking, despite the lack of guidance in the Code, this author has noted many courts trending towards a “stair-step” approach that favors possession schedules that gradually increase the amount of time the nonprimary parent spends with the child as the child approaches three years of age. Attached to this article at Appendix 6 is an example of schedule for a child under 3. Appendix 7 provides a “stair-step” type schedule which is moving towards a SPO beginning at Age 3. Additionally, at Appendix 19, please find a sample possession schedule that combines a child under three with substance abuse issues.

## F. Teenagers

Children over the age of fourteen present a different set of challenges. They are developing their autonomy in preparation for becoming adults, and are often more interested in spending time with their friends than with family. As their mobility increases, this situation compounds.

One of the difficulties in this situation is to support the child's natural and healthy desires to exercise independence, while attempting to preserve meaningful relationships between the child and both parents. See Appendix 8 for an example of a possession schedule for an older child.

## G. Individuals With Variable Work Schedules/Specific Jobs

Trying to fashion a possession schedule for the nonprimary parent who has a job with a variable schedule can be a huge headache. This comes up most often with airline employees, firefighters, police officers, and consultant/contract-type employees. Even using your best attempts at specificity, you may still run into enforceability problems down the road, particularly if the nonprimary parent has not adhered to the exact procedure as laid out in the decree for giving the primary parent their work schedule and designating their times with the child. Caution your client as to these potential perils. Attached hereto as Appendix 11 is a sample airline employee's possession schedule and Appendix 12 is a sample form for the notice requirements in the schedule. At Appendices 13 and 14, please find two different versions of a firefighter's possession schedule. Appendix 15 is a sample police officer's possession schedule and Appendix 16 is a sample form for the notice requirements in the schedule. Appendix 17 is a contractor or consultant's possession schedule.

## H. Substance Abuse Problems

Parents with substance abuse problems are, unfortunately, a common scenario in the practice of family law. While the safety and well-being of the child is of utmost importance, you also want to give the substance abuser time with the child as they continue to show improvement and progress in their treatment. Thus, most possession orders that involve a parent with substance abuse problems include provisions for alcohol monitoring and/or drug testing, as well as provisions for how the possession schedule will change as the parent improves, or as the parent relapses. Included at Appendix 18 and 19 are various forms of possession orders that were drafted for substance abusing parents. Appendices 20-23 provides additional terms and conditions for alcohol testing, breathalyzer/ignition lock, requirement for children to have cell phone and drug testing.

## IV. ADVOCACY TIPS FOR DEVIATING FROM THE SPO

In order to get around the SPO, you must rebut the statutory presumptions in its favor. This means (1) coming up with a unique schedule that fits the facts of your case, (2) showing the court how your unique schedule is supported by statute or case law, and (3) persuading the court to adopt your unique schedule in its order.

### A. Have a Plan and Be Specific

This is perhaps the most critical element to being persuasive in court or achieving your desired result in settlement or mediation. Whether you are attempting to limit or exceed the SPO, it is important to show how the evidence directly supports your request. Photographs or documents may be helpful, but there must be a direct link between the relief you are requesting and the specific facts of your case. For example, if you are requesting a summer schedule different than the SPO, it is not enough to show that the other parent is a bad person; you must show specific reasons why the deviation is appropriate in your particular case, keeping in mind to focus on the best interest of the children. As another example, if you are advocating to the court in the specific situation of a child under three, the primary conservator should make the court aware of the child's routine and schedule and may wish to urge a need for stability and consistency. Other issues the court should consider are whether the child is nursing, whether the child is with a parent during the day or with a nanny or in day care, the history of the child and the parents, including whether the child had previously spent overnights away from the parents, the nonprimary conservator's experience in taking care of the child, the medical and physical needs of the child, and the parents' practices in raising the child prior to their separation.

If you are proposing a possession schedule that varies from the guidelines, you should have the alternative schedule drafted prior to court or mediation so you can present the alternative in detail. If you are short on time, bring blank monthly calendars to your mediation, and highlight your proposed days. If you are going to court, preparing the order prior to trial and presenting it at the start of the trial can be especially helpful, so that the judge can be working from your draft. One of the reasons the guidelines are so popular with the judges is because they are extremely easy to order. The court simply rules that possession shall be in accordance with the "standard possession order." If you are proposing a different schedule, you need to make it just as easy for the court to rule for you. If you go to court and expect the court to spend the time to draft some special possession clause for you, you dramatically reduce your chances of getting what you want.

**B. There is Not a Form for Everything - Drafting Your Own Forms and Orders**

Attached to this outline are a number of forms to help you get started when you are confronted with a situation in which the SPO does not work. Although these forms may be quite helpful, in most cases they are not going to completely address all the unique aspects of your case. At some point, it will be necessary for you to draft an order from scratch to address a unique situation. When you are drafting your own specific order or clause, keep in mind that if the orders are to be enforceable, they must be clear and specific. When drafting, try to insure enforceability by including the following specifics: who is supposed to do what, and when, where, and how they are supposed to do it. Usually when an order is held not to be enforceable by contempt, it is for the failure to answer one of these basic questions.

In *Ex parte MacCallum*, 807 S.W.2d 729 (Tex. 1991), the Texas Supreme Court held where a decree did not impose a clear and unambiguous duty on the father to deliver the children back to the mother at a particular place at the beginning of the mother's weekend possession during the father's extended summer possession, this portion of the decree was not enforceable by contempt. The decree required the father to "return" the children to the mother at her home at the "end" of each period of possession, but did not specifically address his obligation at the beginning of her weekend possession during father's extended summer possession.

*Ex parte Slavin*, 412 S.W.2d 43, 44 (Tex. 1967), the Supreme Court gave us the following well-known standard:

"It is an accepted rule of law that for a person to be held in contempt for disobeying a court decree, the decree must spell out the details of compliance in clear, specific and unambiguous terms so that such person will readily know exactly what duties or obligations are imposed upon him."

**V. FORMS**

Attached to this article are a number of forms that can serve as a starting place when you are in the position of drafting unique language for your case. Use them as a GUIDE to your particular case. Please keep in mind that these forms may not include enough specificity to be enforceable by contempt.

**VI. CONCLUSION**

Creativity is the key in these difficult cases, and thinking outside the box is required to optimize the successful treatment of the child, maximize the quality of life of the parent-child relationship, and to

ultimately keep the lid on the Pandora's Box of shared custody situations.

## APPENDIX 1

**“2-2-5-5” OR “5-2 WRAP” POSSESSION SCHEDULE**

*Note: Neither parent goes more than five days without seeing the child except Spring Break, 7-day extended Summer possession, and holidays.*

(c) Weekend and Weekday Possession

FATHER shall have the right to possession of the child as follows:

1. Weekends  
Every other weekend, beginning at the time the child’s school is regularly dismissed on every other Friday beginning \_\_\_\_\_, 201\_\_, and ending at the time the child’s school resumes on Monday after the weekend.
2. Mondays and Tuesdays  
On Monday and Tuesday of every week, beginning at the time the child’s school is regularly dismissed on Monday and ending at the time the child’s school resumes on the following Wednesday.

MOTHER shall have the right to possession of the child as follows:

1. Weekends  
Every other weekend, beginning at the time the child’s school is regularly dismissed on every other Friday beginning \_\_\_\_\_, 201\_\_, and ending at the time the child’s school resumes on Monday after the weekend.
2. Wednesdays and Thursdays  
On Wednesday and Thursday of every week, beginning at the time the child’s school is regularly dismissed on Wednesday and ending at the time the child’s school resumes on the following Friday.

IT IS ORDERED that in calculating these weekend and weekday periods of possession, the periods shall continue to count for the purposes of alternating them even if they are superseded by Spring Break, Extended Summer, or Holiday periods of possession.

**ADD HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

## APPENDIX 2

**"2-2-3/2-2-3" POSSESSION SCHEDULE**

*Note: Neither parent goes more than three days without seeing the child except Spring Break, 7-day extended Summer possession, and holidays.*

(c) Weekend and Weekday Possession

FATHER shall have the right to possession of the child as follows:

1. Weekends  
Every other weekend, beginning at the time the child's school is regularly dismissed on every other Friday beginning \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on Monday after the weekend.
2. Mondays and Tuesdays  
On Monday and Tuesday of every other week beginning \_\_\_\_\_, 201\_\_, beginning at the time the child's school is regularly dismissed on Monday and ending at the time the child's school resumes on the following Wednesday.
3. Wednesdays and Thursdays  
On Wednesday and Thursday of every other week beginning \_\_\_\_\_, 201\_\_, beginning at the time the child's school is regularly dismissed on Wednesday and ending at the time the child's school resumes on the following Friday.

MOTHER shall have the right to possession of the child as follows:

1. Weekends  
Every other weekend, beginning at the time the child's school is regularly dismissed on every other Friday beginning \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on Monday after the weekend.
2. Mondays and Tuesdays  
On Monday and Tuesday of every other week beginning \_\_\_\_\_, 201\_\_, beginning at the time the child's school is regularly dismissed on Monday and ending at the time the child's school resumes on the following Wednesday.
3. Wednesdays and Thursdays  
On Wednesday and Thursday of every other week beginning \_\_\_\_\_, 201\_\_, beginning at the time the child's school is regularly dismissed on Wednesday and ending at the time the child's school resumes on the following Friday.

IT IS ORDERED that in calculating these weekend and weekday periods of possession, the periods shall continue to count for the purposes of alternating them even if they are superseded by Spring Break, Extended Summer, or Holiday periods of possession.

**ADD HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

**APPENDIX 3****WEEK ON/WEEK OFF – ALTERNATING WEEKS**

*This sample provides for a week on/week off possession schedule.*

(c) Non-Holiday Possession

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child as follows:

1. Alternating Weeks

Every other week, beginning at the time the child's school is regularly dismissed, on every other Monday beginning \_\_\_\_\_, 201\_\_ and ending at the time the child's school resumes on the following Monday.

When the child's school is not in session, every other week, beginning on the first Saturday following the last day of the child's regular school session at 9:00a.m., and ending at 9:00p.m. on the following Saturday.

Except as otherwise explicitly provided in this Possession Order, MOTHER shall have the right to possession of the child as follows:

1. Alternating Weeks

Every other week, beginning at the time the child's school is regularly dismissed, on every other Monday beginning \_\_\_\_\_, 201\_\_ and ending at the time the child's school resumes on the following Monday.

When the child's school is not in session, every other week, beginning on the first Saturday following the last day of the child's regular school session at 9:00a.m., and ending at 9:00p.m. on the following Saturday.

**ADD HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

## APPENDIX 4

**WEEK ON/WEEK OFF - ALTERNATING WEEKS WITH ONE WEEKNIGHT  
DURING OTHER PARENT'S WEEK AND EXTRA WEEK (TOTALLY 3  
CONSECUTIVE WEEKS) IN THE SUMMER**

*This schedule provides for week on/week off with one day during the other parent's week and an extra week in the summer (totaling 3 weeks in the summer).*

(c) Non-Holiday Possession

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child as follows:

1. Alternating Weeks

Every other week, beginning at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**], on every other Friday beginning \_\_\_\_\_, 201\_\_, and ending at [**select one:** 6:00 P.M. on the following Friday/the time the child's school resumes on the following Friday].

2. Alternating Mondays

Every other Monday beginning \_\_\_\_\_, 201\_\_, (the weeks in between FATHER's weeks of possession), beginning at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**] and ending at [**select one:** 8:00 P.M./the time the child's school resumes on Tuesday].

3. Extended Summer Possession by FATHERa. In Even-Numbered Years

If FATHER gives MOTHER written notice by April 1<sup>st</sup> of an even-numbered year, FATHER may designate one week-long period of possession by MOTHER, together with MOTHER's Monday period of possession immediately preceding that week and MOTHER's Monday period of possession immediately following that week, during which MOTHER shall not have possession of the child (three uninterrupted weeks to FATHER). This period of possession shall begin no earlier than the day after the child's school is dismissed for the summer vacation and end no later than seven days before school resumes at the end of the summer vacation in that year.

b. In Odd-Numbered Years

If FATHER gives MOTHER written notice by April 15<sup>th</sup> of an odd-numbered year, FATHER may designate one week-long period of possession by

MOTHER, together with MOTHER's Monday period of possession immediately preceding that week and MOTHER's Monday period of possession immediately following that week, during which MOTHER shall not have possession of the child (three uninterrupted weeks to FATHER). This period of possession shall begin no earlier than the day after the child's school is dismissed for the summer vacation and end no later than seven days before school resumes at the end of the summer vacation in that year and shall not interfere with MOTHER's designated summer possession.

Except as otherwise explicitly provided in this Possession Order, MOTHER shall have the right to possession of the child as follows:

1. Alternating Weeks  
Every other week, beginning at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**], on every other Friday beginning \_\_\_\_\_, 201\_\_, and ending at [**select one:** 6:00 P.M. on the following Friday/the time the child's school resumes on the following Friday].
2. Alternating Mondays  
Every other Monday beginning \_\_\_\_\_, 201\_\_, (the weeks in between MOTHER's weeks of possession), beginning at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**] and ending at [**select one:** 8:00 P.M./the time the child's school resumes on Tuesday].
3. Extended Summer Possession by MOTHER
  - a. In Odd-Numbered Years  
If MOTHER gives FATHER written notice by April 1<sup>st</sup> of an odd-numbered year, MOTHER may designate one week-long period of possession by FATHER, together with FATHER's Monday period of possession immediately preceding that week and FATHER's Monday period of possession immediately following that week, during which FATHER shall not have possession of the child (three uninterrupted weeks to MOTHER). This period of possession shall begin no earlier than the day after the child's school is dismissed for the summer vacation and end no later than seven days before school resumes at the end of the summer vacation in that year but shall not interfere with Father's Day.
  - b. In Even-Numbered Years  
If MOTHER gives FATHER written notice by April 15<sup>th</sup> of an even-numbered year, MOTHER may designate one week-long period of

possession by FATHER, together with FATHER's Monday period of possession immediately preceding that week and FATHER's Monday period of possession immediately following that week, during which FATHER shall not have possession of the child (three uninterrupted weeks to MOTHER). This period of possession shall begin no earlier than the day after the child's school is dismissed for the summer vacation and end no later than seven days before school resumes at the end of the summer vacation in that year and shall not interfere with FATHER's designated summer possession or with Father's Day.

**ADD HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

## APPENDIX 5

**WEEK ON/WEEK OFF - ALTERNATING WEEKS WITH 10 CONSECUTIVE DAYS IN THE SUMMER**

*This schedule provides for week on/week off with 3 extra days in the summer totaling 10 consecutive days in the summer.*

(c) Non-Holiday Possession

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child as follows:

1. Alternating Weeks

Every other week, beginning at the time the child's school is regularly dismissed, on every other Monday beginning \_\_\_\_\_, 201\_\_ and ending at the time the child's school resumes on the following Monday.

When the child's school is not in session, every other week, beginning on the first Saturday following the last day of the child's regular school session at 9:00a.m., and ending at 9:00p.m. on the following Saturday.

2. Odd-Numbered Years

In odd-numbered years—if MOTHER gives FATHER written notice by April 1<sup>st</sup> of an odd-numbered year specifying an extended period of summer possession for that year, MOTHER shall have one of her weekly possession periods extended by three days, giving her ten consecutive days, and thereby reducing FATHER's normal weekly possession period to four days.

In odd-numbered years—if FATHER gives MOTHER written notice by April 15<sup>th</sup> of an odd-numbered year specifying an extended period of summer possession for that year, FATHER shall have one of his weekly possession periods extended by three days, giving him ten consecutive days, and thereby reducing MOTHER's normal weekly possession period to four days. Such election may not interfere with MOTHER's summer election above.

3. Even-Numbered Years

In even-numbered years—if FATHER gives MOTHER written notice by April 1<sup>st</sup> of an even-numbered year specifying an extended period of summer possession for that year, FATHER shall have one of his weekly possession periods extended by three days, giving him ten consecutive days, and thereby reducing MOTHER's normal weekly possession period to four days.

In even-numbered years—if MOTHER gives FATHER written notice by April 15<sup>th</sup> of an even-numbered year specifying an extended period of summer possession for that year, MOTHER shall have one of her weekly possession

periods extended by three days, giving her ten consecutive days, and thereby reducing FATHER's normal weekly possession period to four days. Such election may not interfere with FATHER's summer election above.

Except as otherwise explicitly provided in this Possession Order, MOTHER shall have the right to possession of the child as follows:

1. Alternating Weeks

Every other week, beginning at the time the child's school is regularly dismissed, on every other Monday beginning \_\_\_\_\_, 201\_\_\_ and ending at the time the child's school resumes on the following Monday.

When the child's school is not in session, every other week, beginning on the first Saturday following the last day of the child's regular school session at 9:00a.m., and ending at 9:00p.m. on the following Saturday.

2. Odd-Numbered Years

In odd-numbered years—if MOTHER gives FATHER written notice by April 1<sup>st</sup> of an odd-numbered year specifying an extended period of summer possession for that year, MOTHER shall have one of her weekly possession periods extended by three days, giving her ten consecutive days, and thereby reducing FATHER's normal weekly possession period to four days.

In odd-numbered years—if FATHER gives MOTHER written notice by April 15<sup>th</sup> of an odd-numbered year specifying an extended period of summer possession for that year, FATHER shall have one of his weekly possession periods extended by three days, giving him ten consecutive days, and thereby reducing MOTHER's normal weekly possession period to four days. Such election may not interfere with MOTHER's summer election above.

3. Even-Numbered Years

In even-numbered years—if FATHER gives MOTHER written notice by April 1<sup>st</sup> of an even-numbered year specifying an extended period of summer possession for that year, FATHER shall have one of his weekly possession periods extended by three days, giving him ten consecutive days, and thereby reducing MOTHER's normal weekly possession period to four days.

In even-numbered years—if MOTHER gives FATHER written notice by April 15<sup>th</sup> of an even-numbered year specifying an extended period of summer possession for that year, MOTHER shall have one of her weekly possession periods extended by three days, giving her ten consecutive days, and thereby reducing FATHER's normal weekly possession period to four days. Such election may not interfere with FATHER's summer election above.

**ADD HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

**APPENDIX 6****CHILD UNDER THREE – Option #1**

*Note: Special terms are included for the provision of baby supplies and equipment and sharing of information. This schedule provides for the same schedule until the child turns three (3) without a step-up.*

*Possession Order Until Child Reaches Three Years of Age*

The Court finds that the following provisions of this Possession Order are in the best interest of the child and are appropriate under the circumstances.

IT IS ORDERED that each conservator shall comply with all terms and conditions of this Possession Order. IT IS ORDERED that this Possession Order is effective immediately and applies to all periods of possession until a child of this marriage reaches three years of age.

IT IS ORDERED that the conservators shall have possession of the child at times mutually agreed to in advance by the parties, and, in the absence of mutual agreement, it is ORDERED that the conservators shall have possession of the child under the specified terms set out in this Possession Order.

The Court further ORDERS that until a child reaches three years of age, FATHER shall have possession of and access to that child as follows:

(a) Weekday and Weekend Possession

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child as follows:

1. Tuesdays  
On Tuesday of each week, beginning at 5:30 p.m. and ending at 7:30 p.m.
2. Thursdays  
On Thursday of each week, beginning at 5:30 p.m. and ending at 7:30 p.m.
3. Saturdays Until the Child's Second Birthday  
Until the child reaches two years of age, on the first, third, and fifth Saturday of each month, beginning at 10:00 a.m. and ending at 4:00 p.m. on that same day.
4. Sundays Until the Child's Second Birthday  
Until the child reaches two years of age, on the first, third, and fifth Sunday of each month, beginning at 10:00 a.m. and ending at 4:00 p.m. on that same day.

5. Weekends Beginning on the Child's Second Birthday

When the child reaches two years of age, on weekends, beginning at 10:00 a.m. on the first, third, and fifth Saturday of each month and ending at 4:00 p.m. on the following Sunday.

(b) Holiday Possession

Notwithstanding the weekday and weekend periods of possession of FATHER, MOTHER and FATHER shall have the right to possession of the child as follows:

1. Christmas in Year \_\_\_\_\_

In calendar year \_\_\_\_\_, MOTHER shall have the right to possession of the child from 6:00 p.m. on Christmas Eve until 10:00 a.m. on Christmas Day, and FATHER shall have the right to possession of the child on Christmas Day beginning at 10:00 a.m. and ending at 4:00 p.m.

2. Christmas in Year \_\_\_\_\_

In calendar year \_\_\_\_\_, FATHER shall have the right to possession of the child from 6:00 p.m. on Christmas Eve until 10:00 a.m. on Christmas Day, and MOTHER shall have the right to possession of the child on Christmas Day beginning at 10:00 a.m. and ending at 4:00 p.m.

3. Thanksgiving in Year \_\_\_\_\_

In calendar year \_\_\_\_\_, FATHER shall have the right to possession of the child beginning at 10:00 a.m. and ending at 4:00 p.m.

4. Thanksgiving in Year \_\_\_\_\_

In calendar year \_\_\_\_\_, MOTHER shall have the right to possession of the child beginning at 9:00 a.m. and ending at 6:00 p.m.

5. Child's Birthday

If a conservator is not otherwise entitled under this Possession Order to present possession of the child on the child's birthday, that conservator shall have possession of the child [**include if desired:** and the child's siblings] beginning at 5:30 P.M. and ending at 7:30 P.M. on that day, provided that that conservator picks up the child[ren] from the other conservator's residence and returns the child[ren] to that same place.

6. Father's Day

Father shall have the right to possession of the child each year, beginning at 10:00 a.m. on Father's Day and ending at 6:00 P.M. on Father's Day, provided that if Father is not otherwise entitled under this Possession Order to present possession

of the child, he shall pick up the child from the other conservator's residence and return the child to that same place.

7. Mother's Day Weekend

Mother shall have the right to possession of the child each year, beginning at 9:00 a.m. on Mother's Day and ending at 6:00 P.M. on Mother's Day, provided that if Mother is not otherwise entitled under this Possession Order to present possession of the child, she shall pick up the child from the other conservator's residence and return the child to that same place.

(c) Undesignated Periods of Possession

MOTHER shall have the right of possession of the child at all other times not specifically designated in this Possession Order for FATHER.

(d) General Terms and Conditions

Except as otherwise explicitly provided in this Possession Order, the terms and conditions of possession of the child are as follows:

1. Surrender of Child by MOTHER

MOTHER is ORDERED to surrender the child to FATHER at the beginning of each period of FATHER's possession at the residence of MOTHER.

2. Surrender of Child by FATHER

FATHER is ORDERED to surrender the child to MOTHER at the residence of FATHER at the end of each period of possession.

3. Return of Child by FATHER

FATHER is ORDERED to return the child to the residence of MOTHER at the end of each period of possession. However, it is ORDERED that, if MOTHER and FATHER live in the same county at the time of rendition of this order, FATHER's county of residence remains the same after rendition of this order, and MOTHER's county of residence changes, effective on the date of the change of residence by MOTHER, FATHER shall surrender the child to MOTHER at the residence of FATHER at the end of each period of possession.

4. Surrender of Child by FATHER

FATHER is ORDERED to surrender the child to MOTHER, if the child is in FATHER's possession or subject to FATHER's control, at the beginning of each period of MOTHER's exclusive periods of possession, at the place designated in this Possession Order.

5. Return of Child by MOTHER  
MOTHER is ORDERED to return the child to FATHER, if FATHER is entitled to possession of the child, at the end of each of MOTHER's exclusive periods of possession, at the place designated in this Possession Order.
6. Personal Effects  
Each conservator is ORDERED to return with the child the personal effects that the child brought at the beginning of the period of possession.
7. Designation of Competent Adult  
Each conservator may designate any competent adult to pick up and return the child, as applicable. IT IS ORDERED that a conservator or a designated competent adult be present when the child is picked up or returned.
8. Inability to Exercise Possession  
Each conservator is ORDERED to give notice to the person in possession of the child on each occasion that the conservator will be unable to exercise that conservator's right of possession for any specified period.
9. Written Notice  
Written notice shall be deemed to have been timely made if received or postmarked before or at the time that notice is due.

(e) Special Terms and Conditions

1. FATHER is ORDERED to obtain and maintain in his residence, at his sole cost and expense, appropriate equipment and supplies for use while the child is in his possession, including but not limited to a crib, blankets, diapers, baby wipes, a changing station, bibs, a stroller, bottles, formula, juice, and baby food.
2. At the time MOTHER surrenders the child to FATHER, MOTHER is ORDERED to provide FATHER with sufficient diapers, baby wipes, bibs, formula, juice, baby food, and clothing for FATHER's period of possession. FATHER is ORDERED to return to MOTHER any unused supplies and any equipment furnished by MOTHER at the end of FATHER's period of possession.
3. At the time MOTHER surrenders the child to FATHER, MOTHER is ORDERED to furnish FATHER with a schedule of the child's feedings and naps, and to inform FATHER of any special needs of the child.
4. Upon return of the child, FATHER is ORDERED to inform MOTHER of the child's activities, including feedings and naps, and any special concerns relating to the child's health or development.

This concludes the Possession Order for a Child Under Three Years of Age.

The Court further ORDERS that when a child reaches three years of age, FATHER shall have possession of and access to that child as set forth in the preceding Standard Possession Order.

**INCLUDE STANDARD POSSESSION ORDER BEGINNING WHEN THE CHILD TURNS**

**3**

## APPENDIX 7

**CHILD UNDER THREE – Option #2 (With Step-Up Provisions Moving Towards****SPO at Age 3)**

*This schedule provides for step-up provisions as the child gets older to move towards an SPO once the child turns three (3).*

**Possession Order**(a) Definitions

In this Possession Order “school” means the primary or secondary school in which the child is enrolled or, if the child is not enrolled in a primary or secondary school, the public school district in which the child primarily resides.

(b) Mutual Agreement or Specified Terms for Possession

IT IS ORDERED that FATHER and MOTHER shall have possession of the child at times mutually agreed to in advance by the parties, and, in the absence of mutual agreement, the conservators shall have possession of the child under the specified terms set out in this Possession Order.

(c) Possession Schedule From Entry of This Order Until \_\_\_\_\_, 201\_\_\_\_\_

Except as otherwise explicitly provided in this Possession Order, beginning on the date this order is entered by the Court and continuing until February 18, 2011 (when the child is 2 years old), FATHER shall have possession of the child as follows:

1. Weekends

On the 1<sup>st</sup>, 3<sup>rd</sup> and 5<sup>th</sup> weekends beginning at 10:00 a.m. on Saturday and ending at 4:00 p.m. on the following Sunday.

2. Tuesdays

On Tuesdays of each week beginning at 5:30 p.m. and ending at 8:00 p.m.

3. Thursdays

On Thursdays preceding a weekend period of possession by FATHER as provided in #1 above beginning at 5:30 p.m. and ending at 8:00 p.m.

On Thursdays that *do not* precede a weekend period of possession by FATHER as provided in #1 above beginning at 5:30 p.m. and ending at 8:00 a.m. the following morning.

4. Christmas 201\_\_

Beginning at 6:00 p.m. on December 24, 201\_\_ and ending at noon on December 27, 201\_\_.

5. Extended Summer Possession by FATHER

If FATHER provides written notice by April 1<sup>ST</sup> of a year specifying an extended period or periods of summer possession for that year, he shall have possession of the child for seven (7) days as specified in the written notice. These periods of possession shall begin at 6:00 P.M. and end at 6:00 p.m.

6. Child's Birthday

If FATHER is not otherwise entitled under this Possession Order to present possession of the child on the child's birthday, he shall have possession of the child beginning at 6:00 P.M. and ending at 8:00 P.M. on that day.

7. Father's Day Weekend

Each year, beginning at 6:00 P.M. on the Friday preceding Father's Day and ending at 6:00 p.m. on Father's Day.

Notwithstanding the weekend and weekday periods of possession ORDERED for FATHER it is explicitly ORDERED that MOTHER shall have a right of possession of the child as follows:

1. Thanksgiving 201\_\_

Beginning at noon on November 24, 201\_\_ and ending at noon on November 28, 201\_\_.

2. Child's Birthday

If MOTHER is not otherwise entitled under this Possession Order to present possession of the child on the child's birthday, she shall have possession of the child beginning at 6:00 P.M. and ending at 8:00 P.M. on that day.

3. Mother's Day Weekend

Each year, beginning at 6:00 p.m. on the Friday preceding Mother's Day and ending at 6:00 p.m. on Mother's Day.

(d) Possession Schedule From \_\_\_\_\_ Until \_\_\_\_\_

Except as otherwise explicitly provided in this Possession Order, beginning on \_\_\_\_\_, 201\_\_ and continuing until \_\_\_\_\_, 201\_\_ (when the child is 3 years old), FATHER shall have possession of the child as follows:

1. Weekends

On the 1<sup>st</sup>, 3<sup>rd</sup> and 5<sup>th</sup> weekends beginning at 5:30 p.m. on Friday and ending at 4:00 p.m. on the following Sunday.

2. Weekdays

On Tuesdays preceding a weekend period of possession by FATHER as provided in #1 above beginning at 5:30 p.m. and ending at 8:00 p.m.

On Wednesdays that *do not* precede a weekend period of possession by FATHER as provided in #1 above beginning at 5:30 p.m. on Wednesday and ending at 8:00 a.m. on Friday morning.

3. Thanksgiving 201\_\_

Beginning at noon on November 23, 201\_\_ and ending at 4:00 p.m. on the following Sunday.

4. Extended Summer Possession by FATHER

If FATHER gives MOTHER written notice by April 1<sup>ST</sup> of a year specifying an extended period or periods of summer possession for that year, he shall have possession of the child for ten (10) days to be exercised in no more than two separate periods of at least five consecutive days each, as specified in the written notice. These periods of possession shall begin at 6:00 P.M. and end at 6:00 p.m.

Notwithstanding the weekend and weekday periods of possession ORDERED for FATHER it is explicitly ORDERED that MOTHER shall have a right of possession of the child as follows:

1. Christmas 201\_\_

Beginning at 6:00 p.m. on December 24, 201\_\_ and ending at 10:00 a.m. on December 27, 201\_\_.

2. Child's Birthday

If MOTHER is not otherwise entitled under this Possession Order to present possession of the child on the child's birthday, she shall have possession of the child beginning at 6:00 P.M. and ending at 8:00 P.M. on that day.

3. Mother's Day Weekend

Each year, beginning at 6:00 p.m. on the Friday preceding Mother's Day and ending at 6:00 p.m. on Mother's Day.

(e) Possession Schedule Beginning \_\_\_\_\_

Except as otherwise explicitly provided in this Possession Order, beginning \_\_\_\_\_, 201\_\_ (when the child is 3 years old), FATHER shall have possession of the child as follows:

**INCLUDE STANDARD POSSESSION ORDER BEGINNING WHEN THE CHILD TURNS**

**3**

**APPENDIX 8****OLDER CHILD – Child Over 15***Possession Order After Child Reaches Fifteen Years of Age*

The Court finds that the following provisions of this Possession Order are in the best interest of the child, and the Court finds that good cause exists to deviate from the Standard Possession Order contained in the Texas Family Code at sections 153.311 through 153.317, as the Standard Possession Order is unworkable or inappropriate under the circumstances.

IT IS ORDERED that each conservator shall comply with all terms and conditions of this Possession Order. IT IS ORDERED that this Possession Order is effective upon the child's fifteenth birthday and applies to all periods of possession occurring on and after that date.

The Court finds that upon the minor child's reaching fifteen years of age, the child will be of sufficient maturity to be given the right and responsibility to assist FATHER in structuring the dates and times of possession. The Court also finds that at the age of fifteen years, the activities and desires of the child should be taken into consideration by the parties with respect to FATHER's rights to possession as contained in this order.

IT IS THEREFORE ORDERED that upon the minor child's reaching fifteen years of age, the parties shall recognize the desires of the Child as to the exercise of any periods of possession, and all of FATHER's rights to possession of the child, as contained in this order, shall cease as mandatory rights. In lieu of such mandatory rights, IT IS ORDERED that FATHER shall have the right to possession of the child only at such times herein ordered as are agreeable to the child and FATHER. FATHER is ORDERED to promptly give notice to MOTHER of the dates and times of such possession as may be determined between FATHER and the child. FATHER shall also have the right to possession of the child at times not specifically ordered which are mutually agreed to in advance by the parties and the child. IT IS FURTHER ORDERED that, commencing on the child's fifteenth birthday, MOTHER's obligation to surrender the child to FATHER shall be conditioned upon the child's expressed desire for FATHER to exercise any such possession period.

*[OPTIONAL]*

*IT IS FURTHER ORDERED that if the child misses more than three of FATHER's periods of possession within any calendar month, or if FATHER and the child cannot agree on periods of possession, then the child and FATHER shall attend at least two counseling sessions with \_\_\_\_\_, or such other counselor as is agreed upon in advance by the parties. At the discretion of the counselor, MOTHER may attend one or more of the counseling sessions. IT IS FURTHER ORDERED that FATHER shall pay for such counseling by presenting the counselor with cash or a check before each session in an amount according to the counselor's fee schedule.*

**APPENDIX 9****NESTING AGREEMENT**

1. **Joint Custody.** Father and Mother shall have joint legal custody of Son and Daughter. Joint custody means an arrangement by which parents share rights and responsibilities for major decisions concerning a child's residence, education, health care and religious training.
2. **Nesting.** Father and Mother agree that they shall continue to share the family home for the exercise of parenting time, an arrangement commonly referred to as "nesting." Each parent shall make arrangements for their own personal living accommodation outside of the family home ("nesting home") for the periods during which they are not exercising their parenting time. For purposes of the parenting plan, a parent exercising his or her parenting time shall be designated the "Nesting Parent." The Nesting Parent shall have exclusive use of the nesting home. The other parent shall leave and shall not return to the nesting home, unless by invitation or prior approval of the Nesting Parent or due to an emergency, or as otherwise set forth in this *Judgment*.
3. **Parenting Plan Schedule.**
  1. **Weekday.** Mother and Father shall alternate weeks as the evening/morning Nesting Parent, and shall be responsible for the custody and care of the children each weekday during their week from 6:00 pm in the evening until the children are transported to school the following morning. Mother shall pick-up the children from school each day and shall be deemed to be the Nesting Parent from the time school/daycare ends until the time that the evening/morning parenting time begins (TIME).
  2. **Mid-Week Dinner One-on-One.** The non-nesting parent shall be entitled, at their option, to spend one-one-one time with a child (alternating between children) one night each week from 5:30-7:00 pm, or as otherwise agreed by both parents. Any such child-parent date night shall be coordinated ahead of time with the Nesting Parent.
  3. **Weekends.**
    1. On the **first** full weekend of each month from Friday at 6:00 pm through Sunday at 6:00 pm, **Mother** shall be the Nesting Parent.
    2. On the **third** weekend of each month from Friday at 6:00 pm through Sunday at 6:00 pm, **Father** shall be the Nesting Parent.
    3. On the second, fourth, and fifth weekends of a month, the Nesting Parent shall continue in their role as the Nesting Parent until Saturday at 6:00 pm, and the other parent will begin their Nesting week on Saturday at 6:00 pm.
  4. **Holidays.**
    1. **Christmas.** Both parents will spend (or are invited to spend) Christmas morning with their children, unless otherwise agreed by both parents. The non-nesting parent shall be invited into the nesting home, beginning

- Christmas Eve at \_\_\_\_\_ and ending Christmas Day at \_\_\_\_\_.
2. **Children's Birthdays.** Both parents will participate in making party plans for a child's birthday and are invited to attend a child's birthday party. However, at their option, a parent may choose alternatively to spend one-on-one time (minimum 2 hours) with a child on his or her birthday taking into consideration party plans and work and school schedules.
  3. **Other Holidays.** Both parents are invited to spend each holiday with their children in the nesting home, unless otherwise agreed to by both parents.
  5. **Other Times.** Mother and Father may be flexible with the parenting time schedule making changes as agreed by both parents from time to time. However, to be enforceable, any permanent changes should be filed with the court as an order modifying the parenting time schedule. If disagreements arise, the current order filed with the court should be followed.

#### 4. **Nesting Issues.**

1. **Decision Making.** The Nesting Parent shall make the day-to-day decisions regarding the children, including necessary decisions regarding emergency medical or dental care. The parties shall support each other in their roles as parents, and take into account the views of the other for the physical and emotional well-being of Son and Sidney. The parties shall consult and seek to obtain agreement in advance with regard to any activity of Son and Sidney which could reasonably be expected to be of significant concern to, or impact upon, the other.
2. **Care Giving.** The evening/morning Nesting Parent will care for and attend to the needs of the children and of the nesting home, including but not limited to housecleaning, laundry, garbage, animal care, yard care, shopping, transportation and sports.
3. **Bedtime.** The non-nesting parent may attend nightly tuck-ins with the children at bedtime, with a pre-arranged agreement with the Nesting Parent. Such a courtesy call shall be made at least 2 hours before the children's scheduled bedtime and any such tuck-in shall not last longer than 30 minutes.
4. **Family Dinners.** Father, Mother, and children will make an effort to participate together in occasional meals, trips, and events.
5. **Overnights.** The non-nesting parent can spend the night at the nesting home with prior discussion and approval of the Nesting Parent under the following circumstances: if one or both children are ill, the Nesting Parent is ill or there is a family emergency and the Nesting Parent requests assistance, on Christmas Eve, and as otherwise agreed to by both parents.
6. **Church.** The parent who is nesting on Sunday will be responsible for transporting the children to church as regularly as is practical.
7. **Babysitting.** If a parent needs non-work related childcare, they will give the other parent the option of providing any such care before making other arrangements for care.

8. **Rules.** Mother and Father will discuss, establish and enforce nesting house rules, which shall include, but not be limited to, consistent sleeping hours, a television policy, friends visiting, visiting friends, quality snacks, chores, allowances, gifts, and homework.
  9. **Discipline Policy.** Mother and Father will discuss, establish and enforce consistent disciplinary rules. For example: a warning, followed by a 5 minute time out, then a 15 minute time out, and finally a loss of privilege. They also agree not to use spanking or loud yelling as a form of discipline.
  10. **School Preparation.** To help provide a consistent atmosphere for the children in preparation for their school day, Mother and Father will discuss, establish and enforce school morning routines, which may include such issues as preparing for school the night before by laying out 2 clothes choices for each child, choosing breakfast items, packing lunch and snacks, preparing backpacks and checking homework. Mother and Father agree that they will make every effort to budget the morning schedule so the children are not rushed, and to work with each child to assure that the child begins his or her day on a positive note since both parents agree that this will assist the children in having a positive experience at school.
  11. **Parent Notebook.** Mother and Father will use a parent notebook at the nesting home as a means of communicating with each other about plans for the week, comments about the children's schedules, reminders, etc. School notes and information sent home from school will be kept in one agreed upon location in the family home. Deadlines and school events will be marked on an agreed upon calendar and it shall be each parent's responsibility to keep this up to date. They will also establish a house supply list to record on-going needs for the nesting home for such household items as toilet paper, soap, paper towels, etc.
  12. **Self-Evaluations.** Mother and Father will meet once a month to discuss the nesting arrangements and make adjustments as they agree.
  13. **Privacy.** Each parent shall be assigned a closet in the home and shall put a lock on that closet so the other parent does not have access to the locked closet.
  14. **Adult Relationships.** Mother and Father agree that they shall not introduce the children to individuals of the opposite sex who they are dating, unless he or she believes that such a relationship will be a long term relationship, and they believe it is in the children's best interest to make such an introduction. Each parent shall discuss such an introduction with the other parent before making any such introduction to the children. Neither parent will invite any such new partner to spend an overnight at the nesting home, unless by prior agreement with the other parent.
5. **Other Parenting Issues.**
1. **Contact Numbers.** Both parties will provide non-nest addresses and contact telephone numbers to the other party so they can be reached. In the event a parent is taking a child overnight out of town, the other parent shall be notified of the location and a contact telephone number.
  2. **Emergencies.** Each party will immediately notify the other party of any emergency

- circumstances or substantial changes in the health or safety of a child.
3. **Corresponding**. Each party shall have the unlimited right to correspond with the children and to telephone the children during reasonable hours.
  4. **Mediation of Parenting Issues**. Both parents will exert every effort to cooperatively resolve any disagreements they may have concerning children or with the nesting arrangement. If they alone cannot resolve a conflict, they will seek appropriate competent assistance by presenting the disagreement for conflict resolution using the collaborative family law process or for mediation with a mutually agreed-upon counselor, lawyer, or other professional person skilled in resolving the problems of children and their families. This procedure shall be followed to its conclusion before either parent seeks relief from the court. While the dispute is being resolved, neither parent shall take substantial action in the area of the disagreement that would prejudice or take unfair advantage of the other parent .
  5. **Affection and Respect**. Each parent shall exert every effort to foster affection and respect between the children and the other parent. Neither parent shall do anything that would estrange the children from the other parent, that would injure the opinion of a child as to the other parent, or that would impair the natural development of a child's love and respect for each parent.
  6. **Cooperative Parenting**. Both parents agree: To be polite and use only appropriate language with each other and their children. To not make assumptions about or question the other parents behavior without communicating with the other parent. To make agreements with the other parent with commitment and to follow-up with a written confirmation when practical. To work toward clear and complete communications including time and place. To communicate directly and not use the children as messengers. To make every effort to arrive on time. To communicate promptly any schedule change this cannot be avoided. To refrain from modeling behavior for the children which would be detrimental to the child, such as the use of drugs, excessive alcohol, abusive language or conduct. To give quality time to Son and Daughter and to show an interest in the children's activities and interests. To keep his or her promises to the children. To acknowledge and respect any difference they have in parenting techniques and attempt to resolve those differences in favor of the best interests of the children.
  7. **Involvement and Flexibility**. The parenting time schedule should be construed and implemented in a manner which fosters the child's best interests by providing liberal, predictable, and wholesome time between child and parents. While the schedule promotes stability for the child, each parent acknowledges that reasonable adjustments will be needed from time to time and that an element of flexibility will be required in administering the parenting schedule. Each parent should be flexible in arranging dates and time with the child so important family events and the child's activities are maintained with minimal disruption or hard feelings. Each parent shall act reasonably in registering the child for activities keeping in mind that neither parent is entitled to require activities for the child which will take place during the other parent's time with the child. On the other hand, there are activities which occur (such as school, athletic, music and other programs) that, by their very nature,

take place on the other parent's weekend or scheduled parenting time. Although neither parent is required to take a child to any activity, each parent is encouraged to use his or her best effort to keep the child involved in athletic events, school functions, lessons, birthday parties of friends, etc. even though those activities may fall during a parenting period. To do otherwise would deprive the child of valuable growing opportunities. Each parent is encouraged to use a child's activity as an opportunity for the parent to participate with the child, meet the child's friends and other families, and to have a quality experience with the child. When a child is a teenager, the parties shall take into consideration the child's employment and age appropriate activities.

8. **Access to Records and Events.** In addition to the parenting time specified above, unless otherwise ordered by the court, each parent shall have the right to visit with the child at school, attend the child's school activities (such as open house or sports activities), and have full access to school teachers and administrators for complete information about the child in school. Each parent shall also have full access to medical, dental, and psychological records and care providers, as well as access to any government records concerning the child.
9. **Vehicles.** Each parent will keep their automobiles in good repair so the children have safe and reliable transportation.
10. **Moving.** Neither parent shall move to a residence more than 60 miles further distant from the other parent without giving the other parent reasonable notice of the change of residence and providing a copy of such notice to the court. . While nesting, should either parent move to a location greater than 60 miles from the nesting home, the parties at the time of signing this *Judgment* agree that it is in the children's best interest for the children to remain in the nesting home and to not relocate, and that this agreement shall be taken into consideration in any future decision to determine the best interests of the children with regard to any such move by a parent.

## 6. **Education**

1. **Special Classes.** Both parents shall share equally the expense for all mutually agreed upon extra-curricular classes such as, but not limited to, dance, art, music, sports, etc. Should one parent not agree to a particular class, the other parent has the option of paying for any such class in its entirety.
2. **Private schooling.** Both parents shall share the cost of tuition and expense for any mutually agreed private school which Son or Daughter may attend on a pro-rata percentage basis based on their respective gross incomes.
3. **College.**
  1. Father and Mother shall each pay for not less than one-half of four years of college education expenses for Son and Daughter. Neither parent shall be obligated to pay more each year for a child's college expenses than is charged by the state University for room and board for a student living on campus, tuition, books, laboratory fees, and other similar expenses routinely incurred by a student in college. This obligation shall not extend beyond the

children's twenty-second birthday.

2. The obligation to pay for a child's college education is in addition to and is not limited by any statutory provision regarding the payment of child support.. However, payments made for college expenses shall be considered a credit against the monthly support obligation due.
3. Each parent shall pay one-half of any fee charged for standardized testing required for admission, along with reasonable instructional costs incurred to prepare for these tests, application fees, and reasonable transportation to and from prospective colleges for a child for the purpose of interviews and gathering information. This expense shall be in addition to any monthly support obligation.
4. Each party shall assist Son and Daughter in applying for all scholarships, grants, financial aid, loads, or stipends for which the child may be eligible, and shall execute without delay as well as provide any financial and other information required for such applications.

7. **Medical and Health Care Expenses.**

1. **Insurance Policy.** Father shall maintain health insurance for the children, unless otherwise agreed by the parties. The cost of the premium for the policy shall be shared between the parties pursuant to the state child support guidelines, **Uninsured Expenses.** Each party shall pay, indemnify and hold harmless the other party from one-half (1/2) [percentage of income] of all reasonable and necessary health care costs incurred by or on behalf of the children. Such health care costs shall include, but not be limited to, all medical, hospital, dental, orthodontic, optical, naturopathic, chiropractic, homeopathic, acupuncture, medically recommended or agreed upon counseling, prescription expenses and annual insurance deductibles.
2. **Cooperation.** The insuring party shall provide the other party with the name and address of the insurer, the policy number, and claim forms, and shall fully cooperate with the other party in making claims on any such policies that are procured. The party paying any uninsured expenses shall provide the other party with a copy of the billing for the uninsured expenses within a reasonable time of incurring the expense.  
The non-paying party shall reimburse the paying party within fifteen (15) days of receipt of any such notification. If any such expense is later found to be covered by insurance, the paying party shall reimburse the non-paying party within fifteen (15) days of receiving notice of benefits covered by the insurance carrier.
3. **Length of Coverage.** These medical and health care provisions shall continue so long as there exists an obligation to pay child support.

8. **Life Insurance as Security for Child Support.**

1. Both parties shall purchase and maintain a life insurance policy insuring his/her life in the face amount of not less than \$\_\_\_\_\_, designating each other as the irrevocable trustee for the benefit of the children until each reaches age 25.her as

- irrevocable beneficiary.
2. **Providing Copies.** The policy holder shall provide to the other party a true copy of the policy. During the term of the obligation to maintain insurance, and upon reasonable notice, the policy holder shall furnish to the other party upon request, a copy of the policy or evidence of the proper insurance in force with the appropriate beneficiary designation in effect.
  3. **No Encumbrances - Changes.** The policy holder shall maintain the policy, free and clear of any encumbrances, and shall not transfer or assign the policy or any interest.  
The policy holder shall have the right to change insurance policies so long as the coverage provided is equal to or greater than set forth above.
  4. **Copy to Insurance Company.** The beneficiary or the attorney for the beneficiary shall cause a certified copy of the decree to be delivered to the life insurance company or companies. Either party may request notification by the insurer when premium payments have not been made. The policy holder shall provide to the beneficiary written notice of any action that will reduce the benefits or change the designation of the beneficiary under the policy.
  5. **Default.** A party who is the beneficiary of the policy is entitled, in the event of default by the paying party, to pay the premiums on the policy and to obtain judgment for reimbursement of any money so expended. A default in the payment of premiums by the policy holder is a contempt of court.
  6. **Constructive Trust.** A constructive trust shall be imposed over the proceeds of any insurance owned by the insuring party at the time of that party's death if that party fails to maintain insurance in said amount, or if said insurance is in force but another beneficiary is designated to receive said funds.

## Last Name

### Holiday Parenting Schedule

HOLIDAY	Mother	Father	TIMES
Spring Vacation	Odd Numbered Years	Even	10 am day school adjourns - 6 pm day before sch. resumes
Easter Weekend	Even	Odd	6 pm Friday - 6 pm Sunday
Memorial Day Weekend	Odd	Even	6 pm Friday - 6 pm Monday
July Fourth	Odd	Even	10 am July 4 <sup>th</sup> - 10 am July 5 <sup>th</sup>
Labor Day Weekend	Even	Odd	6 pm Friday - 6 pm Monday

Halloween	Even	Odd	5 pm - 9 pm
Thanksgiving Weekend	Odd	Even	6 pm Thursday - 6 pm Sunday
Christmas Eve and Morning	Shared at Nest	Shared at Nest	
First Part of December Holiday	Even	Odd	6 pm day school adjourns - 10 am December 25 <sup>th</sup>
Second Part of December Holiday	Odd	Even	Christmas Eve and Morning
Son's Birthday	Shared at Nest	Shared at Nest	Both attend party or option of 2 hrs as agreed, considering party plans and work schedules
Daughter's Birthday	Shared at Nest	Shared at Nest	Shared at Nest
Parent Birthdays	Every	Every	10 am - 7 pm, if a school night: 6:30 - 8:30 pm
Parent Holidays	Mother's Day	Father's Day	10 am - 7 pm

## APPENDIX 10

**SPLIT CUSTODY OF TWO CHILDREN**

*Note: In this form, MOTHER has primary custody of CHILD 1, and FATHER has primary custody of CHILD 2. Possession is scheduled to put the children together when possible.*

(c) Possession of CHILD 1

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of CHILD 1 as follows:

Comment [COMMENT1]: • FATHER

1. Weekends

On weekends, beginning at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.], on the second and fourth Friday of each month and ending at [select one: 6:00 p.m. on the following Sunday/the time the child's school resumes after the weekend].

2. Weekend Possession Extended by a Holiday

Except as otherwise explicitly provided in this Possession Order, if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.] on the Thursday immediately preceding the Friday holiday or school holiday or end [select one: at 6:00 p.m. on that Monday holiday or school holiday/at 6:00 p.m. on that Monday holiday or at the time school resumes after that school holiday], as applicable.

3. Thursdays

On Thursday of each week during the regular school term, beginning at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.] and ending at [select one: 8:00 p.m./the time the child's school resumes on Friday].

(d) Possession of CHILD 2

Comment [COMMENT2]: • MOTHER

Except as otherwise explicitly provided in this Possession Order, MOTHER shall have the right to possession of CHILD 2 as follows:

Comment [COMMENT3]: • FATHER

1. Weekends

On weekends, beginning at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.], on the first and third Friday of each month and ending at [select one: 6:00 p.m. on the following Sunday/the time the child's school resumes after the weekend].

2. Weekend Possession Extended by a Holiday

Except as otherwise explicitly provided in this Possession Order, if a weekend period of possession by MOTHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.] on the Thursday immediately preceding the Friday holiday or school holiday or end [select one: at 6:00 p.m. on that Monday holiday or school holiday/at 6:00 p.m. on that Monday holiday or at the time school resumes after that school holiday], as applicable.

3. Tuesdays

On Tuesdays of each week during the regular school term, beginning at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.] and ending at [select one: 8:00 p.m./the time the child's school resumes on Friday].

(e) Holidays - Both Children

Comment [COMMENT4]: • MOTHER

Notwithstanding the weekend and Thursday periods of possession of FATHER, and notwithstanding the weekend and Tuesday periods of possession of MOTHER, MOTHER and FATHER shall have the right to possession of CHILD 1 and CHILD 2 as follows:

1. Christmas Holidays in Even-Numbered Years

In even-numbered years, FATHER shall have the right to possession of CHILD 1 and CHILD 2 beginning at [select one: 6:00 P.M./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 P.M.] on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 28, and MOTHER shall have the right to possession of CHILD 1 and CHILD 2 beginning at noon on December 28 and ending at 6:00 P.M. on the day before school resumes after that Christmas school vacation.

2. Christmas Holidays in Odd-Numbered Years

In odd-numbered years, MOTHER shall have the right to possession of CHILD 1 and CHILD 2 beginning at 6:00 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 28, and FATHER shall have the right to possession of CHILD 1 and CHILD 2 beginning at noon on December 28 and ending at [select one: 6:00 p.m. on the day before/the time] the child's school resumes after that Christmas school vacation.

3. Thanksgiving in Odd-Numbered Years

In odd-numbered years, FATHER shall have the right to possession of CHILD 1 and CHILD 2 beginning at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.] on the day the child is dismissed from school for the Thanksgiving holiday and ending at [select one: 6:00 p.m. on the Sunday following Thanksgiving/the time the child's school resumes after that Thanksgiving holiday].

4. Thanksgiving in Even-Numbered Years

In even-numbered years, MOTHER shall have the right to possession of CHILD 1 and CHILD 2 beginning at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.] on the day the child is dismissed from school for the Thanksgiving holiday and ending at [select one: 6:00 p.m. on the Sunday following Thanksgiving/the time the child's school resumes after that Thanksgiving holiday].

5. Spring Break in Even-Numbered Years

In even-numbered years, MOTHER shall have the right to possession of CHILD 1 and CHILD 2 beginning at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.] on the day the child is dismissed from school for the spring break vacation and ending at [select one: 6:00 p.m. on the Sunday following the spring break vacation/the time the child's school resumes after that spring break holiday].

6. Spring Break in Odd-Numbered Years

In even-numbered years, FATHER shall have the right to possession of CHILD 1 and CHILD 2 beginning at [select one: 6:00 p.m./the time the child's school is regularly dismissed/or specify other time elected between school dismissal and 6:00 p.m.] on

the day the child is dismissed from school for the spring break vacation and ending at [select one: 6:00 p.m. on the Sunday following spring break vacation/the time the child's school resumes after that spring break vacation].

7. Child's Birthday

If a conservator is not otherwise entitled under this Possession Order to present possession of a child on the child's birthday, that conservator shall have possession of the child and the child's siblings beginning at 6:00 p.m. and ending at 8:00 p.m. on that day, provided that that conservator picks up the children from the other conservator's residence and returns the children to that same place.

**Comment [COMMENT5]:** <sup>5</sup> Possession of siblings on a child's birthday is not part of the standard possession order.

8. Father's Day Weekend

Father shall have the right to possession of CHILD 1 and CHILD 2 each year, beginning at 6:00 p.m. on the Friday preceding Father's Day and ending at 6:00 p.m. on Father's Day, provided that if Father is not otherwise entitled under this Possession Order to present possession of the child, he shall pick up the child from the other conservator's residence and return the child to that same place.

9. Mother's Day Weekend

Mother shall have the right to possession of CHILD 1 and CHILD 2 each year, beginning at 6:00 p.m. on the Friday preceding Mother's Day and ending at 6:00 p.m. on Mother's Day, provided that if Mother is not otherwise entitled under this Possession Order to present possession of the child, she shall pick up the child from the other conservator's residence and return the child to that same place.

10. Summer Possession

**INCLUDE APPLICABLE SUMMER PROVISION SUCH AS EACH PARENT HAVING 14 DAYS WITH BOTH CHILDREN – SEE APPENDIX 25.**

(f) Undesignated Periods of Possession

MOTHER shall have the right of possession of CHILD 1 at all other times not specifically designated in this Possession Order for FATHER.

**Comment [COMMENT6]:** *f. Undesignated Periods of Possession*

FATHER shall have the right of possession of CHILD 2 at all other times not specifically designated in this Possession Order for MOTHER.

**Comment [COMMENT7]:** *g. General Terms and Conditions*

## APPENDIX 11

**AIRLINE EMPLOYEE'S POSSESSION ORDER**

*Note: This form can be adapted for use with anyone who has a work schedule that changes periodically.*

(c) Variable Schedule

The Court finds that FATHER is currently employed as an airline pilot with \_\_\_\_\_ Airlines and, due to his work and flight schedule, he is currently unable to exercise predictable periods of possession occurring on the same days of each month. The Court finds that FATHER receives his work and flight schedule on or about the same day of each month and that the schedule sets out the hours FATHER is to work the following month.

IT IS ORDERED that within 48 hours of receiving his monthly work schedule from his employer, FATHER shall provide a true and correct copy of his schedule to MOTHER by hand-delivery or by facsimile, and shall designate his periods of possession in accordance with this order, by using the form attached to this order as Exhibit A. Upon receipt of FATHER's schedule and designation of periods of possession, MOTHER shall promptly notify FATHER of any conflict in scheduling and both parties shall work together to resolve any such conflict. In the event FATHER agrees to modify his designation of a period of possession in response to MOTHER's notification, FATHER shall have the right to possession of the child during the alternate periods of possession he agrees to take.

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child as follows:

1. Weekends

Two weekends of his choice each month, beginning at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**], on Friday and ending at [**select one:** 6:00 P.M. on the following Sunday/the time the child's school resumes after the weekend].

2. Weekend Possession Extended by a Holiday

Except as otherwise explicitly provided in this Possession Order, if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**] on the Thursday immediately preceding the Friday holiday or school holiday or end [**select one:** at 6:00 P.M. on that Monday holiday or school

holiday/at 6:00 P.M. on that Monday holiday or at the time school resumes after that school holiday], as applicable.

3. Weekdays

One weekday of his choice (excluding Fridays) each week during the regular school term, beginning at [select **one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**] and ending at [select **one:** 8:00 P.M./the time the child's school resumes the following day].

**INCLUDE HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

**[OPTIONAL]**

IT IS ORDERED that the preceding Possession Order shall apply until such time as FATHER is no longer employed as an airline pilot. In the event FATHER is no longer employed as an airline pilot, IT IS ORDERED that the conservators shall have the right to possession of the child as follows:

**INCLUDE STANDARD POSSESSION ORDER**

## APPENDIX 12

**NOTICE/ELECTION OF POSSESSION TIMES - AIRLINE EMPLOYEE'S**

*Note: Attach this to the decree as an Exhibit.*

## EXHIBIT A

(attach as form to order)

TO: MOTHER  
 FROM: FATHER  
 DATE: \_\_\_\_\_

Pursuant to the Court's Possession Order, I will exercise my right to possession of our children for the month of \_\_\_\_\_, 201\_\_\_\_, as follows:

**1. Weekends—The following two weekends:**

**WEEKEND ONE OF TWO CHOICES:**

- (1) Beginning at the time the child's school is regularly dismissed on Friday, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on Monday, \_\_\_\_\_, 201\_\_\_\_.

[Complete the appropriate choice of the following if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday:]

Because of the Friday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_\_\_, will begin at the time the child's school is regularly dismissed on Thursday, \_\_\_\_\_, 201\_\_\_\_; or

Because of the Monday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_\_\_, will end at the time school resumes on Tuesday, \_\_\_\_\_, 201\_\_\_\_.

WEEKEND TWO OF TWO CHOICES:

- (2) Beginning at the time the child's school is regularly dismissed on Friday, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on Monday, \_\_\_\_\_, 201\_\_\_\_.

[Complete the appropriate choice of the following if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday:]

Because of the Friday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_\_\_, will begin at the time the child's school is regularly dismissed on Thursday, \_\_\_\_\_, 201\_\_\_\_; or

Because of the Monday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_\_\_, will end at the time school resumes on Tuesday, \_\_\_\_\_, 201\_\_\_\_.

2. **Weekdays—The following weekdays (not Fridays):**

WEEKDAY OF FIRST WEEK:

- (1) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

WEEKDAY OF SECOND WEEK:

- (2) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

WEEKDAY OF THIRD WEEK:

- (3) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

WEEKDAY OF FOURTH WEEK:

- (4) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

WEEKDAY OF FIFTH WEEK (IF APPLICABLE):

- (5) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

Pursuant to the Court's Possession Order, the following provisions for surrender and return of the children apply **(the attorney should edit these to conform with the order)**:

1. Surrender of Child by MOTHER—MOTHER is ORDERED to surrender the child to FATHER at the beginning of each period of FATHER's possession at the residence of MOTHER.

If a period of possession by FATHER begins at the time the child's school is regularly dismissed, MOTHER is ORDERED to surrender the child to FATHER at the beginning of each such period of possession at the school in which the child is enrolled. If the child is not in school, FATHER shall pick up the child at the residence of MOTHER at [time], and MOTHER is ORDERED to surrender the child to FATHER at the residence of MOTHER at [time] under these circumstances.

2. Surrender of Child by FATHER—FATHER is ORDERED to surrender the child to MOTHER at the residence of FATHER at the end of each period of possession.

**[OR]** 2. Return of Child by FATHER—FATHER is ORDERED to return the child to the residence of MOTHER at the end of each period of possession. However, it is ORDERED that, if MOTHER and FATHER live in the same county at the time of rendition of this order, FATHER's county of residence remains the same after rendition of this order, and MOTHER's county of residence changes, effective on the date of the change of residence by MOTHER, FATHER shall surrender the child to MOTHER at the residence of FATHER at the end of each period of possession.

If a period of possession by FATHER ends at the time the child's school resumes, FATHER is ORDERED to surrender the child to MOTHER at the end of each such period of possession at the school in which the child is enrolled or, if the child is not in school, at the residence of MOTHER at [time].

## APPENDIX 13

**FIREFIGHTER'S POSSESSION ORDER – OPTION #1****(b) Findings and Notification Requirements**

The Court finds that FATHER is currently employed as a firefighter with the \_\_\_\_\_ Fire Department and works 24-hour shifts, beginning and ending at 7:00 a.m., with 48 hours off in between shifts. The Court further finds that due to his work schedule, FATHER is currently unable to exercise predictable periods of possession occurring on the same days of each month. The Court finds that an annual calendar of FATHER's scheduled work days is published by the \_\_\_\_\_ Firefighters Union Local \_\_\_\_\_ in advance of each calendar year. IT IS ORDERED that within ten days of FATHER's receipt of the printed work schedule for the following calendar year, FATHER shall provide a true and correct copy of such schedule to MOTHER by hand-delivery, facsimile, or first-class mail.

**(c) Mutual Agreement or Specified Terms for Possession**

IT IS ORDERED that the conservators shall have possession of the child at times mutually agreed to in advance by the parties, and, in the absence of mutual agreement, it is ORDERED that the conservators shall have possession of the child under the specified terms set out in this Possession Order.

**(d) Weekend and Weekday Periods of Possession During the Regular School Term**

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to weekend and weekday possession of the child during the regular school term as follows:

**1. Weekends**

- a. When FATHER's regular work shift ends on a Friday, then FATHER shall have the right to possession of the child beginning at the time the child's school is regularly dismissed on the Friday on which his shift ends and ending at 8:00 P.M. on the following Saturday.
- b. When FATHER's regular work shift ends on a Saturday, then FATHER shall have the right to possession of the child beginning at 9:00 a.m. on the Saturday on which his shift ends and ending at 8:00 P.M. on the following Sunday.

**2. Weekdays**

When FATHER's regular work shift ends on a Monday, Tuesday, Wednesday or Thursday, then FATHER shall have the right to possession of the child beginning

at the time the child's school is regularly dismissed on the day on which his shift ends and ending at the time the child's school resumes the following day.

(e) **Weekend and Weekday Periods of Possession During the Summer**

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to weekend and weekday possession of the child during the summer as follows:

1. Weekends  
When FATHER's regular work shift ends on a Saturday, then FATHER shall have the right to possession of the child beginning at 9:00 a.m. on the Saturday on which his shift ends and ending at 8:00 P.M. on the following Sunday.
2. Weekdays  
When FATHER's regular work shift ends on a Monday, then FATHER shall have the right to possession of the child beginning at 9:00 a.m. on the Monday on which his shift ends and ending at 8:00 P.M. on the following Tuesday.

**INCLUDE HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

**[OPTIONAL]**

IT IS ORDERED that the preceding Possession Order shall apply until such time as FATHER is no longer employed as a firefighter working 24-hour shifts. In the event FATHER is no longer employed as a firefighter working 24-hour shifts, IT IS ORDERED that the conservators shall have the right to possession of the child as follows:

**INCLUDE STANDARD POSSESSION ORDER**

**APPENDIX 14****FIREFIGHTER'S POSSESSION ORDER – OPTION #2****(c) Possession Provisions Based on FATHER's Employment**

The Court finds that the parties agree and IT IS THEREFORE ORDERED that so long as FATHER is employed by a fire department and does not work a standard work week consisting of Monday through Friday standard hours, FATHER shall have the right to possession of and access to the child on weekends beginning on the first, third and fifth Friday of each month. IT IS FURTHER ORDERED that FATHER's weekend possession is specifically defined as follows:

1. If FATHER does not work on Saturday or Sunday of a first, third or fifth weekend, he shall have possession of the child beginning at 9:00 a.m. on Saturday and ending at 6:00 p.m. on the immediately following Sunday.

2. If FATHER works on Saturday of a first, third or fifth weekend, he shall have possession of the child beginning at 9:00 a.m. on Sunday of said weekend and ending at the time school dismisses on the immediately following Monday.

3. If FATHER works on Sunday of a first, third or fifth weekend, he shall have possession of the child beginning at the time school regularly resumes on Friday of said weekend and ending at 6:00 p.m. on the immediately following Saturday.

4. Additionally, FATHER shall have possession of the child for one overnight period each week during the regular school term as mutually agreed by the parties during which FATHER is not working beginning at the time the child's school is dismissed, or at 6:00 p.m. on the mutually agreed upon day and ending at the time the child's school regularly resumes, or at 9:00 a.m. if the child's school not in session, on the immediately following day.

5. In the event MOTHER and FATHER do not reach mutual agreement for the mid-week overnight possession of FATHER in a calendar month, then MOTHER shall designate two (2) mid-week overnight periods of possession during which FATHER shall have possession of the child for that month and FATHER shall also designate two (2) mid-week overnight periods of possession during which he shall have possession of the child during that month.

6. Spring Break in Even-Numbered Years - In even-numbered years, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

7. Extended Summer Possession by FATHER –

With Written Notice by April 1 - If FATHER gives MOTHER written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, FATHER shall have possession of the child for 14 consecutive days in June and 14 consecutive days in July beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year. These periods of possession shall begin and end at 6:00 p.m.

Without Written Notice by April 1 - If FATHER does not give MOTHER written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, FATHER shall have possession of the child for 14 days in June and 14 days in July that year beginning at 6:00 p.m. on June 1 and ending at 6:00 p.m. on June 14 and beginning at 6:00 p.m. on July 1 and ending at 6:00 p.m. on July 14.

Notwithstanding the weekend and mid-week periods of possession ORDERED for FATHER, it is explicitly ORDERED that MOTHER shall have a right of possession of the child as follows:

1. Spring Break in Odd-Numbered Years - In odd-numbered years, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

2. Summer Weekend Possession by MOTHER - If MOTHER gives FATHER written notice by April 15 of a year, MOTHER shall have possession of the child on any one weekend beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday during any one period of the extended summer possession by FATHER in that year, provided that MOTHER picks up the child from FATHER and returns the child to that same place and that the weekend so designated does not interfere with Father's Day Weekend.

3. Extended Summer Possession by MOTHER - If MOTHER gives FATHER written notice by April 15 of a year or gives FATHER fourteen days' written notice on or after April 16 of a year, MOTHER may designate one weekend beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation, during which an otherwise scheduled weekend period of possession by FATHER shall not take place in that year, provided that the weekend so designated does not interfere with FATHER period or periods of extended summer possession or with Father's Day Weekend.

(d) Parents Who Reside 100 Miles or Less Apart and FATHER No Longer is Firefighter

Except as otherwise explicitly provided in this Possession Order, when FATHER resides 100 miles or less from the primary residence of the child and works standard daytime, Monday

through Friday, shifts *or is no longer employed by a fire department*, FATHER shall have the right to possession of the child as follows:

**INCLUDE STANDARD POSSESSION SCHEDULE**

## APPENDIX 15

**POLICE OFFICER'S POSSESSION ORDER**

*Note: This form can be adapted for use with anyone who has a work schedule that changes periodically.*

(c) Variable Schedule

The Court finds that FATHER is currently employed as a police officer with the \_\_\_\_\_ Police Department and, due to his work schedule, he is currently unable to exercise predictable periods of possession occurring on the same days of each month. The Court finds that FATHER receives his work schedule in advance every three months and that the schedule sets out the hours FATHER is to work the following three months.

IT IS ORDERED that within 7 days of receiving his work schedule for the next three months from his employer, FATHER shall provide a true and correct copy of his schedule to MOTHER by hand-delivery, facsimile, or first-class mail, and shall designate his periods of possession in accordance with this order, by using the form attached to this order as Exhibit A. Upon receipt of FATHER's schedule and designation of periods of possession, MOTHER shall promptly notify FATHER of any conflict in scheduling and both parties shall work together to resolve any such conflict. In the event FATHER agrees to modify his designation of a period of possession in response to MOTHER's notification, FATHER shall have the right to possession of the child during the alternate periods of possession he agrees to take.

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child as follows:

1. Weekends

Two weekends of his choice each month, beginning at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**], on Friday and ending at [**select one:** 6:00 P.M. on the following Sunday/the time the child's school resumes after the weekend].

2. Weekend Possession Extended by a Holiday

Except as otherwise explicitly provided in this Possession Order, if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**] on the Thursday immediately preceding the Friday holiday or school

holiday or end [**select one:** at 6:00 P.M. on that Monday holiday or school holiday/at 6:00 P.M. on that Monday holiday or at the time school resumes after that school holiday], as applicable.

3. Weekdays

One weekday of his choice (excluding Fridays) each week during the regular school term, beginning at [**select one:** 6:00 P.M./the time the child's school is regularly dismissed/**or specify other time elected between school dismissal and 6:00 P.M.**] and ending at [**select one:** 8:00 P.M./the time the child's school resumes the following day].

**INCLUDE HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

**[OPTIONAL]**

IT IS ORDERED that the preceding Possession Order shall apply until such time as FATHER is no longer employed as a police officer. **In the event FATHER is no longer employed as a police officer,** IT IS ORDERED that the conservators shall have the right to possession of the child as follows:

**INCLUDE STANDARD POSSESSION ORDER**

## APPENDIX 16

**NOTICE/ELECTION OF POSSESSION TIMES – POLICE OFFICER**

*Note: Attach this to the decree as an Exhibit.*

## EXHIBIT A

(attach as form to order)

TO: MOTHER

FROM: FATHER

DATE: \_\_\_\_\_

Pursuant to the Court's Possession Order, I will exercise my right to possession of our children for the three months of \_\_\_\_\_, 201\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and \_\_\_\_\_, 201\_\_\_\_, as follows:

**1. Weekends—The following two weekends each month for the three months indicated:**

WEEKEND ONE OF TWO CHOICES IN \_\_\_\_\_, 201\_\_\_\_:

(1) Beginning at the time the child's school is regularly dismissed on Friday, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on Monday, \_\_\_\_\_, 201\_\_\_\_.

[Complete the appropriate choice of the following if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday:]

Because of the Friday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_\_\_, will begin at the time the child's school is regularly dismissed on Thursday, \_\_\_\_\_, 201\_\_\_\_; or

Because of the Monday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_\_\_, will end at the time school resumes on Tuesday, \_\_\_\_\_, 201\_\_\_\_.

WEEKEND TWO OF TWO CHOICES IN \_\_\_\_\_, 201\_\_ :

(2) Beginning at the time the child's school is regularly dismissed on Friday, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on Monday, \_\_\_\_\_, 201\_\_.

[Complete the appropriate choice of the following if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday:]

Because of the Friday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_, will begin at the time the child's school is regularly dismissed on Thursday, \_\_\_\_\_, 201\_\_; or

Because of the Monday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_, will end at the time school resumes on Tuesday, \_\_\_\_\_, 201\_\_.

WEEKEND ONE OF TWO CHOICES IN \_\_\_\_\_, 201\_\_ :

(1) Beginning at the time the child's school is regularly dismissed on Friday, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on Monday, \_\_\_\_\_, 201\_\_.

[Complete the appropriate choice of the following if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday:]

Because of the Friday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_, will begin at the time the child's school is regularly dismissed on Thursday, \_\_\_\_\_, 201\_\_; or

Because of the Monday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_, will end at the time school resumes on Tuesday, \_\_\_\_\_, 201\_\_.

WEEKEND TWO OF TWO CHOICES IN \_\_\_\_\_, 201\_\_ :

(2) Beginning at the time the child's school is regularly dismissed on Friday, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on Monday, \_\_\_\_\_, 201\_\_.

\_\_\_\_\_, 201\_\_.

[Complete the appropriate choice of the following if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday:]

Because of the Friday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_, will begin at the time the child's school is regularly dismissed on Thursday, \_\_\_\_\_, 201\_\_; or

Because of the Monday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_, will end at the time school resumes on Tuesday, \_\_\_\_\_, 201\_\_.

WEEKEND ONE OF TWO CHOICES IN \_\_\_\_\_, 201\_\_ :

(1) Beginning at the time the child's school is regularly dismissed on Friday, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on Monday, \_\_\_\_\_, 201\_\_.

[Complete the appropriate choice of the following if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday:]

Because of the Friday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_, will begin at the time the child's school is regularly dismissed on Thursday, \_\_\_\_\_, 20\_\_; or

Because of the Monday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_, will end at the time school resumes on Tuesday, \_\_\_\_\_, 201\_\_.

WEEKEND TWO OF TWO CHOICES IN \_\_\_\_\_, 201\_\_ :

(2) Beginning at the time the child's school is regularly dismissed on Friday, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on Monday, \_\_\_\_\_, 201\_\_.

[Complete the appropriate choice of the following if a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday:]

Because of the Friday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_\_\_, will begin at the time the child's school is regularly dismissed on Thursday, \_\_\_\_\_, 201\_\_\_\_; or

Because of the Monday holiday, the weekend beginning on Friday, \_\_\_\_\_, 201\_\_\_\_, will end at the time school resumes on Tuesday, \_\_\_\_\_, 201\_\_\_\_.

**2. Weekdays—The following weekdays (not Fridays):**

**WEEKDAY OF FIRST WEEK:**

(1) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

**WEEKDAY OF SECOND WEEK:**

(2) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

**WEEKDAY OF THIRD WEEK:**

(3) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

**WEEKDAY OF FOURTH WEEK:**

(4) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following

day, \_\_\_\_\_, 201\_\_.

WEEKDAY OF FIFTH WEEK:

(5) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_.

WEEKDAY OF SIXTH WEEK:

(6) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_.

WEEKDAY OF SEVENTH WEEK:

(7) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_.

WEEKDAY OF EIGHTH WEEK:

(8) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_.

WEEKDAY OF NINTH WEEK:

(9) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_.

WEEKDAY OF TENTH WEEK:

(10) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

WEEKDAY OF ELEVENTH WEEK:

(11) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

WEEKDAY OF TWELFTH WEEK:

(12) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

WEEKDAY OF THIRTEENTH WEEK (IF APPLICABLE):

(13) Beginning at the time the child's school is regularly dismissed on \_\_\_\_\_, \_\_\_\_\_, 201\_\_\_\_, and ending at the time the child's school resumes on the following day, \_\_\_\_\_, 201\_\_\_\_.

Pursuant to the Court's Possession Order, the following provisions for surrender and return of the children apply to these periods of possession (**the attorney should edit these to conform with the order**):

1. Surrender of Child by MOTHER—MOTHER is ORDERED to surrender the child to FATHER at the beginning of each period of FATHER's possession at the residence of MOTHER.

If a period of possession by FATHER begins at the time the child's school is regularly dismissed, MOTHER is ORDERED to surrender the child to FATHER at the beginning of each such period of possession at the school in which the child is enrolled. If the child is not in school, FATHER shall pick up the child at the residence of MOTHER at [**time**], and MOTHER is

ORDERED to surrender the child to FATHER at the residence of MOTHER at [time] under these circumstances.

2. Surrender of Child by FATHER—FATHER is ORDERED to surrender the child to MOTHER at the residence of FATHER at the end of each period of possession.

**[OR]** 2. Return of Child by FATHER—FATHER is ORDERED to return the child to the residence of MOTHER at the end of each period of possession. However, it is ORDERED that, if MOTHER and FATHER live in the same county at the time of rendition of this order, FATHER's county of residence remains the same after rendition of this order, and MOTHER's county of residence changes, effective on the date of the change of residence by MOTHER, FATHER shall surrender the child to MOTHER at the residence of FATHER at the end of each period of possession.

If a period of possession by FATHER ends at the time the child's school resumes, FATHER is ORDERED to surrender the child to MOTHER at the end of each such period of possession at the school in which the child is enrolled or, if the child is not in school, at the residence of MOTHER at [time].

**APPENDIX 17****CONTRACTOR / CONSULTANT'S POSSESSION ORDER**(c) Variable Schedule

The Court finds that FATHER is currently employed on a contract basis for different companies worldwide, and, due to his work schedule, he is currently unable to exercise predictable periods of possession occurring on the same days of each month. The Court further finds that FATHER is able to control, somewhat, his work and flight schedule each month.

IT IS ORDERED that FATHER shall provide a true and correct copy of his work and travel schedule to MOTHER by hand-delivery, email, or by facsimile for each month by the 28<sup>th</sup> day of the month prior (or in the event he has less than one month's notice of business travel, then not less than 48 hours' notice to MOTHER) and shall designate his periods of possession in accordance with this order, by using the form attached to this order as Exhibit "C". Upon receipt of FATHER's schedule and designation of periods of possession, MOTHER shall promptly notify FATHER of any conflict in scheduling and both parties shall work together to resolve any such conflict. In the event FATHER agrees to modify his designation of a period of possession in response to MOTHER's notification, FATHER shall have the right to possession of the child during the alternate periods of possession he agrees to take.

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child as follows:

1. Weekends

Two weekends of his choice each month, beginning at the time the child's school is regularly dismissed on Friday (or 4:00 p.m. on Friday if school is not in session) and ending at the time the child's school resumes after the weekend (or 8:00 a.m. on Monday if school is not in session). For months containing five (5) weekends, the parties shall alternate possession for that 5<sup>th</sup> weekend, with MOTHER's having the first fifth weekend which occurs after the entry of this decree.

2. Weekdays

Nine weekdays of his choice (excluding Fridays) each month during the regular school term, beginning at the time the child's school is regularly dismissed and ending at the time the child's school resumes the following day.

**INCLUDE HOLIDAYS/SUMMER PROVISIONS ACCORDINGLY**

## APPENDIX 18

**PARENT WITH SUBSTANCE ABUSE PROBLEM WITH INCREASING LEVELS OF POSSESSION AND CONTINUED TESTING AS A CONDITION TO POSSESSION***Possession Order*

The Court finds that the following provisions of this Possession Order are intended to and do comply with the requirements of Texas Family Code sections 153.311 through 153.317. IT IS ORDERED that each conservator shall comply with all terms and conditions of this Possession Order. IT IS ORDERED that this Possession Order is effective immediately and applies to all periods of possession occurring on and after the date the Court signs this Possession Order.

IT IS ORDERED that MOTHER's periods of possession of the children shall be conditioned upon the compliance with the provisions as set forth in the Testing by Hair Follicle Analysis, Testing by Urinalysis, and Possession of Children Conditioned on Compliance provisions included herein. IT IS ORDERED that if MOTHER tests positive on any drug test MOTHER'S periods of possession shall return to a Level 1 possession schedule for 60 days and proceed through the cycle levels again. IT IS ORDERED that upon the occurrence of a third violation MOTHER'S periods of possession shall be abated until further order to the court.

IT IS, THEREFORE, ORDERED:

(a) Definitions

1. In this Possession Order "school" means the primary or secondary school in which the child is enrolled or, if the child is not enrolled in a primary or secondary school, the public school district in which the child primarily resides.

2. In this Standard Possession Order "child" includes each child, whether one or more, who is a subject of this suit while that child is under the age of eighteen years and not otherwise emancipated.

(b) Mutual Agreement or Specified Terms for Possession

IT IS ORDERED that the conservators shall have possession of the child at times mutually agreed to in advance by the parties, and, in the absence of mutual agreement, it is ORDERED that the conservators shall have possession of the child under the specified terms set out in this Possession Order.

(c) Possession of Children Conditioned on Compliance

IT IS ORDERED that the following periods of possession awarded to MOTHER

herein above are expressly conditioned on MOTHER's abstaining from the use of alcohol and drugs, and MOTHER's compliance with the provisions of this order regarding Testing by Hair Follicle Analysis and Testing by Urinalysis herein.

IT IS FURTHER ORDERED that MOTHER's rights to possession of the children will be immediately suspended until further order of the Court upon MOTHER's occurrence of a third violation of any of the following listed below:

1. Consumes alcohol, uses any illegal substance, uses any prescription medication without a valid prescription, consumes opiates, or abuses any prescription or nonprescription substance;
2. Tests positive for alcohol or drug use or any opiates;
3. Refuses to submit to a random alcohol and/or drug test as required by the terms of this order;
4. Tampers with any sample to be tested in order to achieve a desired result;
5. Tests positive in a test for alcohol by a law enforcement agency;
6. Is convicted with any alcohol-related crime or drug-related crime; or
7. Fails to do any action as requested by [expert] when [expert's] provision below is activated.

**Level One:**

MOTHER shall have all of her possession and access of the children as set forth below supervised by the children's nanny or any person agreed to by FATHER beginning \_\_\_\_\_ and continuing for 30 days. MOTHER shall be solely responsible for any and all costs associated with supervised possession.

- a. Each Saturday following the first, third and fifth Friday beginning at 9:00 a.m. and ending that same day at 6:00 p.m.
- b. Each Sunday following the first, third and fifth Friday beginning at 9:00 a.m. and ending that same day at 6:00 p.m.; and
- c. Each Thursday beginning at 6:00 p.m. and ending that day at 8:00 p.m.

**Level 2:**

MOTHER shall have unsupervised possession and access of the children as set forth below for 60 days starting on the day after completing Level 1 above.

- a. Each Saturday following the first, third and fifth Friday of the month beginning at 9:00 a.m. and ending that same day at 6:00 p.m.
- b. Each Sunday following the first, third and fifth Friday of the month beginning at 9:00 a.m. and ending that same day at 6:00 p.m.
- c. Each Thursday beginning at 6:00 p.m. and ending that day at 8:00 p.m.
- d. Christmas, 2009: MOTHER shall have possession of the children beginning at Noon on December 24<sup>th</sup> and ending at 10:30 a.m. on December 25<sup>th</sup>. FATHER shall pick up the children from MOTHER on December 25<sup>th</sup> at her residence or her parent's residence.

**Level 3:**

MOTHER shall have unsupervised possession and access of the children as set forth below for 6 months starting on the day after completing Level 2 above.

Standard possession as defined by the Texas Family Code with the exception of the following:

1. Weekends  
On weekends that occur during the regular school term, beginning at 6:00 p.m., on the first, third, and fifth Friday of each month and ending the following Sunday at 6:00 p.m.  
  
On weekends that do not occur during the regular school term, beginning at 6:00 p.m., on the first, third, and fifth Friday of each month and ending at 6:00 p.m. on the following Sunday.
2. Weekend Possession Extended by a Holiday  
Except as otherwise explicitly provided in this Standard Possession Order, if a weekend period of possession by MOTHER begins on a Friday that is a student holiday or teacher in-service day during the regular school term, as determined by the school in which the child is enrolled, or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at 6:00 p.m. on the Thursday immediately preceding the Friday holiday, student holiday or teacher in-service day or end at 6:00 p.m. on

that Monday holiday, student holiday or teacher in-service day, as applicable.

3. Thursdays  
On Thursday of the first, third, and fifth weeks during the regular school term, beginning at 6:00 p.m. and ending at 8:00 a.m. On Thursdays of the second and fourth weeks throughout the year beginning at 6:00 p.m. and ending the following Friday at 8:00 a.m.
4. Spring Break in Even-Numbered Year  
In even-numbered years, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.
5. Summer 2012  
MOTHER shall have two (2) non-consecutive one week uninterrupted periods of possession of the children. MOTHER shall give FATHER written notice by April 15, 2012 of the dates each one week period of possession shall begin, provided that the periods of extended summer possession do not interfere with Father's Day Weekend.

Notwithstanding the Thursday periods of possession during the regular school term and the weekend periods of possession ORDERED for MOTHER, it is explicitly ORDERED that FATHER shall have a superior right of possession of the child as follows:

1. Spring Break in Odd-Numbered Years  
In odd-numbered years, beginning at the time the child's school is regularly dismissed on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.
2. Summer Weekend Possession by FATHER  
If FATHER gives MOTHER written notice by April 15 of a year, FATHER shall have possession of the child on any one weekend beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday during any one period of the extended summer possession by MOTHER in that year, provided that FATHER picks up the child from MOTHER and returns the child to that same place.
3. Extended Summer Possession by FATHER  
If FATHER gives MOTHER written notice by April 15 of a year or gives MOTHER fourteen days' written notice on or after April 16 of a year, FATHER may designate one weekend beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation, during which an

otherwise scheduled weekend period of possession by MOTHER shall not take place in that year, provided that the weekend so designated does not interfere with MOTHER's period or periods of extended summer possession.

Holidays Unaffected by Distance for Level 3:

Notwithstanding the weekend and Thursday periods of possession of MOTHER, FATHER and MOTHER shall have the right to possession of the child as follows:

1. Christmas Holidays in Odd-Numbered Years  
In odd-numbered years, MOTHER shall have the right to possession of the child beginning at 6:00 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 28, and FATHER shall have the right to possession of the child beginning at noon on December 28 and ending at the time the child's school resumes after that Christmas school vacation.
2. Christmas Holidays in Even-Numbered Years  
In even-numbered years, FATHER shall have the right to possession of the child beginning at the time the child's school is regularly dismissed on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 28, and MOTHER shall have the right to possession of the child beginning at noon on December 28 and ending at 6:00 p.m. on the day before school resumes after that Christmas school vacation.
3. Thanksgiving in Even-Numbered Years  
In even-numbered years, MOTHER shall have the right to possession of the child beginning at 6:00 p.m. on the day the child is dismissed from school for the Thanksgiving holiday and ending at 6:00 p.m. on the Sunday following Thanksgiving.
4. Thanksgiving in Odd-Numbered Years  
In odd-numbered years, FATHER shall have the right to possession of the child beginning at the time the child's school is regularly dismissed on the day the child is dismissed from school for the Thanksgiving holiday and ending at the time the child's school resumes following Thanksgiving.
5. Child's Birthday  
If a parent is not otherwise entitled under this Standard Possession Order to present possession of a child on the child's birthday, that parent shall have possession of the child and the child's minor siblings beginning at 6:00 p.m. and ending at 8:00 p.m. on that day, provided that that parent picks up the children from the other parent's residence and returns the children to that same place.

6. Father's Day Weekend  
FATHER shall have the right to possession of the child each year, beginning at 6:00 p.m. on the Friday preceding Father's Day and ending at 8:00 a.m. the Monday after Father's Day, provided that if FATHER is not otherwise entitled under this Standard Possession Order to present possession of the child, he shall pick up the child from MOTHER's residence and return the child to that same place.
7. Mother's Day Weekend  
MOTHER shall have the right to possession of the child each year, beginning at 6:00 p.m. on the Friday preceding Mother's Day and ending at 6:00 p.m. on the day before the child's school resumes after Mother's Day, provided that if MOTHER is not otherwise entitled under this Standard Possession Order to present possession of the child, she shall pick up the child from FATHER's residence and return the child to that same place.

**Level 4:**

IT IS ORDERED that MOTHER shall have possession and access of the children following completion of Level 3 above as follows:

**INCLUDE EXTENDED STANDARD POSSESSION ORDER***Testing by Hair Follicle Analysis*

IT IS ORDERED that MOTHER shall submit to drug screening by hair follicle tests with extended opiate panel analysis at [name and address of facility] or any other facility agreed to in writing by FATHER and MOTHER, on each of the following dates:

\_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_, 20\_\_\_\_; and

\_\_\_\_\_, 20\_\_\_\_\_.

IT IS ORDERED that MOTHER is to appear at the facility with appropriate photographic identification and to provide specimens as requested to conduct the drug screening by hair follicle analysis. MOTHER is ORDERED to request the laboratory conducting the drug screening to deliver the results of the drug screening directly to FATHER, and to sign the appropriate authorizations for such delivery.

IT IS ORDERED that if MOTHER test positive for drugs, MOTHER is ORDERED to continue submitting to drug screening by hair follicle analysis as ordered above once every three months until she has negative test results for a period of one year.

IT IS ORDERED that MOTHER shall pay for all testing ordered herein for the first six (6) months, thereafter, the FATHER shall pay all negative UA tests and MOTHER shall pay for all positive UA tests. IT IS ORDERED MOTHER shall pay for all hair follicle testing.

Testing by Urinalysis

IT IS ORDERED that MOTHER shall submit to random alcohol and/or drug testing by urinalysis to be conducted by [name and address of facility] or any other facility agreed to in writing by FATHER and MOTHER.

IT IS ORDERED the dates, times, and method of all random alcohol and/or drug testing shall be selected by \_\_\_\_\_, who shall notify MOTHER when he/she wants MOTHER to submit to the random alcohol and/or drug testing. MOTHER is to be tested for drug or ETG alcohol test, illegal drugs, and/or abuse of prescription drugs. \_\_\_\_\_ shall attempt to avoid disruption to MOTHER's work schedule to the extent possible, either by using a mobile drug testing facility or by attempting to schedule the testing outside of MOTHER's work hours. \_\_\_\_\_ may not require MOTHER to submit to alcohol/drug testing more than two (2) times during the span of any thirty (30) day period or more than twelve (12) times during the span of any twelve-month (365 day) period.

IT IS ORDERED that upon notification by either \_\_\_\_\_ or the facility, MOTHER is ORDERED to appear at the facility with appropriate photogenic identification not more than three (3) hours after she received such notification, and to provide urine specimens as requested to conduct the alcohol and/or drug testing. If for any reason MOTHER does not submit to the testing as herein ordered, MOTHER is ORDERED to notify FATHER of such missed test within three (3) hours of the missed test. If MOTHER cannot appear for test within the three (3) hours, she shall contact FATHER and try to reach agreement on extension of time frame. If no agreement can be reached, MOTHER shall take a hair follicle test as set forth above, within 24 hours at her sole expense.

\_\_\_\_\_ will find a collection site closer to MOTHER's employment or home and MOTHER shall provide \_\_\_\_\_ with any travel schedule she has to avoid testing issues.

IT IS FURTHER ORDERED that upon completion of each alcohol and/or drug test, a representative of the facility administering the test shall deliver a copy of the test results directly to FATHER. MOTHER is ORDERED to sign the appropriate authorization for such delivery. IT IS FURTHER ORDERED that any representative of the facility administering the test if hereby authorized to disclose to and discuss with FATHER, and/or their attorneys the results of the test and MOTHER's compliance or noncompliance with the terms of these orders.

IT IS ORDERED these provisions for random alcohol and/or drug testing are effective immediately, and shall remain in effect for two (2) years from the date this order is signed by the

Court, at which time, the testing shall be discontinued provided the test results during that two (2) year period do not reflect alcohol or drug use by MOTHER. If MOTHER tests positive for alcohol or drugs at any time during this two (2) year period, then IT IS ORDERED that MOTHER's random alcohol and/or testing shall continue as ordered above until MOTHER's test results are negative for alcohol and drugs for a period of two years.

Expert

IT IS ORDERED that if MOTHER tests positive on any of her drug testing, [expert's name, address and telephone number] shall be appointed to conduct ongoing drug/alcohol evaluation of MOTHER. IT IS ORDERED that MOTHER shall carryout any and all actions as requested by [expert] for the next 24 months. IT IS ORDERED that MOTHER shall be responsible for the costs of said evaluation.

If MOTHER has an invasive medical procedure requiring her to ingest opiates, this event shall not constitute a triggering event as set forth above.

## APPENDIX 19

**SUBSTANCE ABUSER'S POSSESSION ORDER  
COMBINED WITH CHILD UNDER THREE**

*Note: This Possession Order involved a FATHER who lived out of state.*

*Possession Order*

The Court finds that the following provisions of this Possession Order are in the best interest of the child, and the Court finds that good cause exists to deviate from the Standard Possession Order contained in the Texas Family Code at sections 153.311 through 153.317, as the Standard Possession Order is unworkable or inappropriate under the circumstances.

IT IS ORDERED that each conservator shall comply with all terms and conditions of this Possession Order. IT IS ORDERED that this Possession Order is effective immediately and applies to all periods of possession occurring on and after the date the Court signs this Possession Order. IT IS, THEREFORE, ORDERED:

(a) Definitions

1. In this Possession Order “school” means the primary or secondary school in which the child is enrolled or, if the child is not enrolled in a primary or secondary school, the public school district in which the child primarily resides.

2. In this Possession Order “child” includes each child, whether one or more, who is a subject of this suit while that child is under the age of eighteen years and not otherwise emancipated.

(b) Mutual Agreement or Specified Terms for Possession

IT IS ORDERED that the conservators shall have possession of the child at times mutually agreed to in advance by the parties, and, in the absence of mutual agreement, it is ORDERED that the conservators shall have possession of the child under the specified terms set out in this Possession Order.

*Possession by FATHER***PHASE ONE:**

IT IS ORDERED that “Phase One” of this Possession Order is effective immediately and shall stay in effect until “Phase Two” of this Possession Order becomes effective pursuant to the provisions below. Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child under “Phase One” of this Possession

Order as follows:

1. Weekends  
On the fourth Thursday of every month, beginning at 12:00p.m. and ending at 5:00p.m., on the immediately subsequent Friday beginning at 12:00p.m. and ending at 5:00p.m., and on the immediately subsequent Saturday beginning at 12:00p.m. and ending at 5:00p.m. All such visitation described in this paragraph shall be supervised by MOTHER or a maternal grandparent.  
  
After FATHER has exercised six such visitation periods as described in the above paragraph, FATHER shall have the right to possession of the child on the fourth Thursday of every month, beginning at 12:00p.m. and ending at 6:00p.m., on the immediately subsequent Friday beginning at 12:00p.m. and ending at 6:00p.m., and on the immediately subsequent Saturday beginning at 12:00p.m. and ending at 6:00p.m. All such visitation described in this paragraph shall be supervised by MOTHER, a maternal grandparent, a paternal grandmother, or a paternal aunt.
2. Extended Summer Possession  
If FATHER gives MOTHER at least fourteen days' written notice specifying an extended period of summer possession, FATHER shall have the right to possession of the child for seven consecutive days, beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year. These periods of possession shall begin at 12:00 p.m each day and end at 5:00 p.m each day and shall be supervised by MOTHER or a maternal grandparent.
3. Christmas Holidays  
December 22, beginning at 12:00 p.m. and ending at 5:00 p.m., December 23, beginning at 12:00 p.m. and ending at 5:00 p.m., and December 24, beginning at 12:00 p.m. and ending at 5:00 p.m. All such visitation described in this paragraph shall be supervised by MOTHER or a maternal grandparent if FATHER has not yet exercised six weekend visits, as described above. If FATHER has exercised at least six weekend visits, as described above, then his Christmas visitation shall be supervised by MOTHER, a maternal grandparent, a paternal grandmother, or a paternal aunt.
4. Surrender of Child by MOTHER  
MOTHER is ORDERED to surrender the child to FATHER at the beginning of each period of FATHER's possession at the residence of MOTHER.
5. Surrender of Child by FATHER  
FATHER is ORDERED to surrender the child to MOTHER at the residence of MOTHER at the end of each period of possession.

6. Personal Effects  
Each conservator is ORDERED to return with the child the personal effects that the child brought at the beginning of the period of possession.
7. Inability to Exercise Possession  
FATHER shall provide MOTHER with not less than 48 hours email notice if FATHER does not intend to exercise a possession period by emailing MOTHER at [MOTHER's email address], or other email address as MOTHER may provide to FATHER.

## **PHASE TWO:**

IT IS ORDERED that "Phase Two" of this Possession Order becomes effective after FATHER has exercised twelve visitation periods as described in "Phase One" above and after FATHER produces a negative drug test result as ordered below.

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child under "Phase Two" of this Possession Order as follows:

1. Weekends  
On the fourth Thursday of every month, beginning at 10:00 a.m. and ending at 6:00 p.m., on the immediately subsequent Friday beginning at 10:00 a.m. and ending at 6:00 p.m., and on the immediately subsequent Saturday beginning at 10:00 a.m. and ending at 6:00 p.m.

After FATHER has exercised six such visitation periods as described in the above paragraph, FATHER shall have the right to possession of the child on the fourth Thursday of every month, beginning at 10:00 a.m. and ending at 6:00 p.m. on the following Saturday.

2. Extended Summer Possession  
If FATHER gives MOTHER written notice by April 1 specifying an extended period of summer possession for that year, FATHER shall have the right to possession of the child for seven consecutive days, beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year. These periods of possession shall begin at 10:00 a.m. each day and end at 6:00 p.m. each day.

Without Written Notice by April 1 - If FATHER does not give MOTHER written notice by April 1 specifying an extended period of summer possession for that year, FATHER shall have the right to possession of the child for seven consecutive days beginning on July 24 and continuing through July 31 of that year. These periods of possession shall begin at 10:00 a.m. each day and end at 6:00 p.m. each day.

3. Christmas Holidays  
December 22, beginning at 10:00 a.m. and ending at 6:00 p.m., December 23, beginning at 10:00 a.m. and ending at 6:00 p.m., and December 24, beginning at 10:00 a.m. and ending at 6:00 p.m.
4. Surrender of Child by MOTHER  
MOTHER is ORDERED to surrender the child to FATHER at the beginning of each period of FATHER's possession at the residence of MOTHER.
5. Surrender of Child by FATHER  
FATHER is ORDERED to surrender the child to MOTHER at the residence of MOTHER at the end of each period of possession.
6. Personal Effects  
Each conservator is ORDERED to return with the child the personal effects that the child brought at the beginning of the period of possession.
7. Inability to Exercise Possession  
FATHER shall provide MOTHER with not less than 48 hours email notice if FATHER does not intend to exercise a possession period by emailing MOTHER at [MOTHER's email address], or other email address as MOTHER may provide to FATHER.
8. Orders for Drug Testing  
FATHER is ORDERED to submit to drug screening by hair follicle analysis at [name, address and telephone number of facility], or any other facility agreed to in writing by FATHER and MOTHER, on or before his twelfth visitation period under "Phase One" of this Possession Order, outlined above.

FATHER is ORDERED to appear at the facility with appropriate photographic identification, and to provide specimens as requested to conduct the drug screening by hair follicle analysis. FATHER is ORDERED to request the laboratory conducting the drug screening to deliver the results of the drug screening directly to MOTHER at [MOTHER's address], or other current address that MOTHER may give to the facility, and to sign the appropriate authorizations for such delivery. IT IS FURTHER ORDERED that any representative of the facility administering the test is hereby authorized to disclose to and discuss with FATHER, MOTHER, and/or their attorneys the results of the test and FATHER's compliance or noncompliance with the terms of these orders.

If FATHER tests positive for drugs, then FATHER's right to possession and access of the child will continue under the conditions found in "Phase One" of this Possession Order, outlined above, until (1) FATHER produces a negative drug test result as ordered above; and (2) he has exercised at least another six (6)

visitation periods under “Phase One” of this Possession Order, outlined above.

IT IS ORDERED that FATHER shall promptly pay 100% of the costs of his drug screenings.

### **PHASE THREE:**

IT IS ORDERED that “Phase Three” of this Possession Order becomes effective after FATHER has exercised twelve visitation periods as described in “Phase Two” above.

Except as otherwise explicitly provided in this Possession Order, FATHER shall have the right to possession of the child under “Phase Three” of this Possession Order as follows:

(a) Parents Who Reside More Than 100 Miles Apart

1. Weekend

One weekend per month, which shall always be the same weekend each month (i.e. first, second, third, etc.) pursuant to FATHER’s election, as herein provided, beginning at 6:00 p.m. on the day school recesses for the weekend and ending at 6:00 p.m. on the day before school resumes after the weekend. Except as otherwise explicitly provided in this Possession Order, if such a weekend period of possession by FATHER begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at 6:00 p.m. on the Thursday immediately preceding the Friday holiday or school holiday or end at 6:00 p.m. on that Monday holiday or school holiday, as applicable. On or before the date the child reaches five years of age, FATHER shall provide MOTHER with written notice of the same weekend each month on which FATHER elects to exercise his weekend possession.

2. Spring Break in All Years

Every year, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

3. Extended Summer Possession by FATHER

a. With Written Notice by April 1

If FATHER gives MOTHER written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, FATHER shall have possession of the child for forty-two days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of

at least seven consecutive days each, as specified in the written notice. These periods of possession shall begin and end at 6:00 p.m.

b. Without Written Notice by April 1

If FATHER does not give MOTHER written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, FATHER shall have possession of the child for forty-two consecutive days beginning at 6:00 p.m. on June 15 and ending at 6:00 p.m. on July 27 of that year.

Notwithstanding the weekend periods of possession ORDERED for FATHER, it is explicitly ORDERED that MOTHER shall have a superior right of possession of the child as follows:

1. Summer Weekend Possession by MOTHER

If MOTHER gives FATHER written notice by April 15 of a year, MOTHER shall have possession of the child on any one weekend beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday during any one period of possession by FATHER during FATHER's extended summer possession in that year, provided that if a period of possession by FATHER in that year exceeds thirty days, MOTHER may have possession of the child under the terms of this provision on any two nonconsecutive weekends during that period and provided that MOTHER picks up the child from FATHER and returns the child to that same place and that the weekend so designated does not interfere with FATHER's Day Weekend.

2. Extended Summer Possession by MOTHER

If MOTHER gives FATHER written notice by April 15 of a year, MOTHER may designate twenty-one days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, during which FATHER shall not have possession of the child, provided that the period or periods so designated do not interfere with FATHER's period or periods of extended summer possession or with FATHER's Day Weekend.

(b) Holidays

Notwithstanding the weekend periods of possession of FATHER, MOTHER and FATHER shall have the right to possession of the child as follows:

1. Christmas Holidays in Even-Numbered Years

In even-numbered years, FATHER shall have the right to possession of the child beginning at the time the child's school is regularly dismissed on the day the child

is dismissed from school for the Christmas school vacation and ending at noon on December 28, and MOTHER shall have the right to possession of the child beginning at noon on December 28 and ending at the time school resumes after that Christmas school vacation.

2. Christmas Holidays in Odd-Numbered Years

In odd-numbered years, MOTHER shall have the right to possession of the child beginning at the time the child's school is regularly dismissed on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 28, and FATHER shall have the right to possession of the child beginning at noon on December 28 and ending at 6:00 p.m. on the day before school resumes after that Christmas school vacation.

3. Thanksgiving in Odd-Numbered Years

In odd-numbered years, FATHER shall have the right to possession of the child beginning at the time the child's school is regularly dismissed on the day the child is dismissed from school for the Thanksgiving holiday and ending at 6:00 p.m. on the Sunday following Thanksgiving.

4. Thanksgiving in Even-Numbered Years

In even-numbered years, MOTHER shall have the right to possession of the child beginning at the time the child's school is regularly dismissed on the day the child is dismissed from school for the Thanksgiving holiday and ending at the time the time the child's school resumes after that Thanksgiving holiday.

5. Child's Birthday

If a parent is not otherwise entitled under this Possession Order to present possession of the child on the child's birthday, that parent shall have possession of the child beginning at 6:00 p.m. and ending at 8:00 p.m. on that day, provided that that parent picks up the child from the other parent's residence and returns the child to that same place. Under "Phase Three" of this Possession Order, should the child's birthday fall on Friday, Saturday or Sunday, then MOTHER shall have the right to the entire birthday weekend in odd numbered years and FATHER shall have such in even numbered years.

6. Father's Day Weekend

FATHER shall have the right to possession of the child each year, beginning at 6:00 p.m. on the Friday preceding Father's Day and ending at 6:00 p.m. on Father's Day, provided that if FATHER is not otherwise entitled under this Possession Order to present possession of the child, he shall pick up the child from MOTHER's residence and return the child to that same place.

7. Mother's Day Weekend

MOTHER shall have the right to possession of the child each year, beginning at 6:00 p.m. on the Friday preceding Mother's Day and ending at 6:00 p.m. on

Mother's Day, provided that if MOTHER is not otherwise entitled under this Possession Order to present possession of the child, she shall pick up the child from FATHER's residence and return the child to that same place.

*Undesignated Periods of Possession*

MOTHER shall have the right of possession of the child at all other times not specifically designated in this Standard Possession Order for FATHER.

## APPENDIX 20

**TERMS AND CONDITIONS FOR ALCOHOL/DRUG MONITORING**

*Add this section after the possession schedule to make the possession conditional on compliance with alcohol or drug monitoring.*

*Orders for Random Alcohol and/or Drug Testing*

FATHER is ORDERED to submit to random alcohol and/or drug testing [by blood/urinalysis] to be conducted by [**name, address, and telephone number of facility**], or any other facility agreed to in writing by FATHER and MOTHER.

The dates, times, and method of all random alcohol and/or drug testing shall be selected by MOTHER, who shall notify FATHER and/or the facility (as directed by the facility) when she wants FATHER to submit to the random alcohol and/or drug testing, whether she wants the testing to be conducted by blood sample or urinalysis, and whether she wants FATHER tested for alcohol, illegal drugs, and/or abuse of prescription drugs. MOTHER shall attempt to avoid disruption to FATHER's work schedule to the extent possible, either by using a mobile drug testing facility or by attempting to schedule the testing outside of FATHER's work hours. MOTHER may not require FATHER to submit to alcohol and/or drug testing more than four times during the span of any thirty (30) day period or more than forty-eight (48) times during the span of any twelve-month (365 day) period.

Upon notification by either MOTHER or the facility, FATHER is ORDERED to appear at the facility with appropriate photographic identification not more than two (2) hours after he receives such notification, and to provide blood or urine specimens as requested to conduct the alcohol and/or drug testing. If for any reason FATHER does not submit to the testing as herein ordered, FATHER is ORDERED to notify MOTHER of such missed test within three (3) hours of the missed test.

IT IS ORDERED that the costs of the testing shall be promptly paid by [MOTHER/FATHER/MOTHER and FATHER equally].

IT IS FURTHER ORDERED that upon completion of each alcohol and/or drug test, a representative of the facility administering the test shall deliver a copy of the test results directly to [**name, address, and telephone number**]. FATHER is ORDERED to sign the appropriate authorization for such delivery. IT IS FURTHER ORDERED that any representative of the facility administering the test is hereby authorized to disclose to and discuss with FATHER, MOTHER, and/or their attorneys the results of the test and FATHER's compliance or noncompliance with the terms of these orders.

These provisions for random alcohol and/or drug testing are effective immediately, and

shall remain in effect for twelve months (365 days) from the date this order is signed by the Court, at which time, the testing shall be discontinued provided the test results during that twelve-month period do not reflect alcohol or drug use by FATHER. If FATHER tests positive for alcohol or drugs at any time during this twelve-month period, then IT IS ORDERED that FATHER's random alcohol and/or testing shall continue as ordered above until FATHER's test results are negative for alcohol and drugs for a period of one year.

[OR]

Orders for Random Alcohol Monitoring Program

IT IS ORDERED that Dr. \_\_\_\_\_, [address and telephone number of substance abuse professional], is appointed by this Court to develop and employ a random alcohol monitoring program for implementation upon FATHER and MOTHER. IT IS ORDERED that Dr. \_\_\_\_\_ shall begin implementation of such monitoring program immediately and shall continue to employ said program until \_\_\_\_\_, 20\_\_\_\_. FATHER and MOTHER are each ORDERED to contact Dr. \_\_\_\_\_ no later than three (3) days after the date this order is signed to schedule an initial consultation with him. Each parent is ordered to use their best efforts to schedule an appointment with Dr. \_\_\_\_\_ as soon as possible after making the initial contact.

IT IS FURTHER ORDERED that Dr. \_\_\_\_\_ shall have the authority to take whatever actions are necessary in order that he may fully implement and secure adherence to said program by FATHER and MOTHER. IT IS ORDERED that any missed alcohol test required by said program will be deemed failed by the party who misses the alcohol test.

Dr. \_\_\_\_\_ is ORDERED to furnish directly to the attorney of record of each party in this matter any and all test results relating to FATHER and MOTHER. IT IS ORDERED that [INTERVENORS/FATHER/MOTHER shall pay for 100%/FATHER and MOTHER shall each pay 50%] of the costs incurred in relation to Dr. \_\_\_\_\_'s monitoring program of MOTHER and FATHER.

IT IS ORDERED that, as a part of the program, random alcohol testing shall be scheduled to occur once during each calendar week.

THE COURT FINDS THAT THE PARTIES HAVE BEEN INFORMED OF AND UNDERSTAND THAT ANY DISCLOSURES MADE BY EITHER OF THE PARTIES OR BY THE CHILD[REN], WILL NOT BE PRIVILEGED OR CONFIDENTIAL.

Possession of Children Conditioned on Compliance

IT IS ORDERED that the periods of possession awarded to [FATHER/MOTHER/each

parent] are expressly conditioned on [FATHER/MOTHER/each parent]'s abstaining from the use of alcohol and drugs, and [FATHER/MOTHER/each parent]'s compliance with the provisions of this order regarding the random alcohol [and/or drug testing/monitoring program] and the breathalyzer ignition lock device.

IT IS FURTHER ORDERED that [FATHER/MOTHER/a parent]'s rights to possession of the children will be immediately suspended until further order of the Court if, during the twelve months (365 days) following the date this order is signed by the Court, [FATHER/MOTHER/that parent]:

1. Consumes alcohol, uses any illegal substance, uses any prescription medication without a valid prescription, or abuses any prescription or nonprescription substance;
2. Tests positive for alcohol or drug use;
3. Refuses to submit to a random alcohol and/or drug test as required by the terms of this order;
4. Tampered with any sample to be tested in order to achieve a desired result;
5. Refuses a breath test for alcohol by a law enforcement agency or tests positive in a test for alcohol by a by a law enforcement agency;
6. Tests positive for alcohol on the Lifesaver Interlock device;
7. Refuses a test on the Lifesaver Interlock device;
8. Drives a vehicle not outfitted with the Lifesaver Interlock device; or
9. Is charged with any alcohol-related crime or drug-related crime.

## APPENDIX 21

**TERMS AND CONDITIONS FOR BREATHALYZER IGNITION LOCK**

*Add this section as after the possession schedule to make the possession conditional on installation and use of a breathalyzer ignition lock.*

Orders for Breathalyzer Ignition Lock

FATHER and MOTHER are each ORDERED to contact [**Lifesaver Interlock or other company**] at [**address and telephone number**] no later than three (3) days after the date this order is signed, and have an interlock breathalyzer ignition lock device installed on his or her vehicle no later than seven (7) days after the date this order is signed. Each party is ORDERED to pay for the cost of the device installed on their own vehicle and any charges of maintaining the device. Each party is ORDERED to abide by the provisions of the ignition interlock program prescribed by [**Lifesaver Interlock or other company**].

BAC CALIBRATION SETTING REQUIRED: .030

PROGRAM LENGTH: 12 months from the date of installation of the interlock device

FEATURES ORDERED:

- 1) Rolling Retest
- 2) Violation Reset if violations exceed 3
- 3) Humtone

IT IS ORDERED that FATHER and MOTHER shall each maintain the interlock breathalyzer with Lifesaver Interlock on his or her vehicle until \_\_\_\_\_, 20\_\_\_\_, and shall not drive any vehicle which is not outfitted with the Lifesaver Interlock device at any time during this period. FATHER and MOTHER are each ORDERED to sign the appropriate authorizations and arrange for a monthly report (data log) regarding the interlock breathalyzer device to be submitted directly to \_\_\_\_\_, beginning on the first month following the date this order is signed by the Court. IT IS FURTHER ORDERED that [**Lifesaver Interlock or other company**] is hereby authorized to disclose to and discuss with FATHER, MOTHER, and their attorneys the results of the interlock tests and data log.

Possession of Children Conditioned on Compliance

IT IS ORDERED that the periods of possession awarded to [FATHER/MOTHER/each parent] are expressly conditioned on [FATHER/MOTHER/each parent]'s abstaining from the use of alcohol and drugs, and [FATHER/MOTHER/each parent]'s compliance with the provisions of this order regarding the random alcohol [and/or drug testing/monitoring program] and the breathalyzer ignition lock device.

IT IS FURTHER ORDERED that [FATHER/MOTHER/a parent]'s rights to possession of the children will be immediately suspended until further order of the Court if, during the twelve months (365 days) following the date this order is signed by the Court, [FATHER/MOTHER/that parent]:

1. Consumes alcohol, uses any illegal substance, uses any prescription medication without a valid prescription, or abuses any prescription or nonprescription substance;
2. Tests positive for alcohol or drug use;
3. Refuses to submit to a random alcohol and/or drug test as required by the terms of this order;
4. Tampered with any sample to be tested in order to achieve a desired result;
5. Refuses a breath test for alcohol by a law enforcement agency or tests positive in a test for alcohol by a law enforcement agency;
6. Tests positive for alcohol on the Lifesaver Interlock device;
7. Refuses a test on the Lifesaver Interlock device; or
8. Drives a vehicle not outfitted with the Lifesaver Interlock device.

## APPENDIX 22

**TERMS AND CONDITIONS FOR CHILDREN TO BE REQUIRED TO HAVE CELL PHONES TO REPORT ALCOHOL USE**

*Add this section after the possession schedule to make the possession conditional on children having access to a cell phone to report alcohol use.*

**Orders for the Children to Have Cell Phones to Report Alcohol Use**

IT IS ORDERED that for \_\_\_\_\_ months following the date this order is signed by the Court, **[names of children]** shall have their own cellular telephones and are authorized to call either parent to report any use of alcohol by the other parent. IT IS FURTHER ORDERED that the costs relating to the children's cell phones shall be paid by [MOTHER/FATHER/MOTHER and FATHER equally].

## APPENDIX 23

**TERMS AND CONDITIONS FOR DRUG TESTING**

*Add this section after the possession schedule to make the possession conditional on compliance with drug testing.*

*Testing by Hair Follicle Analysis*

IT IS ORDERED that FATHER and MOTHER shall each submit to drug screening by hair follicle analysis at **[name, address, and telephone number of facility]**, or any other facility agreed to in writing by FATHER and MOTHER, on each of the following dates:

\_\_\_\_\_, 20\_\_\_\_  
 \_\_\_\_\_, 20\_\_\_\_  
 \_\_\_\_\_, 20\_\_\_\_; and  
 \_\_\_\_\_, 20\_\_\_\_

FATHER and MOTHER are each ORDERED to appear at the facility with appropriate photographic identification, and to provide specimens as requested to conduct the drug screening by hair follicle analysis. FATHER and MOTHER are each ORDERED to request the laboratory conducting the drug screening to deliver the results of the drug screening directly to **[name, address, and telephone number]**, and to sign the appropriate authorizations for such delivery.

If either parent tests positive for drugs, that parent is ORDERED to continue submitting to drug screening by hair follicle analysis as ordered above once every two months until they have negative test results for a period of one year.

IT IS ORDERED that MOTHER and FATHER shall each promptly pay the costs of their own drug screenings.

*Testing by Blood Sample or Urinalysis*

FATHER is ORDERED to submit to random alcohol and/or drug testing [by blood/urinalysis] to be conducted by **[name, address, and telephone number of facility]**, or any other facility agreed to in writing by FATHER and MOTHER.

The dates, times, and method of all random alcohol and/or drug testing shall be selected by MOTHER, who shall notify FATHER and/or the facility (as directed by the facility) when she wants FATHER to submit to the random alcohol and/or drug testing, whether she wants the testing to be conducted by blood sample or urinalysis, and whether she wants FATHER tested for alcohol, illegal drugs, and/or abuse of prescription drugs. MOTHER shall attempt to avoid disruption to FATHER's work schedule to the extent possible, either by using a mobile drug testing facility or by attempting to schedule the testing outside of FATHER's work hours. MOTHER may not require FATHER to submit to alcohol and/or drug testing more than four

times during the span of any thirty (30) day period or more than forty-eight (48) times during the span of any twelve-month (365 day) period.

Upon notification by either MOTHER or the facility, FATHER is ORDERED to appear at the facility with appropriate photographic identification not more than two (2) hours after he receives such notification, and to provide blood or urine specimens as requested to conduct the alcohol and/or drug testing. If for any reason FATHER does not submit to the testing as herein ordered, FATHER is ORDERED to notify MOTHER of such missed test within three (3) hours of the missed test.

IT IS ORDERED that the costs of the testing shall be promptly paid by [MOTHER/FATHER/MOTHER and FATHER equally].

IT IS FURTHER ORDERED that upon completion of each alcohol and/or drug test, a representative of the facility administering the test shall deliver a copy of the test results directly to [name, address, and telephone number]. FATHER is ORDERED to sign the appropriate authorization for such delivery. IT IS FURTHER ORDERED that any representative of the facility administering the test is hereby authorized to disclose to and discuss with FATHER, MOTHER, and/or their attorneys the results of the test and FATHER's compliance or noncompliance with the terms of these orders.

These provisions for random alcohol and/or drug testing are effective immediately, and shall remain in effect for twelve months (365 days) from the date this order is signed by the Court, at which time, the testing shall be discontinued provided the test results during that twelve-month period do not reflect alcohol or drug use by FATHER. If FATHER tests positive for alcohol or drugs at any time during this twelve-month period, then IT IS ORDERED that FATHER's random alcohol and/or testing shall continue as ordered above until FATHER's test results are negative for alcohol and drugs for a period of one year.

#### Possession of Children Conditioned on Compliance

IT IS ORDERED that the periods of possession awarded to [FATHER/MOTHER/each parent] are expressly conditioned on [FATHER/MOTHER/each parent]'s abstaining from the use of alcohol and drugs, and [FATHER/MOTHER/each parent]'s compliance with the provisions of this order regarding the random alcohol and/or drug testing.

IT IS FURTHER ORDERED that [FATHER/MOTHER/a parent]'s rights to possession of the children will be immediately suspended until further order of the Court if, during the twelve months (365 days) following the date this order is signed by the Court, [FATHER/MOTHER/that parent]:

1. Consumes alcohol, uses any illegal substance, uses any prescription medication without a valid prescription, or abuses any prescription or nonprescription substance;
2. Tests positive for alcohol or drug use;

3. Refuses to submit to a random alcohol and/or drug test as required by the terms of this order;
4. Tampered with any sample to be tested in order to achieve a desired result;
5. Refuses a breath test for alcohol by a law enforcement agency or tests positive in a test for alcohol by a by a law enforcement agency; or
6. Is charged with any alcohol-related crime or drug-related crime.

**APPENDIX 24****EQUALLY DIVIDING CHRISTMAS BREAK**

*This schedule provides for an equal division of the number of days during Christmas Break.*

1. Christmas Holidays in Odd-Numbered Years

In odd-numbered years, MOTHER shall have possession of the children beginning at the time the children's school is dismissed for the Christmas vacation and ending at noon on the mid-point day of the school Christmas Break.

In odd-numbered years, FATHER shall have possession of the children beginning at noon on the mid-point day of the school Christmas Break and ending at the time the children's school resumes after the Christmas vacation.

For the purpose of calculating days to determine "mid-point", the day the children are dismissed from school for the Christmas vacation is day "1".

2. Christmas Holidays in Even-Numbered Years

In even-numbered years, FATHER shall have possession of the children beginning at the time the children's school is dismissed for the Christmas vacation and ending at noon on the mid-point day of the school Christmas Break.

In even-numbered years, MOTHER shall have possession of the children beginning at noon on the mid-point day of the school Christmas Break and ending at the time the children's school resumes after the Christmas vacation.

For the purpose of calculating days to determine "mid-point", the day the children are dismissed from school for the Christmas vacation is day "1".

## APPENDIX 25

**SUMMER POSSESSION – Each Parent Has 14 Consecutive Days With Alternating First Choice**1. Extended Summer Possession by FATHERa. First Choice in Even-Numbered Years With Written Notice by April 1<sup>st</sup>

In even-numbered years, if FATHER gives MOTHER advance written notice on or before April 1<sup>st</sup> of an even-numbered year specifying his summer period of exclusive possession, as defined herein, FATHER shall have possession of the child for his summer period of exclusive possession. These periods of possession shall begin and end at 6:00 p.m. For purposes of this section, “summer period of exclusive possession” is defined as a fourteen (14) day exclusive, uninterrupted period of possession of the child, beginning no earlier than the day after the child’s school is dismissed for the summer vacation and ending no later than seven (7) days before school resumes at the end of the summer vacation, during which an otherwise scheduled period(s) of possession of the other conservator shall not take place.

b. Without Written Notice by April 1<sup>st</sup> in Even-Numbered Years

If FATHER does not give MOTHER written notice by April 1<sup>st</sup> of an even-numbered year specifying his summer period of exclusive possession, as defined herein, FATHER may designate a summer period of exclusive possession by giving MOTHER twenty-one days’ written notice so long as his selected period of possession does not interfere with a properly designated summer period of exclusive possession of MOTHER.

c. Second Choice in Odd-Numbered Years With Written Notice by April 15<sup>th</sup>

In odd-numbered years, if FATHER gives MOTHER written notice on or before April 15<sup>th</sup> of an odd-numbered year specifying his summer period of exclusive possession, as defined herein, FATHER shall have possession of the child for his summer period of exclusive possession so long as his selected period of possession does not interfere with a properly designated summer period of exclusive possession of MOTHER. These periods of possession shall begin and end at 6:00 p.m.

d. Without Written Notice by April 15<sup>th</sup> in Odd-Numbered Years

If FATHER does not give MOTHER written notice by April 15<sup>th</sup> of an odd-numbered year specifying his summer period of exclusive possession, as defined herein, FATHER may designate a summer period of exclusive possession by giving MOTHER twenty-one days’ written notice so long as his selected period of possession does not interfere with a properly designated summer period of exclusive possession of MOTHER.

2. Extended Summer Possession by MOTHER

a. First Choice in Odd-Numbered Years With Written Notice by April 1<sup>st</sup>

In odd-numbered years, if MOTHER gives FATHER written notice on or before May 1 of an odd-numbered year specifying her summer period of exclusive possession, as defined herein, MOTHER shall have possession of the child for her summer period of exclusive possession. These periods of possession shall begin and end at 6:00 p.m. For purposes of this section, “summer period of exclusive possession” is defined as a fourteen (14) day exclusive, uninterrupted period of possession of the child, beginning no earlier than the day after the child’s school is dismissed for the summer vacation and ending no later than seven (7) days before school resumes at the end of the summer vacation, during which an otherwise scheduled period(s) of possession of the other conservator shall not take place.

b. Without Written Notice by April 15<sup>th</sup> in Odd-Numbered Years

If MOTHER does not give FATHER written notice by April 15<sup>th</sup> of an odd-numbered year specifying her summer period of exclusive possession, as defined herein, MOTHER may designate a summer period of exclusive possession by giving FATHER twenty-one days’ written notice so long as her selected period of possession does not interfere with Father’s Day Weekend or a properly designated summer period of exclusive possession of FATHER.

c. Second Choice in Even-Numbered Years With Written Notice by April 15<sup>th</sup>

In even-numbered years, if MOTHER gives FATHER written notice on or before April 15<sup>th</sup> of an even-numbered year specifying her summer period of exclusive possession, as defined herein, MOTHER shall have possession of the child for her summer period of exclusive possession so long as her selected period of possession does not interfere with a properly designated summer period of exclusive possession of FATHER. These periods of possession shall begin and end at 6:00 p.m.

d. Without Written Notice by April 15<sup>th</sup> in Even-Numbered Years

If MOTHER does not give FATHER written notice by April 15<sup>th</sup> of an even-numbered year specifying her summer period of exclusive possession, as defined herein, MOTHER may designate a summer period of exclusive possession by giving FATHER twenty-one days’ written notice so long as her selected period of possession does not interfere with Father’s Day Weekend or a properly designated summer period of exclusive possession of FATHER.

## APPENDIX 26

**SUMMER POSSESSION – Alternating One Week Periods**

*Note: This form provides for alternating one-week periods between the parents in the Summer.*

(d) **Summer Vacation in Every Year**

Except as otherwise explicitly provided in this Possession Order, IT IS ORDERED that the child's summer vacation shall be shared equally by MOTHER and FATHER each year to the extent possible, with MOTHER and FATHER having alternating 7-day periods of possession which begin and end every other Friday at 6:00 p.m.

For purposes of this section, the "summer" shall be defined as beginning on the Friday school recesses for summer vacation or, if school does not recess for summer vacation on a Friday, then the first Friday after the day school recesses for summer vacation, and ending on the Friday before school resumes at the end of the summer vacation.

1. **Summer Possession by FATHER in All Years**  
Every year, FATHER shall have possession of the child for alternating -day periods, beginning at 6:00 p.m. on the Friday which constitutes the first day of summer (as defined above), and ending at 6:00 p.m. on the 7th day thereafter, and for every other 7-day period thereafter until the end of summer (as defined above).
2. **Summer Possession by MOTHER in All Years**  
Every year, MOTHER shall have possession of the child for alternating 7-day periods, beginning at 6:00 p.m. on the 7th day after the Friday which constitutes the first day of summer (as defined above), and ending at 6:00 p.m. on the 14th day thereafter, and for every other 7-day period thereafter until the end of summer (as defined above).
3. **Surrender and Return During Summer**
  - a. Surrender of Child by MOTHER—MOTHER is ORDERED to surrender the child to FATHER at the beginning of each period of FATHER's summer possession at the residence of MOTHER.
  - b. Surrender of Child by FATHER—FATHER is ORDERED to surrender the child to MOTHER at the beginning of each period of MOTHER's summer possession at the residence of FATHER.

3. Father's Day  
Notwithstanding the summer possession by MOTHER, if FATHER is not otherwise entitled under this Possession Order to present possession of the child on Father's Day, FATHER shall have possession of the child beginning at 9:00 A.M. and ending at 8:00 P.M. on Father's Day, provided that FATHER picks up the child from MOTHER's residence and returns the child to that same place.

<OPTIONAL>

4. Beginning and End of School Year  
*Notwithstanding the weekend periods of possession of FATHER, MOTHER shall have the right to possession of the child as follows:*
  - a. End of School Year Possession by MOTHER in All Years  
*Every year, beginning at the time the child's school is dismissed for the summer vacation and ending at 6:00 p.m. on the Friday which constitutes the first day of summer (as defined above).*
  - b. Beginning of School Year Possession by MOTHER in All Years  
*Every year, beginning at 6:00 p.m. on the Friday before school resumes at the end of the summer vacation and ending at the time school resumes at the end of the summer vacation in that year.*

**APPENDIX 27****SUMMER POSSESSION – Alternating Two Week Periods**

*Note: This form provides for alternating two-week periods between the parents in the Summer.*

(d) Summer Vacation in Every Year

Except as otherwise explicitly provided in this Possession Order, IT IS ORDERED that the child's summer vacation shall be shared equally by MOTHER and FATHER each year to the extent possible, with MOTHER and FATHER having alternating 14-day periods of possession which begin and end every other Friday at 6:00 p.m.

For purposes of this section, the "summer" shall be defined as beginning on the Friday school recesses for summer vacation or, if school does not recess for summer vacation on a Friday, then the first Friday after the day school recesses for summer vacation, and ending on the Friday before school resumes at the end of the summer vacation.

1. Summer Possession by FATHER in All Years  
Every year, FATHER shall have possession of the child for alternating 14-day periods, beginning at 6:00 p.m. on the Friday which constitutes the first day of summer (as defined above), and ending at 6:00 p.m. on the 14th day thereafter, and for every other 14-day period thereafter until the end of summer (as defined above).
2. Summer Possession by MOTHER in All Years  
Every year, MOTHER shall have possession of the child for alternating 14-day periods, beginning at 6:00 p.m. on the 14th day after the Friday which constitutes the first day of summer (as defined above), and ending at 6:00 p.m. on the 14th day thereafter, and for every other 14-day period thereafter until the end of summer (as defined above).
3. Surrender and Return During Summer
  - a. Surrender of Child by MOTHER—MOTHER is ORDERED to surrender the child to FATHER at the beginning of each period of FATHER's summer possession at the residence of MOTHER.
  - b. Surrender of Child by FATHER—FATHER is ORDERED to surrender the child to MOTHER at the beginning of each period of MOTHER's summer possession at the residence of FATHER.

3. Father's Day  
Notwithstanding the summer possession by MOTHER, if FATHER is not otherwise entitled under this Possession Order to present possession of the child on Father's Day, FATHER shall have possession of the child beginning at 9:00 A.M. and ending at 8:00 P.M. on Father's Day, provided that FATHER picks up the child from MOTHER's residence and returns the child to that same place.

<OPTIONAL>

4. Beginning and End of School Year  
*Notwithstanding the weekend periods of possession of FATHER, MOTHER shall have the right to possession of the child as follows:*
  - a. End of School Year Possession by MOTHER in All Years  
*Every year, beginning at the time the child's school is dismissed for the summer vacation and ending at 6:00 p.m. on the Friday which constitutes the first day of summer (as defined above).*
  - b. Beginning of School Year Possession by MOTHER in All Years  
*Every year, beginning at 6:00 p.m. on the Friday before school resumes at the end of the summer vacation and ending at the time school resumes at the end of the summer vacation in that year.*

## APPENDIX 28

**NOTICE OF SUMMER ELECTION – PRIMARY PARENT**

## PRIMARY CONSERVATOR'S SUMMER NOTIFICATION

(attach to the order as a form to be used)

TO: FATHER

FROM: MOTHER

DATE: \_\_\_\_\_, 201\_\_ (Notice of Summer Weekend Possession by MOTHER must be received or postmarked on or before April 15<sup>th</sup>; Notice of Extended Summer Possession by MOTHER must be received or postmarked either (1) on or before April 15<sup>th</sup> of a year, or (2) at least fourteen days' in advance if on or after April 16<sup>th</sup> of a year.)

**SUMMER WEEKEND POSSESSION:**

Pursuant to the Court's Possession Order, I will exercise my right to Summer Weekend Possession of our children during any one period of your extended summer possession for the Summer of 201\_\_, as follows:

Beginning at 6:00 P.M. on Friday, \_\_\_\_\_, 201\_\_, and ending at 6:00 P.M. on the following Sunday, \_\_\_\_\_, 201\_\_. Pursuant to the Court's Possession Order, I will pick up the children from you and return the children to that same place. The weekend I have designated does not interfere with Father's Day Weekend.

**EXTENDED SUMMER POSSESSION:**

Pursuant to the Court's Possession Order, I will exercise my right to Extended Summer Possession of our children for the Summer of 201\_\_, as follows:

I designate the following weekend (which begins no earlier than the day after the children's school is dismissed for the summer vacation and ends no later than seven days before school resumes at the end of the summer vacation), during which your otherwise scheduled weekend period of possession will not take place: the weekend which begins on Friday, \_\_\_\_\_, 201\_\_. The weekend I have designated does not interfere with your period or periods of extended summer possession or with Father's Day Weekend.

Pursuant to the Court's Possession Order, the following provisions for surrender and return of the children apply to these periods of possession:

Surrender of Child by FATHER—FATHER is ORDERED to surrender the child to MOTHER, if the child is in FATHER's possession or subject to FATHER's control, at the beginning of each period of MOTHER's exclusive periods of possession, at the place designated in this Notice.

Return of Child by MOTHER—MOTHER is ORDERED to return the child to FATHER, if FATHER is entitled to possession of the child, at the end of each of MOTHER's exclusive periods of possession, at the place designated in this Notice.

## APPENDIX 29

NOTICE OF SUMMER ELECTION – NONPRIMARY PARENT

## EXHIBIT A

SUMMER NOTIFICATION OF \_\_\_\_\_ (Nonprimary Parent)

(attach to the order as a form to be used)

TO: MOTHER

FROM: FATHER

DATE: \_\_\_\_\_, 201\_\_ (notice must be received or postmarked on or before April 1<sup>st</sup> )

Pursuant to the Court's Possession Order, I will exercise my right to extended summer possession of our children for the Summer of 201\_\_, as follows:

Beginning at 6:00 p.m. on \_\_\_\_\_, 20\_\_, and ending at 6:00 p.m. on \_\_\_\_\_.

[FATHER should also complete the following if dividing the thirty days into two separate periods of at least seven consecutive days each; otherwise, mark through the following:]

AND

Beginning at 6:00 p.m. on \_\_\_\_\_, 20\_\_, and ending at 6:00 p.m. on \_\_\_\_\_.

Pursuant to the Court's Possession Order, the following provisions for surrender and return of the children apply to these periods of possession (**the attorney should edit these to conform with the order**):

1. Surrender of Child by MOTHER—MOTHER is ORDERED to surrender the child to FATHER at the beginning of each period of FATHER's possession at the residence of MOTHER.

If a period of possession by FATHER begins at the time the child's school is regularly dismissed, MOTHER is ORDERED to surrender the child to FATHER at the beginning of each such period of possession at the school in which the child is enrolled. If the child is not in school, FATHER shall pick up the child at the residence of MOTHER at [**time**], and MOTHER is ORDERED to surrender the child to FATHER at the residence of MOTHER at [**time**] under these circumstances.

2. Surrender of Child by FATHER—FATHER is ORDERED to surrender the child

to MOTHER at the residence of FATHER at the end of each period of possession.

**[OR]**

2. Return of Child by FATHER—FATHER is ORDERED to return the child to the residence of MOTHER at the end of each period of possession. However, it is ORDERED that, if MOTHER and FATHER live in the same county at the time of rendition of this order, FATHER's county of residence remains the same after rendition of this order, and MOTHER's county of residence changes, effective on the date of the change of residence by MOTHER, FATHER shall surrender the child to MOTHER at the residence of FATHER at the end of each period of possession.

If a period of possession by FATHER ends at the time the child's school resumes, FATHER is ORDERED to surrender the child to MOTHER at the end of each such period of possession at the school in which the child is enrolled or, if the child is not in school, at the residence of MOTHER at **[time]**.

## APPENDIX 30

**RIGHT TO SELECT SUMMER CAMP**

*Note: The requirement that Mother notify Father of the summer camp dates by March 1st will enable Father to give his April 1st notice of extended summer possession with knowledge of those camp dates. If the summer camp dates will not be known by March 1st, another option would be to move both dates back to April 1 and May 1, respectively.*

**Orders Regarding Summer Camp**

The Court finds the parties anticipate that the child(ren) may attend summer camp from year to year.

**IT IS ORDERED** that in the event any child will be attending summer camp during the summer of any year, MOTHER shall notify FATHER of the name, location, mailing address, and telephone number of the summer camp each child will attend, which child will attend each particular summer camp, and the exact dates and times when each summer camp session begins and ends.

**IT IS ORDERED** that MOTHER shall not enroll a child in more than one summer camp during any year without FATHER's advance written consent, and that the summer camp session attended by each child shall not exceed two consecutive weeks in any year.

**IT IS ORDERED** that the parent in possession of the child on the date upon which the child's summer camp session is scheduled to begin, shall deliver the child to the summer camp at the beginning time of the session. **IT IS ORDERED** that the parent entitled to possession of the child on the date upon which the child's summer camp session concludes, shall pick up the child from summer camp at the ending time of the session.

*Note: Be sure to provide that FATHER's periods of weekend and extended summer possession in the regular possession order are subject to these provisions regarding summer camp or that FATHER's periods of weekend and extended summer possession will control provided he delivers and picks up the children to and from camp.*

## APPENDIX 31

**RIGHT OF FIRST REFUSAL – Parent Absent Certain Number of Hours**

*Note: If you use the Standard Possession Order, you can simply add the following paragraph (with any duration you choose) to the form for the Standard Possession Order between “(f) Undesignated Periods of Possession” and “(g) General Terms and Conditions:”*

(g) Right of First Refusal

The following provisions giving each parent a mutual right of first refusal are hereby incorporated into the possession orders contained in this order:

In the event FATHER will not be personally present with the child during any period of \_\_\_\_\_ hours or longer that falls within his scheduled periods of possession of the child, IT IS ORDERED that FATHER shall notify MOTHER as soon as possible after he discovers he will not be personally present with the child for such period of \_\_\_\_\_ hours or longer, and FATHER shall give MOTHER the option to take possession of the child during any portion of that period of possession during which he will not be personally present with the child. In the event MOTHER wishes to exercise this right to possession of the child, MOTHER shall notify FATHER that she will exercise such right within two hours of her receipt of FATHER’s notification that he will not be personally present with the child for that period. In the event MOTHER exercises this right to possession of the child, then MOTHER shall pick up the child from FATHER’s residence if FATHER is in possession of the child prior to being absent for the period of two hours or longer; otherwise, from school if the child is in school. If FATHER returns during his schedule period of possession and has given MOTHER advance notice of his intent to resume possession of the child, MOTHER shall surrender the child to FATHER at MOTHER’s residence at the time specified so that he may complete his period of possession.

In the event MOTHER will not be personally present with the child during any period of \_\_\_\_\_ hours or longer that falls within her scheduled periods of possession of the child, IT IS ORDERED that MOTHER shall notify FATHER as soon as possible after she discovers she will not be personally present with the child for such period of \_\_\_\_\_ hours or longer, and MOTHER shall give FATHER the option to take possession of the child during any portion of that period of possession during which she will not be personally present with the child. In the event FATHER wishes to exercise this right to possession of the child, FATHER shall notify MOTHER that he will exercise such right within two hours of his receipt of MOTHER’s notification that she will not be personally present with the child for that period. In the event FATHER exercises this right to possession of the child, then FATHER shall pick up the child from MOTHER’s residence if MOTHER is in possession of the child prior to being absent for the period of two hours or longer; otherwise, from school if the child is in school. If MOTHER returns during her schedule period of possession and has given FATHER advance notice of her intent to resume possession of the child, FATHER shall surrender the child to MOTHER at FATHER’s residence at the time specified so that she may complete her period of possession.

IT IS FURTHER ORDERED that if either parent notifies the other parent that they will exercise a right of first refusal under the terms of this order, the parent providing such notification shall not cancel such agreement, and shall be responsible for the arrangement and expense of any child care if they later determine they are unable to exercise the right of first refusal.

**APPENDIX 32****RIGHT OF FIRST REFUSAL – Parent Absent Overnight(s)**

*Note: If you use the Standard Possession Order, you can simply add the following paragraph (with any duration you choose) to the form for the Standard Possession Order between “(f) Undesignated Periods of Possession” and “(g) General Terms and Conditions:”*

**(g) Right of First Refusal**

If the parent entitled to possession of the child pursuant to this order will be away from the child for \_\_\_\_\_ consecutive overnights, that parent (“absent parent”) is ORDERED to contact the other parent as soon as possible and offer the other parent the opportunity to pick up the child and have possession of the child during the absence of the parent entitled to possession of the child. The parent exercising this right of first refusal (“exercising parent”) is ORDERED to relinquish the child to the absent parent at the exercising parent’s residence (or at school, if the child is in school) immediately upon the absent parent’s return and request, if the absent parent is still entitled to possession of the child under this order, provided the absent parent has given advance notice to the exercising parent of the absent parent’s intent to resume possession of the child.

IT IS FURTHER ORDERED that if the exercising parent notifies the absent parent that the exercising parent will exercise a right of first refusal under the terms of this order, the exercising parent shall not cancel such agreement, and shall be responsible for the arrangement and expense of any child care if the exercising parent later determines he or she is unable to exercise the right of first refusal.

**APPENDIX 33****RIGHT OF FIRST REFUSAL - When Other Parent is Working**

*Note: This is useful when one or both parents have work schedules that change frequently.*

*Use the Standard Possession Order but include a “right of first refusal” when the other parent is working and the child is not in school. You can simply add one or both of the following paragraphs to the form for the Standard Possession Order between “(f) Undesignated Periods of Possession” and “(g) General Terms and Conditions:”*

(g) **Right of Possession During Work Hours of Other Conservator**

Notwithstanding any periods of possession ORDERED for FATHER, it is explicitly ORDERED that MOTHER shall have a right of possession of the child as follows:

MOTHER shall have the right to possession of the child while FATHER is working, except for the hours during which the child is attending classes in kindergarten or any grade level above kindergarten. FATHER is ORDERED to give written notice to MOTHER of FATHER’s work schedule within 24 hours of FATHER’s receipt of each such work schedule. MOTHER shall have the right to possession of the child during the times FATHER works, beginning 30 minutes prior to the start of FATHER’s work hours, and ending 30 minutes after the end of FATHER’s work hours. In order to exercise this right of possession, MOTHER shall give written notice to FATHER of MOTHER’s intent to exercise a period of possession during which FATHER is working on or before the third day after MOTHER receives FATHER’s work schedule covering that period. If MOTHER exercises this right of possession, MOTHER shall pick up the child from FATHER’s residence, if the child is not in school (or from the school if the child is in school). If FATHER’s work hours end during a scheduled period of possession granted to FATHER under the terms of this order, FATHER may resume his period of possession after the end of his work hours by picking up the child from MOTHER’s residence, if the child is not in school (or from the school if the child is in school).

Notwithstanding any periods of possession ORDERED for MOTHER, it is explicitly ORDERED that FATHER shall have a superior right of possession of the child as follows:

FATHER shall have the right to possession of the child while MOTHER is working, except for the hours during which the child is attending classes in kindergarten or any grade level above kindergarten. MOTHER is ORDERED to give written notice to FATHER of MOTHER’s work schedule within 24 hours of MOTHER’s receipt of each such work schedule. FATHER shall have the right to possession of the child during the times MOTHER works, beginning 30 minutes prior to the start of MOTHER’s work hours, and ending 30 minutes after the end of MOTHER’s work hours. In order to exercise this right of possession, FATHER shall give written notice to MOTHER of FATHER’s intent to exercise a period of possession during which MOTHER is working on or before the third day after FATHER receives MOTHER’s work

schedule covering that period. If FATHER exercises this right of possession, FATHER shall pick up the child from MOTHER's residence, if the child is not in school (or from the school if the child is in school). If MOTHER's work hours end during a scheduled period of possession granted to MOTHER under the terms of this order, MOTHER may resume her period of possession after the end of her work hours by picking up the child from FATHER's residence, if the child is not in school (or from the school if the child is in school).

**APPENDIX 34****COUNSELING AS A CONDITION OF VISITATION**

*Note: Texas Family Code §153.010 authorizes a court to order counseling of either party or the child to facilitate visitation.*

Orders for Counseling

IT IS ORDERED AND DECREED that FATHER shall attend counseling sessions with \_\_\_\_\_ (name of therapist) on each Friday before a regularly scheduled period of possession at his sole cost and expense. IT IS FURTHER ORDERED AND DECREED that FATHER shall make a standing appointment with Dr. \_\_\_\_\_ for every Friday of a weekend in which visitation is to occur. In the event FATHER cannot keep the Friday appointment because of circumstances beyond his control or because of the therapist's schedule, then the counseling session shall occur on the Thursday before any visitation.

IT IS ORDERED that FATHER shall authorize the therapist to speak with MOTHER on issues affecting the child. MOTHER may telephone the therapist from time to time to ascertain that the counseling sessions are occurring as required and to relay any concerns about visitation.

IT IS ORDERED that the counseling ordered herein shall continue until FATHER is released by the therapist or further order of this Court.

IT IS ORDERED that if FATHER fails or refuses to attend counseling as required by this order, or fails to meaningfully participate in such counseling (as determined by the therapist), then visitation with the child shall cease until counseling is resumed or until further order of the Court.

**APPENDIX 35****PROVISIONS FOR APPOINTMENT OF PARENTING COORDINATOR**

*Note: This form is to be used in a Final Order, but can be modified for use in Temporary Orders.*

*Parenting Coordinator*

IT IS ORDERED that [name of expert], is appointed as parenting coordinator to resolve parental conflicts through confidential procedures. The Court finds that there is good cause shown and it is in the best interest of the child the subject of this suit that a parenting coordinator be appointed. The Court further finds that the individual appointed as the parenting coordinator has the minimum qualifications required under law for a parenting coordinator. All counsel are ordered to provide a copy of this order to [name of expert, address and telephone number] within fourteen (14) business days of the signing of this order.

Parenting coordination is for the purpose of assisting the parties in resolving parenting issues through confidential procedures. The duties of the parenting coordinator are limited to matters that will aid the parties in identifying disputed issues, reducing misunderstandings, clarifying priorities, exploring possibilities for problem solving, developing methods of collaboration in parenting, understanding parenting plans and reaching agreements about parenting issues to be included in a parenting plan, complying with the Court's order regarding conservatorship or possession of and access to the child, implementing parenting plans, obtaining training regarding problem solving, conflict management, and parenting skills, and settling disputes regarding parenting issues and reaching a proposed joint resolution or statement of intent regarding those disputes.

The appointment of a parenting coordinator does not divest the Court of its exclusive jurisdiction to determine issues of conservatorship, support, and possession of and access to the child or the authority to exercise management and control of the suit. Accordingly, the parenting coordinator may not modify any order, judgment, or decree. If agreements are made that require legal processing, representing attorneys or pro se parties will process the agreements through appropriate legal procedures.

IT IS ORDERED that before filing or setting any hearing in a suit for modification of the terms and conditions of conservatorship, possession, or support of the child, except in an emergency, the parties shall attend four (4) sessions with the parenting coordinator. IT IS FURTHER ORDERED that the party wishing to modify the terms and conditions of conservatorship, possession, or support of the child shall give written notice to the other party of a desire to schedule a session with the parenting coordinator. If, within ten (10) days after receipt of the written notice, no agreed-upon date for the first parenting coordination session can be scheduled, the parenting coordinator shall select a date within ten (10) days, and all parties shall appear as directed by the parenting coordinator.

IT IS ORDERED that the fees of the parenting coordinator shall be paid 50 percent by MOTHER and 50 percent by FATHER. Each party is responsible for that party's defined portion of cost. Each party is ordered to pay directly to the parenting coordinator the assigned fees according to the policies of the parenting coordinator.

IT IS ORDERED that the parenting coordinator shall submit a written report to the Court and to the parties and their attorneys as requested by the parties or the Court. IT IS FURTHER ORDERED that the report must be limited to a statement of whether the parenting coordination should continue.

Parenting coordination is private, confidential, and privileged, except as provided by applicable law. IT IS ORDERED that the parenting coordinator shall not be a witness, and the parenting coordinator's records may not be subpoenaed or used as evidence. Nothing in this order shall serve to release the parenting coordinator from the legal obligation to report child, elder, or disability abuse. IT IS FURTHER ORDERED that no subpoenas, citations, writs, or other process shall be served at or near the location of any parenting coordination session on any person entering, leaving, or attending any parenting coordination session.

Referral to parenting coordination is not a substitute for trial, and the case may be tried if not settled or agreed to continue in parenting coordination or other intervention service. The Court shall remove the parenting coordinator on the request and agreement of all parties, on the request of the parenting coordinator, on the motion of a party if good cause is shown or if the parenting coordinator ceases to satisfy the minimum qualifications required. The parenting coordinator may recommend termination of the service when making a status report.

**APPENDIX 36****PROVISION FOR APPOINTMENT OF PARENTING COORDINATOR**

*Note: This form is to be used in a Final Order, but can be modified for use in Temporary Orders.*

*Parenting Coordinator*

IT IS ORDERED that [name of expert], is appointed as parenting coordinator to resolve parental conflicts through confidential procedures. The Court finds that there is good cause shown and it is in the best interest of the child the subject of this suit that a parenting coordinator be appointed. The Court further finds that the individual appointed as the parenting coordinator has the minimum qualifications required under law for a parenting coordinator. All counsel are ordered to provide a copy of this order to [name of expert, address and telephone number] within fourteen (14) business days of the signing of this order.

Parenting coordination is for the purpose of assisting the parties in resolving parenting issues through confidential procedures. The duties of the parenting coordinator are limited to matters that will aid the parties in identifying disputed issues, reducing misunderstandings, clarifying priorities, exploring possibilities for problem solving, developing methods of collaboration in parenting, understanding parenting plans and reaching agreements about parenting issues to be included in a parenting plan, complying with the Court's order regarding conservatorship or possession of and access to the child, implementing parenting plans, obtaining training regarding problem solving, conflict management, and parenting skills, and settling disputes regarding parenting issues and reaching a proposed joint resolution or statement of intent regarding those disputes.

The appointment of a parenting coordinator does not divest the Court of its exclusive jurisdiction to determine issues of conservatorship, support, and possession of and access to the child or the authority to exercise management and control of the suit. Accordingly, the parenting coordinator may not modify any order, judgment, or decree. If agreements are made that require legal processing, representing attorneys or pro se parties will process the agreements through appropriate legal procedures.

IT IS ORDERED that before filing or setting any hearing in a suit for modification of the terms and conditions of conservatorship, possession, or support of the child, except in an emergency, the parties shall attend four (4) sessions with the parenting coordinator. IT IS FURTHER ORDERED that the party wishing to modify the terms and conditions of conservatorship, possession, or support of the child shall give written notice to the other party of a desire to schedule a session with the parenting coordinator. If, within ten (10) days after receipt of the written notice, no agreed-upon date for the first parenting coordination session can be scheduled, the parenting coordinator shall select a date within ten (10) days, and all parties shall appear as directed by the parenting coordinator.

IT IS ORDERED that the fees of the parenting coordinator shall be paid 50 percent by MOTHER and 50 percent by FATHER. Each party is responsible for that party's defined portion of cost. Each party is ordered to pay directly to the parenting coordinator the assigned fees according to the policies of the parenting coordinator.

IT IS ORDERED that the parenting coordinator shall submit a written report to the Court and to the parties and their attorneys as requested by the parties or the Court. IT IS FURTHER ORDERED that the report must be limited to a statement of whether the parenting coordination should continue.

Parenting coordination is private, confidential, and privileged, except as provided by applicable law. IT IS ORDERED that the parenting coordinator shall not be a witness, and the parenting coordinator's records may not be subpoenaed or used as evidence. Nothing in this order shall serve to release the parenting coordinator from the legal obligation to report child, elder, or disability abuse. IT IS FURTHER ORDERED that no subpoenas, citations, writs, or other process shall be served at or near the location of any parenting coordination session on any person entering, leaving, or attending any parenting coordination session.

Referral to parenting coordination is not a substitute for trial, and the case may be tried if not settled or agreed to continue in parenting coordination or other intervention service. The Court shall remove the parenting coordinator on the request and agreement of all parties, on the request of the parenting coordinator, on the motion of a party if good cause is shown or if the parenting coordinator ceases to satisfy the minimum qualifications required. The parenting coordinator may recommend termination of the service when making a status report.

**APPENDIX 37****TERMS AND CONDITIONS – MEDIATION IF DISAGREEMENT OR CONFUSION  
OVER POSSESSION SCHEDULE**

*NOTE: If you use the Standard Possession Order, you can add the following paragraphs as a new section (f) prior to General Terms and Conditions.*

(f) Disagreement or Confusion Over Possession Schedule

It is agreed that before filing any suit for modification, clarification or enforcement of the terms and conditions of possession of the child, except in an emergency, the parties shall mediate the controversy in good faith. It is agreement that the party wishing to modify, clarify or enforce the terms and conditions of possession of the child shall give written notice to the other party of a desire to mediate the controversy. If, within five (5) days after receipt of the written notice, the parties cannot agree on a mediator or the other party does not agree to attend mediation or fails to attend a scheduled mediation of the controversy, the party desiring modification shall be released from the obligation to mediate and shall be free to file suit for modification, clarification or enforcement.

