

## COHABITATION AGREEMENT

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This Cohabitation Agreement (this "Agreement") is entered into on this 19 day of January, 2018, by and between EDDIE M PENNY (hereafter referred to as "Eddie M Penny") and MERILYN R PAUL (hereafter referred to as "Marilyn R Paul"), (each, a "Party" and collectively, the "Parties").

1. **Purpose.** The Parties currently reside together at 641 Ella Street, Oakland, CA 94612 although there is currently no intention or agreement to marry or be married.

2. **Current Circumstances.** With respect to current circumstances:

- A. Eddie M Penny has no children.
- B. Marilyn R Paul has no children.
- C. The Parties wish to establish their respective rights and responsibilities regarding each other's income and property, as well as any income and property that may be acquired, either separately or together, during the period of cohabitation.
- D. The Parties intend for the distribution and characterization of any property that either or both of them may own or acquire during the period of cohabitation shall be governed by the terms of this Agreement, and this Agreement alone, upon the event of dissolution, whether by choice or by death.

3. **Effective Date.** This Agreement will be effective on January 19, 2018 (the "Effective Date"), the approximate date when the Parties' cohabitation began or will begin. If the Parties do not begin living with each other by such date, this Agreement will be null and void and its provisions unenforceable.

4. **Disclosure.** The Parties hereby acknowledge that they have each made a full and complete disclosure to each other of all of their financial assets and liabilities.

- A. They further acknowledge that they have received a full and complete disclosure of the other Party's financial assets and liabilities. Each Party hereby waives any future rights to additional disclosure, unless otherwise agreed to in writing.
- B. The Parties represent and warrant to each other that they have, to the best of their ability, made a fair and reasonable disclosure of the nature and extent of their property, including values and financial obligations and that the disclosure includes but is not limited to the properties and liabilities set forth in this agreement.

5. **Legal Representation.** Each Party acknowledges that they have had the chance to consult with an attorney or other expert of their own choice in the negotiation, preparation, explanation and execution of this Agreement, or has voluntarily chosen to forego consultation with such attorney or other such expert. Each Party admits they are entering into this Agreement freely and voluntarily, and that neither fraud nor duress induced the Party into consenting to this Agreement.

6. **Debts.** The Parties do not intend to prejudice the rights of preexisting creditors by entering into this Agreement.

- A. All liabilities and obligations (contingent and absolute) listed in Exhibit D of this Agreement are stipulated and agreed to be the debts and liabilities of Eddie M Penny.

B. Eddie M Penny agrees that all the liabilities and obligations listed in Exhibit D of this Agreement are enforceable against and must be discharged solely from the property of Eddie M Penny, and are not enforceable against or dischargeable from the property of Marilyn R Paul. Eddie M Penny agrees to indemnify and hold Marilyn R Paul harmless from all such liabilities and to defend Marilyn R Paul from any claims made against his/her property.

C. If a Party is unable to pay his/her debts or liabilities and the other Party pays said debt or liability on behalf of such Party, the paying Party will not have a right of reimbursement from the estate of the nonpaying Party. The payment of any such debt or liability will be deemed to be a gift by the paying Party to the nonpaying Party.

D. All debt acquired solely in one Party's name, even after the Effective Date of this Agreement and period of cohabitation, shall be deemed the sole and separate debt of said Party, unless otherwise agreed to in writing.

E. In the event the Parties' relationship dissolves, including the death of a Party, Eddie M Penny will be responsible for sixty (60)% of the Parties' shared debts and obligations, and Marilyn R Paul will be responsible for forty (40)% of Parties' shared debts and obligations, unless the Parties have agreed otherwise in writing.

**7. Parent-Child Relationship.** If the Parties have any children with each other, this Agreement will not affect the rights of such child or children to receive support from either or both Parties.

**8. Support.** Each Party waives the right to be supported by the other Party after their separation or after the death of either Party, and each Party agrees not to make any claim for such support. The Parties rely upon the law of contract to govern in respect of this issue. No change in circumstances, including living expenses, career changes, or disability, shall entitle either Party to claim support from the other.

**9. Waiver of Rights.** Each Party acknowledges that they have had ample time and opportunity to investigate the property rights of each other.

A. Each Party hereby voluntarily and expressly waives any right to further disclosure of the property, debts, or other financial obligations of the other Party, beyond the disclosures attached to this Agreement or exchanged separately and in furtherance of inquiries to respective property rights.

B. Each Party agrees that they may be waiving rights to which they are otherwise entitled under either the laws of their state, other states or the Federal government including property rights, the laws of inheritance, and the laws of the family code. Indeed, each Party hereby desires and requests that any laws of any state or Federal government that may otherwise apply to them do not apply to the extent allowed by law.

**10. Estates and Testamentary Disposition.** With regards to estates and testamentary dispositions:

A. Nothing in this Agreement shall impede the right of either Party to name the other as a beneficiary by will or other testamentary disposition.

B. Each Party agrees to accept the provisions of any last will and testament and codicils that may be in effect at the time of either Party's death in full settlement and satisfaction of any and all interest that he or she, as the cohabitant, might have to the decedent Party's estate.

**11. Termination and Amendment.** With regards to termination and amendments:

- A. This Agreement may only be amended by the Parties in writing, signed by both of them and notarized under oath.
- B. This Agreement shall be terminated upon Separation of the Parties. This includes: Death. Separation upon the date the Parties cease cohabitation. Cessation of cohabitation upon written notice from one Party to the other Party. Such separation will be deemed to have occurred on the date that written notice is delivered to the other Party's last-known mailing address. Separation of cohabitation may be defined under the case law in the jurisdiction of the governing law.
- C. This Agreement shall terminate upon marriage of the Parties to each other.

**12. Governing Law.** The laws of the State of California, without regard to its conflict of laws provisions, will govern the interpretation of this Agreement, and the status, ownership, and division of property between the Parties wherever either or both of them may from time to time reside.

**13. Severability.** If any provision of this Agreement is for any reason found to be unenforceable, all other provisions nonetheless remain enforceable, and the provision found to be unenforceable shall be severable from the other provisions of this contract without affecting the enforceability of the remainder of the document.

**14. Fiduciary Duty.** Each Party, upon execution, promises to act in good faith and to deal fairly with the other Party, including in the management of their joint property and/or accounts in acting under the terms of this Agreement.

**15. Enforceability.** With regards to enforceability:

- A. The Parties agree to provide and execute such further documentation as may be reasonably required to give full force and effect to each term of this Agreement.
- B. This Agreement binds and inures to the benefit of the Parties and their respective legatees, devisees, heirs, executors, legal and personal representatives, assigns, transferees, and successors in interest.
- C. This Agreement may be enforced by suit in law or equity by either of the Parties or by their heirs, executors, attorneys, or assigns.

**16. Attorney's Fees.** If either Party brings an action or other proceeding to enforce this Agreement or to enforce any judgment or order made by a court in connection with this Agreement, the prevailing Party will be entitled to recover reasonable attorney's fees and other necessary costs from the other Party. If either Party files a declaratory judgment proceeding to determine the enforceability of this Agreement, neither Party will be entitled to an award of attorney's fees unless a Party successfully challenges the validity of this Agreement, in which event the court will have the authority to award attorney's fees. If either Party seeks to invalidate some or all of this Agreement or seeks to recover property in a manner at variance with this Agreement, the successful Party will be entitled to recover reasonable attorney's fees and other necessary costs from the other Party.

**17. Headings.** The section headings herein are for references purposes only and shall not otherwise affect the meaning, construction or interpretation of any provision in this Agreement.

**18. Incorporation of Exhibits.** All Exhibits to this Agreement are hereby fully incorporated into this Agreement as though fully set forth verbatim.

19. **Entire Agreement.** This Agreement contains the entire understanding between the Parties and supersedes and cancels all prior agreements of the Parties, whether oral or written, with respect to such subject matter.

20. **Acknowledgment.** The Parties acknowledge that they have been informed of their legal rights, have been given an adequate amount of time to consider entering into this Agreement, have read and understand this Agreement, agree with the contents of this Agreement and believe it to be fair, have not been pressured or coerced into signing this Agreement and have chosen to freely and voluntarily enter into this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

_____ <b>Eddie M Penny Signature</b>	Eddie M Penny _____ <b>Eddie M Penny Name</b>
_____ <b>Merilyn R Paul Signature</b>	Merilyn R Paul _____ <b>Merilyn R Paul Name</b>

**NOTARY ACKNOWLEDGEMENT:**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) **(Seal)**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the undersigned, Eddie M Penny, who is personally known to me or satisfactorily proven to me to be the person whose name is subscribed to the within instrument.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) **(Seal)**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the undersigned, Merilyn R Paul, who is personally known to me or satisfactorily proven to me to be the person whose name is subscribed to the within instrument.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## EXHIBIT A

## EXHIBIT B

## EXHIBIT C



## EXHIBIT D

## EXHIBIT E

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## GENERAL INSTRUCTIONS

### WHAT IS A COHABITATION AGREEMENT?

A Cohabitation Agreement is a written contract used by unmarried couples who live together that describes their financial obligations during the relationship and after it ends.

As a reference, a Cohabitation Agreement is known by other names:  
Common Law Partner Agreement; Living Together Agreement; Cohabitation Agreement for Unmarried Partners; No-Nuptial Agreement.

In particular, the agreement addresses:

- **Separate Property:** what happens to property you acquired before the relationship if one of you passes away unexpectedly
- **Joint Property:** how jointly owned property and property acquired during the relationship will be divided if you no longer remain a couple.
- **Shared Expenses:** how living expenses will be shared.
- **Clear Expectations:** any other financial or general expectations you want to put in writing before moving in together

### WHY YOU SHOULD CONSIDER HAVING ONE

A Cohabitation Agreement is commonly used when an unmarried couple decides to start living together. Because the law generally grants no legal status to cohabitating couples who are not married or civil partners, a cohabitation agreement is a way to determine the partners' rights and obligations during the course of the relationship and afterwards. Nine states, however, do allow you to create an informal or "common law" marriage if the following three apply:

1. You both agree to be married
2. You both live together as a married couple after agreeing to be married
3. You hold yourselves out to the public as a married couple

## WHAT YOU CAN INCLUDE

A simple Cohabitation Agreement should generally have at least the following:

- **Effective Date:** when does the agreement take effect
- **Full Disclosure:** you must agree that, before signing the agreement, you both had the opportunity to examine your partner's financial situation, including net worth, assets, holdings, income, and liabilities
- **Independent Legal Advice:** the courts will only uphold the agreement if you both had the opportunity to consult with qualified legal counsel before signing the agreement
- **Agreement on Payment of Expenses:** before moving in together, decide how the rent or mortgage payments, utilities, groceries, and other regular expenses are going to be divided
- **Lists of Separate and Joint Property:** list property you acquired before becoming a couple and want to keep as **separate property** - including financial assets, household goods, vehicles, and other items. Similarly, list property owned **jointly with your partners** as joint property, which will be divided between the two of you upon death or separation.
- **Effect of Separation or Death:** Any property that is listed as "separate" in the Cohabitation Agreement generally will not be divided with the other person if a death or separation occurs. In contrast, any property listed as "joint" will be shared with the other person. If you want your partner to have inheritance rights, you should clarify this wish in a will.

### CONSEQUENCES OF NOT USING IT?

Without a Cohabitation Agreement, you could be forced to assume the debts of your partner if you split up. That means you could be on the hook not only for outstanding rent and utility payments but also debts relating to household goods and personal items. A Cohabitation Agreement can also help ensure that any assets you acquired prior to the relationship **stay in your possession** if the relationship ends.