

Model Cohabitation Agreement for Domestic Partners – Parties to Share Residence, Earnings and Accumulated Property – Support Provisions

Editor’s Note:

This agreement is designed for use by two persons of the same or opposite sex(es) who desire to establish and maintain a non-registered cohabitation relationship in which one person financially supports the relationship and the other renders various homemaking services. Exhibits listing any assets currently owned and obligations currently owed by each party should be attached to the agreement (see Paragraph 3).

The form generally provides that the parties will jointly own any property acquired during the relationship (see Paragraph 4). The form also contains an optional paragraph for use if one of the parties already owns a residence and the parties agree that any increase in value occurring during the relationship is to be shared (see Paragraph 5). The signatures of the parties are acknowledged by a notary public.

This form may also be modified to serve as an agreement between two unregistered persons who are either (1) both gainfully employed and intend to share jointly accumulated property, or (2) both gainfully employed and intend to share only household and related expenses.

Two alternative support provisions provide for the financial support of one party to the relationship. One provision requires that the gainfully-employed party support the other party after the relationship ends. This provision protects a party who has, perhaps, foregone educational and career opportunities for the sake of the relationship and who depends on the earnings of the other party to the relationship.

The second alternative also provides that the gainfully-employed party is to provide the other party with support; however, the obligation to provide support is to continue only so long as the cohabitation relationship continues. This alternative also includes a provision that the parties disclaim any right to support after the relationship ends.

FORM

UNREGISTERED DOMESTIC PARTNERSHIP COHABITATION AGREEMENT

This Agreement is made on _____ [date] between _____ [name of first party] (First Party or identify by name) and _____ [name of second party] (Second Party or identify by name).

Recitals:

The parties are unregistered domestic partners who desire to live together in an unregistered relationship in which First Party financially supports Second Party, and Second Party renders services to First Party as companion, housekeeper, homemaker and cook. The parties desire to combine their efforts and earnings and share equally the property accumulated through their individual or combined efforts.

The parties therefore agree as follows:

1. Sharing of Earnings, Services and Property

(a) First Party shall use best efforts through [his *or* her] personal services and skills to generate earnings, salaries, commissions or other income sufficient to provide a standard of living mutually acceptable to the parties.

(b) Second Party shall render services to First Party as companion, housekeeper, homemaker and cook, and assume responsibility for related household tasks.

(c) The parties shall combine their efforts and earnings and shall share equally the property accumulated through their individual or combined efforts, as further provided in Paragraph 4.

*[Use if support is to continue **after** parties' permanent separation:]*

2. Support

First Party shall provide for all of Second Party's financial support, commencing as of the date of this Agreement and continuing _____ *[specify period, e.g., for the rest of Second Party's life, notwithstanding the parties' permanent separation, as defined in Paragraph 9, or until _____ [specify period, e.g., one year after the parties' permanent separation, as defined in Paragraph 9].* This support obligation shall, however, terminate on the first to occur of any of the following events:

- (a) the death of _____ *[specify either party or Second Party],*
- (b) the marriage of Second Party to a third person or the entry into a registered domestic partnership by Second Party and a third person; or
- (c) the cohabitation of Second Party with a third person.

[Use if support obligation is to cease on parties' permanent separation:]

2. Support

First Party shall provide for all of Second Party's financial support until such time as the Parties are no longer cohabiting pursuant to the terms of this Agreement. This support obligation shall cease as of the date of the termination of this Agreement pursuant to Paragraph 8. Each party waives and disclaims any right to support from the other party after the termination of this Agreement.

3. Disclosure of Present Assets and Obligations

Each party has fully disclosed to the other party the full extent of all assets presently owned and obligations presently owed by that party, as set forth in the attached Exhibits _____ [*specify exhibit numbers*], which are incorporated into this Agreement by reference.

4. Ownership of Jointly Owned Property

Except for the separately-owned property listed in Exhibit(s) _____ [*specify exhibit numbers*] to this Agreement, the parties shall hold all property, including all property acquired during the period of their cohabitation under this Agreement, equally as _____ [*specify tenants in common or joint tenants or tenants in common or joint tenants, as may be appropriate*]. _____ [*Specify First Party or Second Party or Both parties*] shall have [equal] management and control of the jointly-owned property.

[*Optional Provision:*]

5. Sharing Increase in Value of Residence

_____ [First or Second] Party presently holds sole title to the real property described as _____ [*specify, e.g., a single-family dwelling*], located at _____ [*address*], as more specifically described in Exhibit _____ [*specify exhibit number*]. This property will remain _____ [First or Second] Party's sole and separate property. However, the parties shall share _____ [*equally or specify formula or percentage for sharing increase*] in any increase in the value of this real property occurring on and after the date of this Agreement and until the Agreement is terminated. On termination of the Agreement, _____ [Second or First Party] will be entitled to receive [his or her] share in the increase in the value of this property, within _____ [*specify period, or a reasonable time*]. [*Add if desired:* The parties agree that the present value of this real property is \$ _____ or _____ [First or Second] Party agrees to hire a competent appraiser to establish the value of this real property as of the date of this

Agreement. The conclusions of the appraiser so hired will be binding on both parties, unless they agree otherwise.]

[*Optional Provision:*]

6. Legal Names of Children of Relationship

The parties agree that any minor child or children of the parties who is/are their biological offspring, or adopted by them, shall be given the following surname:

_____.

[*Optional Provision:*]

7. Support, Maintenance, and Education of Children of Previous Relationship

_____ [First Party *or* Second Party *or* Both parties] shall provide the following with respect to _____ [name(s)], _____ [a child *or* children] of a previous relationship between _____ [Second *or* First] Party and a third person: _____ [*specify nature of support, e.g., all ordinary living expenses, including reasonable expenses for medical care, dental care, and education*]. This support obligation shall continue _____ [*specify duration of support obligation, e.g., as to each child named in this Paragraph until the child reaches the age of majority*], [notwithstanding the parties' permanent separation, as defined in Paragraph 9 *or* unless this Agreement is terminated before that time pursuant to Paragraph 8].

8. Termination of Agreement

This Agreement shall terminate as to all unexecuted provisions on the first to occur of any of the following events:

- (a) on the written consent of the parties,
- (b) on the marriage, registration or cohabitation of either party with a third person, or
- (c) on the permanent separation of the parties, as defined in Paragraph 9.

_____ [*Add if support is to extend beyond parties' permanent separation:* However, the termination of this Agreement shall not affect the continuing obligation of either party set forth in this Agreement to support the other party (*add, if appropriate: or to support any children of a previous relationship*),]

9. Permanent Separation

As used in this Agreement, the permanent separation of the parties means that the parties have been regularly living apart in separate dwelling places for a period of at least _____ [*specify period, e.g., one month*] after one party has notified the other in writing that [*he or she*] intends to cease cohabitation with that party.

10. Division of Property

On termination of this Agreement, the parties shall immediately divide their jointly-owned property. The jointly-held property shall be divided equally, unless otherwise agreed to by the parties. [*Optional: In addition, _____ (First or Second) Party shall be entitled to [his or her] share in the increase in value of the real property described in Paragraph 5.*] [*Optional: If the parties are unable to agree on a division of their property, the parties agree to submit the valuation, characterization, and division of their property to binding arbitration, as further provided in Paragraph 11.*]

[*Optional Provision:*]

11. Arbitration of Disputes

If the parties separate and are unable to agree on a division of their property or on any other right or obligation under this Agreement, then they shall submit the matter for resolution by arbitration to be conducted in accordance with the provisions of this Paragraph. The parties shall jointly designate a person to act as arbitrator. In the event that the parties cannot agree on the designation of an arbitrator, the following provisions shall apply: Each party shall designate a person to act as an arbitrator. The two persons designated by the parties shall then agree on a third person to act as an arbitrator, thereby creating an arbitration panel of three persons. Each party shall submit to the arbitrator or the arbitration panel, as the case may be, a written statement regarding all issues in dispute along with any relevant documents. In making his, her, or its decision, the arbitrator or the arbitration panel, as the case may be, shall take into account all relevant facts and circumstances. The decision of the arbitrator or the arbitration panel, as the case may be, shall be binding on both parties. Each party shall pay _____ [*one-half or specify other percentage*] of the fees, if any, charged by the arbitrator(s) for their services. However, any issue regarding the custody, visitation, or support of any child born to the parties or adopted by them shall be submitted to a court of competent jurisdiction.

12. Representation by Independent Counsel

Each party hereby acknowledges that [he *or* she] has been represented by independent counsel in the negotiation of this Agreement, that the counsel representing each party was of [his *or* her] own choosing, and that the Agreement has been read by the parties and its meaning and legal consequences have been explained to them by such counsel.

13. Attorney's Fees and Costs

If any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall receive reasonable attorney's fees and costs, in addition to any other relief ordered.

14. Entire Agreement; Modification

This Agreement contains the entire agreement of the parties. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties relating to their rights and liabilities arising out of their relationship. This Agreement may be amended or modified only by a written instrument signed by the parties.

15. Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remaining portions shall continue in full force and effect.

16. Governing Law

This Agreement shall be governed by, and construed in accordance with, the laws of the State [or Commonwealth] of _____

Executed at _____ [city], State [or Commonwealth] of _____, on _____ [date].

_____ [signature]
_____ [typed name]

FIRST PARTY

_____ [signature]
_____ [typed name]

SECOND PARTY

ACKNOWLEDGMENT

On _____ [date], before me, _____ [name], a Notary Public in and for the State [Commonwealth] of _____, County of _____, personally appeared _____ [names of First and Second Parties], who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to this instrument, and acknowledged that they executed this instrument in their authorized capacities, and that by their signatures on the instrument the persons executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State [Commonwealth] of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____ [signature]
Notary Public

ALTERNATIVE PROVISIONS REGARDING RESPONSIBILITY FOR JOINT LIVING EXPENSES:

1. Living Expenses

(a) _____ [Name of first party] currently earns approximately \$____ per year from ____ [his or her] employment. _____ [Name of second party] currently earns approximately \$____ per year from ____ [his or her] employment. Based on their total monthly income of \$____, the parties shall share their living expenses on a pro rata basis. _____ [Name of first party] shall contribute ____ percent to payment of the parties' monthly living expenses, and _____ [name of second

party] shall contribute ____ percent to payment of the parties' total monthly living expenses. These percentages shall be adjusted proportionately on any increase or decrease in either party's earnings [*Optional: but no more than once [or other number of times] per year*].

(b) Joint living expenses shall be paid from a joint checking account that the parties shall open and maintain solely for the purpose of paying such expenses. The expenses to be paid from the joint checking account shall be limited to: _____ [*specify covered expenses, e.g., rent; food; utilities; telephone; renters' insurance; joint entertainment; and joint gifts*]. Neither party shall write a check on the joint checking account established pursuant to this paragraph for any purpose other than those specified in this paragraph without first obtaining the permission of the other party.

(c) On _____ [*specify time, e.g., the first of each month*], the parties shall calculate their anticipated expenses during the upcoming month for joint living expenses. Each party shall deposit [*his or her*] percentage contribution to the total estimated joint monthly expenses in the joint checking account no later than _____ [*specify, e.g., the fifth day of the month*]. If the estimated amount becomes insufficient, the parties will estimate the additional necessary amount and deposit that amount in a similar manner.

2. Payments From Separate Property

(a) _____ [*Name of first party*] shall pay from ____ [*his or her*] separate property all of the following: _____ [*specify, e.g., all maintenance and replacement expenses for ____ [*his or her*] vehicle; all purchase and maintenance of items of clothing; and all personal grooming expenses*].

(b) _____ [*Name of second party*] shall pay from ____ [*his or her*] separate property all of the following: _____ [*specify, e.g., all maintenance and replacement expenses for ____ [*his or her*] vehicle; all purchase and maintenance of items of clothing; all personal grooming expenses; and all expenses for the care and feeding of ____ [*his or her*] pets*].

(c) Each party will manage and control ____ [*his or her*] own separate property and shall maintain ____ [*his or her*] own personal checking and savings accounts in addition to the parties' joint checking account described in Paragraph 1(b).