

PRENUPTIAL AGREEMENT

THIS PRENUPTIAL AGREEMENT (the "Agreement") MADE ON _____

BETWEEN:

of _____

- AND -

of _____

BACKGROUND

- A. This Agreement is made between _____ and _____ (collectively the "Parties" and individually a "Party") who are contemplating marriage each to the other.

- B. The Parties intend for this Agreement to become effective upon their marriage pursuant to the laws of the State of California, including any Uniform Premarital Agreement Act, or other applicable laws, adopted by the State of California.

- C. The Parties wish to enter into this Agreement to provide for the status, ownership, and division of property between them, including future property owned or to be acquired by either or both of them.

- D. The Parties further wish to affix their respective rights and liabilities that may result from this relationship.

- E. The Parties recognize the possibility of unhappy differences that may arise between them. Accordingly, the Parties desire that the distribution of any property that either or both of them may

own will be governed by the terms of this Agreement and, insofar as the statutory or case law permits, intend that any statutes that may apply to them, either by virtue of Federal or State legislation, will not apply to them.

- F. The Parties acknowledge that they have been provided with at least seven days to review this Agreement.
- G. The Parties also acknowledge that they have had the opportunity to retain their own lawyer and to receive independent legal advice regarding the terms of this Agreement.
- H. The Parties have disclosed to their satisfaction all assets and liabilities that each may have and voluntarily and expressly waive any other rights to disclosure of the property or financial obligations of each other beyond the disclosure provided.
- I. Each Party agrees and affirms THAT:
 - a. The Parties did execute the Agreement voluntarily;
 - b. This Agreement was not unconscionable when it was executed;
 - c. Prior to execution of the Agreement, both Parties were provided a fair and reasonable disclosure of the property or financial obligations of the other Party;
 - d. They have, or reasonably could have had, an adequate knowledge of the property or financial obligations of the other Party; and
 - e. They entered into this Agreement freely and under no duress or undue influence on their decision by the other Party.
- J. The Parties acknowledge that this Agreement will continue upon termination of marriage whether by death, divorce, or otherwise.

NOW THEREFORE in consideration of the upcoming marriage, and in consideration of the mutual promises and covenants contained in this Agreement, the Parties agree as follows:

PROPERTY

1. The Parties acknowledge that this Agreement will govern any determination of ownership of property that may occur in the event of the Parties separating, or upon the death of a Party.
2. All jointly acquired or jointly held property, however and whenever acquired, will remain the property of and be owned by both Parties and will be treated as shared property (the "Shared Property").
3. Except as otherwise provided in this Agreement, all property will be treated as property owned solely by either one of the Parties (the "Separate Property") except where:
 - a. it is Shared Property; or
 - b. there is proof of shared legal ownership.
4. Nothing in this Agreement will prevent or invalidate any gift, or transfer for value, from one Party to the other of present or future property.
5. Unless a Party can reasonably show that they solely own a piece of property, where either Party commingles jointly owned property with Separate Property, any commingled property will be presumed to be Shared Property.

DEBTS

6. The Parties acknowledge that this Agreement will govern any determination of responsibility of debts that may occur in the event of the Parties separating, or upon the death of a Party.
7. All jointly acquired or jointly held debts, however and whenever acquired, will remain the debts of and be owed by both Parties and will be treated as shared debts (the "Shared Debts").
8. Except as otherwise provided in this Agreement, all debts will be treated as debts owed solely by either one of the Parties (the "Separate Debts") except where:
 - a. it is Shared Debt; or
 - b. there is proof of shared legal responsibility.

MATRIMONIAL PROPERTY RELEASE

9. The Parties covenant and agree that they are aware of the community property laws of the State of California, and that it is their intention that the community property laws will not apply to the status, ownership, interest and division of their property, either jointly or separately owned, nor to their future property, whether real or personal, and owned by either one or both of them, and the Parties further covenant and agree that it is their desire and intent by the terms of this Agreement to contract out of the community property laws of the State of California, and to make a full and final settlement of all matters of property, both real and personal, previously and presently owned by either of the Parties or to be acquired by either of the Parties in the future.

DOWER, CURTESY AND HOMESTEAD RELEASE

10. Each Party releases all dower, curtesy and homestead rights under any statute of the State of California, or any other jurisdiction whatsoever, that, but for this agreement, each would have in and to property in the name of the other, or in their names jointly or as tenants in common.

SUPPORT

11. The Parties agree that the investment of time or labor with respect to personal service in the property of the other, or otherwise, will be deemed to have been made gratuitously, and without expectation or right of compensation unless agreed to the contrary in writing.
12. It is the intention of the Parties to forever release each other from any support obligations now and in the future no matter how their circumstances may change. They will not apply now or in the future under any Federal or State legislation for support. They each waive any rights they may have to proceed against the other under any law or statute for payments of support and rely upon the law of contract to govern in respect of this issue.
13. The Parties realize that their respective financial circumstances may be altered in the future by changes in their health, the cost of living, their employment, their marital status, the breakdown of their relationship, or otherwise. No such changes will give either Party the right to seek support under any legislation, Federal or State. It is understood by each Party that this Agreement represents a final disposition of all support issues between them.

ESTATES AND TESTAMENTARY DISPOSITION

14. Nothing in this Agreement will limit or affect any rights that each may acquire as spouse or surviving spouse in the property, assets or estate of the other spouse.
15. Nothing in this Agreement will invalidate or prevent either Party from naming the other as a beneficiary by will or other testamentary disposition.

SEVERABILITY

16. Should any portion of this Agreement be held by a court of law to be invalid, unenforceable, or void, such holding will not have the effect of invalidating or voiding the remainder of this Agreement, and the Parties agree that the portion so held to be invalid, unenforceable, or void, will be deemed amended, reduced in scope, or otherwise stricken only to the extent required for purposes of validity and enforcement in the jurisdiction of such holding.

INTENTION OF THE PARTIES

17. Notwithstanding that the Parties acknowledge and agree that their circumstances at the execution of this Agreement may change for many reasons, including but without limiting the generality of the foregoing, the passage of years, it is nonetheless their intention to be bound strictly by the terms of this Agreement at all times.

DUTY OF GOOD FAITH

18. This Agreement creates a fiduciary relationship between the Parties in which each Party agrees to act with the utmost of good faith and fair dealing toward the other in all aspects of this Agreement.

FURTHER DOCUMENTATION

19. 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.

TITLE/HEADINGS

20. The headings of this Agreement form no part of it, and will be deemed to have been inserted for convenience only.

ENUREMENT

21. This Agreement will be binding upon and will enure to the benefit of the Parties, their respective heirs, executors, administrators, and assigns.

GOVERNING LAW

22. The laws of the State of California 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.

TERMINATION OR AMENDMENT

23. This Agreement may only be terminated or amended by the Parties in writing signed by both of them.

INTEGRATION

24. The Agreement constitutes the entire agreement and understanding between the Parties to this Agreement and supersedes all prior communications, contracts, or agreements between these Parties with respect to the subject matter addressed in this Agreement, whether oral or written.

THE PARTIES HEREBY EXECUTE THIS AGREEMENT ON _____.

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

THE STATE OF CALIFORNIA

COUNTY OF _____

I, _____, of the City of _____, in The State of California, Attorney, **DO HEREBY CERTIFY:**

THAT I was this day consulted in my professional capacity by _____, named in the within instrument, being a Prenuptial Agreement, separate and apart from _____, as to her legal rights and liabilities under the terms and conditions of it, and that I acted solely for her, and explained fully to her the nature and effect of the said Prenuptial Agreement and she did execute it in my presence, and did acknowledge and declare that she was executing it of her own volition and without any fear, threats, compulsion or influence from _____, or any other person.

DATED at the City of _____, in The State of California, this ____ day of _____, 20__.

ATTORNEY

Print Name: _____

I, _____, the person named in the annexed Agreement, hereby acknowledges the foregoing this ____ day of _____ 20__.

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

THE STATE OF CALIFORNIA
COUNTY OF _____

I, _____, of the City of _____, in The State of California, Attorney, **DO HEREBY CERTIFY:**

THAT I was this day consulted in my professional capacity by _____, named in the within instrument, being a Prenuptial Agreement, separate and apart from _____, as to his legal rights and liabilities under the terms and conditions of it, and that I acted solely for him, and explained fully to him the nature and effect of the said Prenuptial Agreement and he did execute it in my presence, and did acknowledge and declare that he was executing it of his own volition and without any fear, threats, compulsion or influence from _____, or any other person.

DATED at the City of _____, in The State of California, this ____ day of _____, 20__.

ATTORNEY
Print Name: _____

I, _____, the person named in the annexed Agreement, hereby acknowledges the foregoing this ____ day of _____ 20__.

Special Notes on Prenuptial Agreements governed by the State of California

The State of California has chosen to adopt the Uniform Premarital Agreement Act (UPAA), a statute created for the purpose of standardizing the requirements of prenuptial agreements between states. As such, this Agreement has been worded based on the notion subscribed to by the UPAA that prenuptial agreements should be entered into voluntarily and fairly upon the exchange of disclosure between the Parties.

It is best to sign the Prenuptial Agreement in front of your own lawyer and to receive a Certificate of Independent Legal Advice from your lawyer. Alternatively, at least one of the Parties must receive independent legal advice and the other party must sign a 'Waiver of Independent Legal Advice' in front of a Notary Public. In addition, the Party that is waiving legal advice must receive a written explanation of the effect of the Agreement from the other party's lawyer.