Co-Counsel Agreement

This is a Co-Counsel Agreement dated as of ____________, 201__ (the “Agreement”) between [Legal Services Nonprofit] (“Nonprofit”), a California nonprofit corporation, and [Co-Counsel Firm] (“Firm”), a California limited liability partnership.

Background
Nonprofit and Firm have been retained by [name of client] (“Client”) in connection with an action (“Case”) against [name of opposing party] for [describe claims or damages], as described in Nonprofit’s engagement agreement with Client. Nonprofit and Firm wish to work together on the Case and establish a co-counsel arrangement on the basis described in this Agreement.

Nonprofit and Firm agree as follows:

1. Working Relationship

1.1 Relationship of Co-Counsel
[Nonprofit/Firm] will be designated as lead counsel. Lead counsel will primarily be responsible for directing the course and conduct of the Case and ensuring that the Case is prosecuted in a timely and professional manner. Lead counsel will also determine the assignment of specific task responsibility to all attorneys participating in the case. Nonprofit and Firm agree that, to the extent possible and practical, both firms will participate in all duties and responsibilities, including the formulation of strategy, preparation of pleadings and other documents, attendance at court or other tribunal hearings, participation in settlement discussions, and all other aspects of the Case.

1.2 Communications and Filings
[Nonprofit/Firm] will have primary responsibility for communicating with Client. Nonprofit and Firm agree to keep each other informed of all developments in the Case, including communications with the Client, the court or any other tribunal, and opposing counsel, and to provide each other with courtesy copies of all correspondence, pleadings, and discovery requests and responses (exclusive of the documents produced). Nonprofit and Firm also agree that absent compelling circumstances, neither Nonprofit nor Firm will file pleadings without the agreement of Nonprofit and Firm as to the substance and timing of the filing of the pleading. The names of all participating attorneys will appear on all pleadings, and the principal drafter will sign the pleading.

1.3 Responsibility
Each of Nonprofit and Firm will: (i) be solely responsible for its own actions in connection with the Case; (ii) carry out its work on the Case in compliance with applicable law, rules of court and the California Rules of Professional Conduct; (iii) maintain its own professional liability coverage; and (iv) pay for its own overhead costs such as rent, telephone calls, secretarial time or payment of salaries for attorneys or paralegals working on the Case. Neither Nonprofit nor Firm assumes any responsibility or other liability for the other’s actions including, without limitation, malpractice, unethical behavior or violation of the California Rules of Professional Conduct, and each understands and acknowledges that it is not covered by the other’s professional liability coverage.

1.4 Sanctions
Nonprofit and Firm will use their best efforts to avoid any conduct that might result in court-ordered sanctions. In the unlikely event that sanctions are assessed, Nonprofit and Firm will equally bear court-ordered sanctions if the sanctions resulted from decisions or conduct jointly approved by both parties. If, instead, the sanctions resulted from one party’s conduct, that party will be responsible for the sanctions.

Note: This document does not reflect or constitute legal advice. This is a sample made available by the Organizations and Transactions Clinic at Stanford Law School on the basis set out at nonprofitdocuments.law.stanford.edu. Your use of this document does not create an attorney-client relationship with the Clinic or any of its lawyers or students.
1.5 Publicity and Contact with Media
Neither Nonprofit nor Firm will issue any press release, website posting or other public communication about the Case or this Agreement without first obtaining the consent of the other. To the extent feasible, Nonprofit and Firm will consult with each other before either provides comment to the media about the Case.

2. Attorney Fees, Costs and Expenses

2.1 Costs and Expenses
Except as otherwise agreed with Nonprofit, Firm will advance all costs and expenses of the Case not paid for by Client. Firm will maintain complete and correct records of all such costs and expenses and make them available to Nonprofit for review promptly upon Nonprofit’s request. Nonprofit/Firm will not incur any litigation expenses exceeding [$500] without approval from Nonprofit/Firm.

2.2 Time and Expense Records
Nonprofit and Firm each agree to maintain a complete, detailed and contemporaneous record of time to the nearest [1/10] of an hour spent by any timekeeper (lawyer, law clerk, legal assistant) in connection with this Case. Nonprofit and Firm will disclose their time and expense records to the other promptly upon request.

2.3 Recovery of Attorney Fees and Expenses
Nonprofit and Firm will divide any attorneys’ fees, costs and expenses recovered by means of a court order or settlement agreement as follows:

(a) First, all costs and expenses will be reimbursed to the party that paid them. If the court order or settlement is insufficient to reimburse all such costs, Nonprofit and Firm will allocate the available funds in the same proportion as the costs were incurred, unless some other allocation is specified by settlement or court order.

(b) If expenses and fees recovered by settlement or court order exceed the amount to be repaid to counsel under Section 2.3(a), the balance after such payments will be reimbursed on a pro rata basis, based on the total lodestar (the number of hours reasonably expended by each party multiplied by the historic hourly rate of each party), unless some other allocation is specified by settlement or court order. Firm will donate any attorney fees awarded or attributed to Nonprofit after all Case expenses and fees have been reimbursed in accordance with this Section 2.3.

(c) Expenses that are reduced or disallowed by the court or discounted by settlement will also be deducted on a pro rata basis, based on the proportion of the total expenses, and will not be borne only by the party whose costs and expenses have been reduced, disallowed, or discounted.


3.1 Entire Agreement; Amendment
This Agreement is the entire agreement between Nonprofit and Firm relating to representation of Client in the Case and supersedes prior or contemporaneous written and oral agreements, negotiations, correspondence, course of dealing and communications between Nonprofit and Firm relating to the same subject matter. This Agreement may be amended only as stated in a writing signed by both Nonprofit and Firm which recites that it is an amendment to this Agreement.

3.2 Severability and Waiver
If any provision in this Agreement is held invalid or unenforceable, the other provisions will remain enforceable, and the invalid or unenforceable provision will be considered modified so that it is valid and enforceable to the maximum extent permitted by law. Any waiver under this Agreement
must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

### 3.3 Termination

This Agreement will terminate at the conclusion of the Case. However, Nonprofit or Firm may withdraw from representation prior to the conclusion of the Case, provided that such withdrawal is consistent with the California Rules of Professional Conduct and the applicable provisions of California law. Upon termination, the originals of all documents will be forwarded to, and will remain with [Nonprofit/Firm], unless Client directs otherwise.

### 3.4 Governing Law

This Agreement is governed by California law.

Nonprofit and Firm signed this Agreement on the date stated in its first paragraph:

<table>
<thead>
<tr>
<th>[Firm]</th>
<th>[Legal Services Nonprofit]</th>
</tr>
</thead>
<tbody>
<tr>
<td>By:</td>
<td>By:</td>
</tr>
<tr>
<td>Print Name:</td>
<td>Print Name:</td>
</tr>
<tr>
<td>Title:</td>
<td>Title:</td>
</tr>
</tbody>
</table>