

JOINT VENTURE AGREEMENT

THIS AGREEMENT (herein after referred to as the ("Agreement")) is entered into by and between _____ and _____, (herein "Joint Venturers") for the following purpose:

WHEREAS, the parties desire to form a joint venture (the "Venture"), by execution of this Agreement for the purposes provided and fix and define their respective responsibilities, interests, and liabilities in connection with the performance of the before mentioned; and

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the Parties herein agree to constitute themselves as joint venturers, henceforth, "Venturers" for the purposes before mentioned, and intending to be legally bound hereby, the parties hereto, after first being duly sworn, do covenant, agree and certify as follows:

1. DEFINITIONS:

- 1.1 "Venturers" shall mean _____ and _____, and any successor(s) as may be designated and admitted to the Venture.
- 1.2 "Internal Revenue Code", "Code" or "I.R.C." shall refer to the current and applicable Internal Revenue Code.
- 1.3 "Net Profits and Net Losses" means the taxable income and loss of the Venture, except as follows: _____
- 1.4 The "book" value of an asset shall be substituted for its adjusted tax basis if the two differ, but otherwise Net Profits and Net Losses shall be determined in accordance with federal income tax principles.
- 1.5 "Project" shall mean _____.
- 1.6 "Treasury Regulations" shall refer to those regulations promulgated by the Department of the Treasury.
- 1.7 "Percentage of Participation" shall refer to that figure set forth in below.

2. FORMATION, NAME, AND PRINCIPLE PLACE OF BUSINESS

2.1 FORMATION

(a) The Venturers do hereby form a joint venture pursuant to the laws of the State of _____ in order for the Venture to carry on the purposes for which provision is made herein.

(b) The Ventures shall execute such certificates as may be required, if any, by the laws of the State of _____ or of any other state in order for the Venture to operate its business and shall do all other acts and things requisite for the continuation of the Venture as a joint venture pursuant to applicable law.

2.2 NAME. The Name and style under which the Venture shall be conducted is:

2.3 PRINCIPAL PLACE OF BUSINESS. The Venture shall maintain its principal place of business at: _____. The Venture may re-locate its office from time to time or have additional offices as the Venturers may determine.

3. PURPOSE OF THE JOINT VENTURE

The purpose of the Venture shall be the following: _____

4. TERM

The term of the Venture shall commence as of the date hereof and shall be terminated and dissolved upon the earliest to occur of:

- (i) completion of the Project;
- (ii) DATE;
- (iii) the unanimous agreement of the Ventures; or
- (iv) a court order of competent jurisdiction.

5. PERCENTAGE OF PARTICIPATION

5.1 Except as otherwise provided in sections 6.0 and 9.0 hereof, the interest of the Parties in any gross profits and their respective shares in any losses and/or liabilities that may result from the Venture and their interests in all property and equipment acquired and all money received in connection with the performance of the Project shall be as follows: _____

[Name Joint Venture Partner Percentage]_____

[Name Joint Venture Partner Percentage]_____

5.2 The Parties agree that in the event any losses arises out of or results from the performance of the Project, each Venturer shall assume and pay the share of the losses that is equal to the percentage of participation.

5.3 If for any reason, a Venturer sustains any liabilities or is required to pay any losses arising out of or directly connected with the construction of the Project which are in excess of its Percentage of Participation, in the Joint Venture, the other Venturer shall promptly reimburse such Venturer this excess, so that each and every member of the Joint Venturer will then have paid its proportionate share of such losses to the full extent of its Percentage of Participation.

5.4 The Venturers agree to indemnify each other and to hold the other harmless from, any and all losses of the Joint Venture that are in excess of such other Venturer's Percentage of Participation. Provided that the provisions of this subsection shall be limited to losses that are directly connected with or arise out of the performance of the Project and shall not be relate to or include any incidental, indirect or consequential losses that may be sustained or suffered by a Party.

5.5 INITIAL CONTRIBUTION OF THE VENTURE.

(a) The Venturers shall contribute the Property to the Venture and their Capital Account shall each be credited with the appropriate value of such contribution in accordance with their Venture interests.

(b) Except as otherwise required by law or this Agreement, the Venturers shall not be required to make any further capital contributions to the Venture.

5.6 VENTURE INTERESTS

Upon execution of this Agreement, the Venturers shall each own the following interests in the Venture:

Joint Venture Partner: Percentage

(a) _____

(b) _____

5.7 RETURN OF CAPITAL CONTRIBUTIONS.

- (a) No Venturer shall have the right to withdraw his capital contributions or demand or receive the return of his capital contributions or any part thereof, except as otherwise provided in this Agreement.
- (b) The Venturers shall not be personally liable for the return of capital contributions or any part thereof, except as otherwise provided in this Agreement.
- (c) The Venture shall not pay interest on capital contributions of any Venturer.

5.8 ALLOCATIONS OF NET PROFITS AND LOSSES

Subject to the provisions of this section, the Net Profits and losses of the Venture (including any net "book" gains of the Venture resulting from a Capital Event) shall be allocated to the Venturers in the following priority:

A. NET PROFITS:

- (1) First, to those Venturers with negative Capital Accounts, between them in proportion to the ratio of their negative Capital Account balances, until no Venturer has a negative Capital Account.
- (2) Thereafter, to the Venturers, pro rata, based on their respective Venture interests as set forth in Section 5.2 hereof.

B. NET LOSSES:

- (1) Subject to the provisions of this section, Net Losses of the Venture (including any net "book" loss of the Venture resulting from a Capital Event) shall be allocated to the Venturers, pro rata, based upon their respective Venture interests as set forth herein.
- (2) For purposes of this, Capital Accounts shall be adjusted hypothetically as provided for in Sections 1.704-1(b)(2)(ii)(d) and 1.704- 1(b)(4)(iv)(f) of the Treasury Regulations. These adjustments shall include the qualified income offset as set forth in this Agreement.

- C. DISTRIBUTIONS. Distributable Cash of the Venture shall be distributed to the Venturers, pro rata, based on their respective Venture interests as set forth herein.

6. MANAGEMENT

6.1 Except as otherwise provided herein the management of the Joint Venture shall be conducted by all Venturers.

7. DELEGATION OF AUTHORITY

7.1 The Venturers agree to a split of authority between themselves as follows:

a. _____ shall _____.

b. _____ shall _____.

8. JOINT VENTURE BANK ACCOUNTS

8.1 All Working Capital or other funds received by the Joint Venture in connection with the performance of the project shall be deposited in a Checking Account, set up especially for the Joint Venture, and requiring the joint signatures of the parties for any withdrawals. Said accounts shall be kept separate and apart from any other accounts of the Venturers.

8.2 Withdrawal of funds from the Joint Venture's Joint Checking Account may be made in such amount and by such persons as authorized by Venturers.

9. ACCOUNTING AND AUDITING

9.1 Separate books of accounts shall be kept by the Administrative Managing Partner of the transactions of the Joint Venture. Any Venturer may inspect such books upon reasonable notice and at any reasonable time.

9.2 Periodic audits may be made upon said books at such time as authorized by the Policy Committee by persons designated by the same and copies of said audit shall be furnished to all Venturers.

9.3 Upon completion of the Project, a final audit shall be made and copies of such audit shall be furnished to each of the parties.

9.4 It is understood and agreed that the method of accounting used by the Administrative Managing Partner and for state and federal income tax purposes shall be the cash based method and that the accounting year shall be the calendar year.

9.5 The Administrative Managing Partner shall receive additional compensation of _____.

10. MISC. PROVISIONS

- 10.1 This agreement constitutes the entire agreement of the parties and may not be altered, unless the same is agreed upon in writing signed by the parties.
- 10.2 This agreement is binding upon the heirs, representatives, assigns, and successors of the parties.
- 10.3 This agreement shall be governed by the laws of the state of _____.
- 10.4 On termination of this agreement for any cause whatever, the Joint Venture shall be wound up and dissolved in accordance with _____ (*cite state statute*).

Dated this the _____, day of _____, 20____.

JOINT VENTURER

JOINT VENTURER