

Joint Venture Agreement **(All Members Are Disclosed)**

This Joint Venture Agreement made and entered into this day of _____ 20__ by _____ and between, _____, with its principal office and place of business in _____, and _____, with its principal office and place of business in _____, both of whom collectively are sometimes referred to as the "Joint Venturers",

WITNESSETH:

WHEREAS, the Joint Venturers submitted a bid and a contract has been awarded by _____ (hereinafter referred to as the "Owner"), for the construction of a Project described as _____ (hereinafter being referred to as the "Project"); and

WHEREAS, the parties hereto desire that their interest in the services to be rendered and the work to be done under the construction contract and any profits derived therefrom and any liability for losses arising out of the performance thereof be defined by an agreement in writing;

NOW, THEREFORE, said parties hereto hereby constitute themselves as joint Venturers for the purpose of performing and completing the said construction contract, but not for any other purposes, it being expressly understood that this agreement contemplate only the furnishing and performance of the work, labor, service, materials, plant, equipment and supplies necessary for the completion of the construction of the Project and that the parties are not making any permanent partnership agreement or joint venture agreement to bid for or

undertake any contracts other than the said construction contract, and nothing in this agreement shall be construed as a limitation of the powers or rights of any party hereto to carry on its separate business for its sole benefit except, however, the parties hereto shall cooperate with each other according to the terms and spirit hereof in the performance of said construction contract.

To carry out the Joint Venture the parties hereto mutually agree as follows:

1. The work to be performed by the Joint Venture shall consist of the Contract and any change orders or supplemental agreements entered into with the owner in connection with the aforescribed Project, all of which are hereinafter referred to as the "Contract" and shall be performed by the joint Venture operating under the name of

2. Each of the parties shall have an undivided interest in the Joint Venture, shall contribute all necessary working capital and shall participate in its net gains and profits and share in its losses and liabilities in the proportion set opposite its name in the next succeeding sentence. In addition, the interest of the parties hereto in and to the Contract, and in and to any and all property and equipment acquired in connection with the performance thereof (except as hereinafter provided) and in and to any and all moneys which may be derived from the performance thereof, and the obligations and liabilities of each of the parties hereto as between themselves in connection with the Contract and with respect to any and all liabilities, costs and expenses in connection therewith, shall be in the following proportions, viz.:

Name	Percentage
_____	_____ %
_____	_____ %

Each party shall have an equal voice in the determination of any matter involving the business of the Joint Venture until and unless paragraph 21 hereof should become applicable. Each party does hereby agree to indemnify the other against any loss or liability exceeding the proportions, hereinabove stated, for whatever reason, including any payments required to be made in, and about, the performance of the Contract.

3. In order to facilitate the handling of all matters and questions in connection with the performance of the Contract by the parties hereto an Administrative Committee shall be formed and each of the parties shall appoint the following representatives (herein called the "designees" and "alternates") to act for it in all such matters with full and complete authority in its behalf in relation to any matters or things in connection with, arising out of, or relative to, this Joint Venture, and to act for, and bind, the respective parties appointing such designees to any and all matters or things involving this Joint Venture and the performance of the Contract:

_____ appoints _____

as its designee and _____ as it's alternate.

_____ appoints _____

as its designee and _____ as it's alternate.

4. The aforesaid members of the Administrative Committee and their alternates have been designated by the Joint Venturers to act for them with full authority in any matter or thing in connection with, or relating to, this Joint Venture and the Contract, including, but not limited to the negotiation of contracts, the determination of working funds, materials, plant and equipment to be supplied, the manner of performance, assignment of work between the Joint Venturers, settlement of disputes with the Owner and with others, changes and modifications in the extent or scope of the work, organization and personnel. Actions and decisions of the Administrative Committee shall be by unanimous vote and, as to any and all matters having to do with the Joint Venture, the Project, the Contract, or the performance thereof under this agreement or otherwise, or as to the interpretation of this agreement, or as to any claim or dispute thereunder, such actions and decisions shall be final, inclusive and binding on the Joint Venturers with the same force and effect as if each Venturer has specifically or affirmatively taken such action or decision. The Administrative Committee shall be given such specific powers in addition to the foregoing as the Joint Venturers may from time to time delegate and they shall also have the power to delegate to such person or persons as they may determine such of their powers as they deem necessary or convenient in the best interests of the parties hereto. If necessary or desirable, each of the parties hereto shall execute and deliver to their respective designees such powers of attorney as may be required to enable them to properly perform the duties entrusted to them. It is understood and agreed that none of the parties hereto nor any of the designees or alternates shall have the power to borrow moneys for, in the name of, or to pledge the credit of, the other party to this agreement or on their joint credit.

5. In the event that either member of the Administrative Committee shall be temporarily incapacitated or temporarily not available to act, the alternate for such member hereinbefore named shall act for such member during such period or periods of temporary incapacity or non-availability. If either member of the Administrative Committee shall die or become permanently incapacitated or unavailable to act, then a successor for such member shall be named by the Joint Venturer who appointed such member, and pending the appointment of such successor the alternate for the member so dying or being permanently incapacitated or unavailable to act shall act as and for such member. In the event of the temporary incapacity or non-availability or death or permanent incapacity or non-availability of any alternate, the Joint Venturer which appointed such alternate shall appoint a successor alternate either temporarily or permanently as may be necessary. Any successor member or alternate appointed, as hereinabove provided, shall have every power to act hereunder that was possessed by his predecessor under this Agreement. Either party at any time and from time to time may change its designee or alternate by advising the other of such appointment, but until the appointment and notification of the appointment to the other party as aforesaid, each party shall be bound conclusively by the acts and decisions of the designee or alternate previously appointed by it hereunder in the same manner and with the same effect as if such action had been taken or decision made by authority of the proper officers of each party duly authorized by its board of directors.

6. Meetings of the members of the Administrative Committee for the transaction of business of the Joint Venture may be called at such time and such place, subject to reasonable notice, by either Joint Venturer or by any member of the Administrative Committee as may be considered necessary or desirable.

7. The Administrative Committee shall appoint a Project Manager who shall operate under the direction, control and authority of the Administrative Committee and shall (a) be responsible for the direction and management of the work in accordance with policies and procedures established by the Committee, (b) coordinate the work, and (c) be responsible for necessary contracts with the Owner, its authorized representatives and any others necessary to complete the work under the Contract.

8. The Joint Venturers shall furnish such parts of their respective organizations and personnel for the performance of the Contract as may be requested by the Administrative Committee, and each joint Venturer further expressly agrees that it shall contribute and make available for the Joint Venture, as far as is reasonably practicable for the performance of the Contract, the utmost skill, experience and knowledge of their respective organizations. As much as possible the Administrative Committee shall have all of the above provided equally by each member of the Joint Venture.

9. A joint bank account or accounts shall be opened in such bank or banks, under such description or descriptions as the Joint Venturers may determine, in which all funds advanced by the parties hereto for the performance of the Contract and all moneys received from the Owner and from others in connection with such performance shall be deposited. Said sums may be withdrawn by check, draft or other instrument in such form and with such signatories as the parties hereto may from time to time direct. Such funds shall be used solely for this Project.

10. Within ten days from the execution of this Agreement, each of the parties hereto shall advance and pay into said account or accounts for use in the performance of the Contract, the initial sum of \$_____. The need for working capital additional to the working capital to be provided as aforesaid shall be determined from time to time by the designees hereinbefore designated in Paragraph 3. Within ten days after such determination by the designees each party shall pay into such bank account or accounts its proportionate share, as per Paragraph 2, of any needed additional working capital, unless the designees, shall determine that such additional working capital is required before the expiration of said ten days, in which event it shall be so paid into said bank account or bank accounts at the time that it is so determined by the designees.

11. In the event either party hereto is unable or fails or neglects to advance or contribute its proportionate share of the working capital required in the performance of the Contract, then the other party may, but need not, advance such deficiency or any part thereof, and the party so advancing such deficiency shall receive interest on such excess funds at a rate which is two percent (2%) per annum higher than the rate at which such advancing party can borrow such sum. Such advance shall bear interest from the date of advancement to the date of repayment, and such excess funds shall be repaid in full with such interest from the said bank account or accounts prior to any sums being paid to the non-advancing member of the Joint Venture. The interest so paid shall be deducted from the funds otherwise due the party who failed to contribute its proportionate part of the working capital.

12. Except as provided in Paragraph 11 for the repayment of excess funds advanced by one party, no part of any advances deposited in said bank account or accounts shall be returned to any of the parties and no distribution of profits shall be made prior to the completion of the Project except as may otherwise be mutually agreed upon in writing by the parties hereto. On completion of the Project, all working capital advanced shall be repaid to the party or parties advancing the same prior to the distribution of any profits as hereinafter provided.

13. The business of the Joint Venture shall be conducted, and its property and effects held solely and exclusively in the joint names of both parties or in the coined name of _____

14. Cost of construction shall consist of the costs of all subcontracts, labor, material, services, supplies, plant and equipment purchased or rented, bonds, insurance, taxes on labor and material, property

taxes on equipment, permits, customs, imposts, duties, charges, legal fees, accounting fees, liabilities and losses not covered or compensated by insurance or otherwise and all other expenses and obligations incurred or suffered in and about the performance of said Project of a nature under sound accounting practices properly chargeable as a cost of the performance of the Project. Said costs shall not include any charges against the Joint Venture for any overhead expenses or charges of the main or branch offices of the parties hereto or for the time which may be expended in connection with the work by any of the parties hereto or their officers or employees, unless assigned to this Project, and except as may be approved by the designees. Travel expenses and subsistence during travel reasonably incurred in the performance or interest of the work under the Contract shall be treated as part of the cost of the Project and shall be paid with Joint Venture funds.

15. The Joint Venture shall carry adequate public liability, property damage and worker's compensation insurance, as well as any other insurance that may be required or advisable from time to time, so as to adequately protect the parties hereto and hold them harmless from any accident or claim which may arise in the course of the performance of the Contract, the cost of which insurance attributable to the Joint Venture shall be chargeable thereto. Fidelity bond coverage in amounts and form satisfactory to the designees shall be maintained on such persons directly connected with the performance of the Contract as the designees may require and all such fidelity bond premiums shall be part of the construction cost. All such insurance and bonds that may from time to time be carried shall be obtained through the respective brokers of each of the parties hereto in such manner so that such brokers shall receive the benefit of brokerage commissions for the placing of any such insurance or bond in the proposition that their respective clients have an interest in the Joint Venture.

16. Separate books of account for the Joint Venture shall be kept and maintained by such personnel and in such office or offices as the Administrative Committee may determine pursuant to the methods prescribed by the Administrative Committee for the entry of all accounts in connection with the Contract. All books of account, records, vouchers, contracts and data of any character relating to the performance of the Contract shall be subject to examination by either Joint Venturer at all times. The Administrative Committee shall prescribe the methods of accounting in all matters relating to the affairs of the Joint Venture and the performance of the Contract. The books of account of the joint Venture may be audited from time to time by an independent auditor selected by the Administrative Committee, the cost of any such audit to be paid from the funds of the Joint Venture. Periodic audits upon the request of either party hereto, shall include a comparison between the items of actual cost and the cost set up in the estimate for each item. Upon completion of the Contract, a complete and final audit and true and correct accounting shall be had of all expenses and all accounts, vouchers, records and data relating to the Contract and Joint Venture, and to the extent that any such records must be kept subsequent to the completion of the Contract and liquidation of the Joint Venture, pursuant to the provisions of law or by direction of the parties, the same shall be kept at such place or places as the parties hereto from time to time may determine and the cost thereof shall be borne equally by the parties. The cost of all such audits shall be a part of the construction cost of the Project.

17. Upon completion of the Project, after payment of, and provision for, all costs and liability incurred in the performance of the Contract, including liability admitted or reasonably anticipated on, or in relation to, claims not secured by insurance, and after provision for such reserves in respect of guarantees and contingencies as the Joint Venture shall deem necessary, and after repayment to each party of the amount(s) which it advanced to the joint Venture as working capital or otherwise, any funds of the Joint Venture then and thereafter remaining, inclusive of reserves and unexpected balances thereof, when determined by the Joint Venture to be required no longer, shall be distributed to and divided among the parties in the proportions set forth in paragraph 2 hereof.

18. Except as otherwise expressly provided in this Agreement or in the Contract, no Joint Venturer shall be entitled to any compensation other than by participation in the profits and earnings of the Joint Venture as hereinbefore provided for services rendered by it on behalf of the Joint Venture.

19. It is contemplated that in the performance of the work under the Contract, plant and equipment owned by the parties hereto may be used. Each party agrees to rent to the Joint Venture on terms, if any, established in the Contract, or on terms approved by the Administrative Committee, such of its plant and equipment as is available and suit, able for the performance of said work and is requested by the Administrative Committee. The proceeds of such plant and equipment rentals shall belong to, and be credited and paid to, the joint Venturer furnishing such plant and equipment, and the other Joint Venturer shall have no interest in such plant, and equipment rentals and no responsibility in connection therewith.

20. Upon completion of the Project, the parties, through their respective representatives designated hereunder, will secure a bona fide bid for each item or group of items of equipment or tools purchased by the Joint Venture, from one or more reputable equipment dealers, and each of the parties shall have the right to purchase any item or group of items, at the highest prices bid therefore by such dealers, provided that neither party without the consent of the other shall be entitled to purchase a greater percentage of such equipment or tools than the percentage of its interest in the Joint Venture. If more than one party shall desire the same item or items of equipment or tools, at a price(s) so determined, and a mutually satisfactory adjustment is not effected by agreement between or among them, then such item or items of equipment or tools, in like manner as items thereof not desired by the parties, shall be disposed of, by sale, for the best price obtainable, to outsiders.

21. In the event of the bankruptcy or insolvency of one of the parties hereto, or should one of the parties hereto commit any act of bankruptcy or take advantage of any bankruptcy, reorganization, composition or arrangement statute, then, notwithstanding anything in this Agreement to the contrary, such party ("hereinafter referred to as the Insolvent Party") from and after said date, and its designee and alternate, shall cease to have any say or voice in the management of the Project and the Contract, and whenever it is provided in this Agreement that the act, consent or decision of the parties hereto are required, it shall be deemed to mean the act, consent or decision of the other party hereto excluding the Insolvent Party. However, the Insolvent Party shall remain liable for its share of any of the losses as provided in this agreement and shall be entitled to receive its share of the profits, if any, as provided in this Agreement, to be paid at the time and in the manner as in this Agreement provided. Should such insolvency, bankruptcy or other proceeding of the type above described cause damage or extra cost to the other party, such damage or extra cost shall be charged against the interest of the Insolvent Party.

22. The relationship between the Joint Venturers shall be limited to the performance of the Contract under the terms of this Agreement, which shall be construed and be deemed to be a Joint Venture for the performance only of the Contract between the Joint Venturers and the Owner. Nothing herein contained shall be construed to constitute the joint Venturers as partners or to constitute either joint Venturer the general agent of the other joint Venturer, or in any manner to limit either of the Joint Venturers in the conduct of their respective businesses or activities in the making of other contracts or the performance of other work, or impose any liability except that of performance of the terms, provisions and conditions of this Agreement.

23. Neither this Agreement nor any interest of the parties or either of them herein, including interest in any moneys belonging to or which may accrue to the Joint Venture in connection with the Contract or any interest in the joint accounts or in any property of any kind employed or used in connection with the Contract may be assigned, pledged, transferred or hypothecated, except that in the event one of the parties desire to obtain banking accommodations for the purpose of this Agreement and the Contract, such party may, with the prior written consent of the other party, assign, pledge or hypothecate its rights, title and interest in, and to, such moneys as it may be entitled to receive hereunder to the lending institution as security for said banking accommodations.

24. The right of any person, firm or corporation claiming by, through or under any party hereto (including but not limiting the same to judgment or other creditors, receivers, trustees, assignees, garnishees, executors or administrators), to assert any claim against the right, title and interest of any party hereto, shall be limited solely to the right to claim or receive after completion of the Project and the Contract and after the closing of the accounts of the Joint Venturers, the distributive share of such party in the net profits and proceeds payable hereunder, and then only subject to the equities and prior rights of the other party as in this Agreement set forth.

25. No claims arising out of, or related to, the operation or conduct of the Joint Venture asserted against one or both of the Joint Venturers by a claimant other than a Joint Venturer shall be settled except with the unanimous consent of the members of the Administrative Committee, if then in existence, or of both of the Joint Venturers, provided that the consent of any insolvent Joint Venturer or of any Joint Venturer who shall deny liability to the other Joint Venturer with respect to such claim shall not be required.

26. All questions relative to the execution, validity, interpretation and performance of this Agreement shall be governed by the laws of the State of _____.

27. This agreement shall remain in effect only for such length of time as may be necessary to carry out the Contract and the terms, provisions and conditions of this Agreement.

28. All notices required to be given or which may be given under any of the provisions of this Agreement by either party hereto to the other shall be given by sending such written notice to the Joint Venturer entitled thereto by mail addressed to the office of such Joint Venturer as first hereinabove set forth.

29. The foregoing provisions and stipulations of this agreement shall bind the Joint Venturers and their respective successors and assigns.

30. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and together shall constitute a single instrument.

In Witness Whereof, the parties have executed this Joint Venture Agreement in multiple copies on the day and year above written.

Joint Venturer: _____

By _____

Its _____

Attest:

Secretary

Joint Venturer: _____

By _____

Its _____

Attest:

Secretary