

# JOINT VENTURE AGREEMENT

This Joint Venture Agreement (this "Agreement") is entered into and made effective as of (the "Effective Date"), by and between [PARTY 1 LEGAL NAME], a Llc, with its principal place of business at [PARTY 1 PRINCIPAL ADDRESS] ("[PARTY 1 LEGAL NAME]"), and [PARTY 2 LEGAL NAME], a Llc, with its principal place of business at [PARTY 2 PRINCIPAL ADDRESS] ("[PARTY 2 LEGAL NAME]"). Each a "Party" and collectively the "Parties."

## 1. Formation and Purpose

The Parties hereby associate themselves as an **unincorporated contractual joint venture** under the name "[NAME OF THE JOINT VENTURE]" (the "Venture") for the limited purpose described below. The Venture's principal place of business shall be [PRINCIPAL PLACE OF BUSINESS OF THE].

**Purpose.** The Venture is formed solely to: [PURPOSE AND SCOPE OF THE JOINT]

The Parties shall not, without the unanimous written consent of all Parties, engage through the Venture in any business or activity outside the stated purpose.

## 2. Nature of the Relationship — Not a Partnership

The Parties expressly intend that this Agreement create a **contractual joint venture only** and **NOT** a general partnership, limited partnership, limited liability company, corporation, agency, employer-employee relationship, franchise, or fiduciary relationship except as expressly set forth herein. No Party shall be deemed a partner, agent, employee, or legal representative of any other Party for any purpose, and no Party shall have authority to bind any other Party except as expressly provided in this Agreement. Nothing herein shall cause the Parties to be treated as a partnership for purposes of federal or state law other than as may be required by the Internal Revenue Code, and the Parties shall address any such required tax partnership treatment in Section 7.

**Other Activities.** Except to the extent of any exclusivity obligation in Section 9, each Party may engage in, and possess interests in, other business ventures of any nature whatsoever, independently or with others, and neither the Venture nor the other Parties shall have any right in such independent ventures or the income derived therefrom.

## 3. Term

The term of the Venture shall commence on the Effective Date and, unless earlier terminated, shall continue for **5 (five) years**.

#### 4. Capital Contributions

The Parties shall make the following initial contributions to the Venture:

Party	Cash	Non-Cash Value	Total	Ownership %
[PARTY 1 LEGAL NAME]	\$0.00	\$0.00	\$0.00	50%
[PARTY 2 LEGAL NAME]	\$0.00	\$0.00	\$0.00	50%

##### Non-cash contributions — description.

- [PARTY 1 LEGAL NAME]:
- [PARTY 2 LEGAL NAME]:

Non-cash contributions shall be transferred to or made available to the Venture free and clear of all liens and encumbrances, by appropriate bill of sale, assignment, license, or deed.

**Additional Contributions.** No Party shall be obligated to make additional capital contributions. Additional contributions may be made only upon unanimous written consent of the Parties.

#### 5. Allocation of Profits and Losses; Distributions

**Allocation.** Profits and losses of the Venture shall be allocated to the Parties pro rata in accordance with their ownership percentages set forth above.

**Distribution Frequency.** Distributions of available cash, net of reasonable reserves established by the managers, shall be made **Quarterly**.

**Expenses.** All expenses reasonably and necessarily incurred in the conduct of the Venture shall be paid from Venture funds or, if insufficient, allocated among the Parties pro rata.

#### 6. Management and Decision-Making

**Management Committee.** Management of the Venture shall be vested in a **Management Committee** of 4 representatives: 2 appointed by [PARTY 1 LEGAL NAME] and 2 appointed by [PARTY 2 LEGAL NAME]. Each Party may remove and replace its representatives at any time by written notice.

**Ordinary Decisions.** Ordinary business decisions shall be made by **Majority** of the Management Committee, Board, or Parties (as applicable).

**Major Decisions — Unanimous Approval Required.** The following actions require the **unanimous written consent** of the Parties: (a) admission of new parties; (b) sale or dissolution of the venture; (c) amendment of this Agreement; (d) incurrence of indebtedness exceeding \$100,000; (e) capital expenditures exceeding \$100,000 outside the approved budget; (f) entering into any transaction with an affiliate; (g) commencement or settlement of material litigation; (h) material change to the business purpose; (i) hiring or firing of the CEO or managing officer; (j) annual budget approval.

**Deadlock Defined.** A "Deadlock" means the failure of the Management Committee, Board, or Parties (as applicable) to approve a Major Decision, or any other matter requiring affirmative approval, within **thirty (30) days** after written notice by any Party requesting a decision on such matter.

**Duties of Loyalty and Care.** Each Party shall act in good faith and with ordinary care in the conduct of Venture business, shall not engage in self-dealing without disclosure and approval, and shall devote such time as is reasonably required to perform its duties hereunder.

## **7. Tax Matters**

The Parties acknowledge that, notwithstanding Section 2, the Venture may be treated as a partnership for U.S. federal income tax purposes under Treas. Reg. §301.7701-3. The Parties shall file all required returns consistent with such treatment and shall not take inconsistent positions. [PARTY 1 LEGAL NAME] is designated as the "**partnership representative**" under IRC §6223 for taxable years beginning after December 31, 2017, with authority to act on behalf of the Venture in tax matters, subject to approval by the Parties for any settlement. The fiscal year of the Venture shall end on **December 31**.

## **8. Representations and Warranties**

Each Party represents and warrants to each other Party as of the Effective Date that: (a) it is duly organized, validly existing, and in good standing under the laws of its jurisdiction of formation (or, if an individual, of legal age and competent to contract); (b) it has full power and authority to execute and perform this Agreement, and this Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms; (c) execution and performance of this Agreement do not conflict with or result in a breach of any other agreement, order, or law to which it is subject; (d) there is no litigation, arbitration, or governmental proceeding pending or, to its knowledge, threatened against it that would materially impair its ability to perform this Agreement; (e) no broker, finder, or intermediary has been engaged by it in connection with this Agreement except as disclosed in writing, and it shall indemnify the other Parties against any such undisclosed brokerage claim; and (f) it is not insolvent and will not be rendered insolvent by the transactions contemplated hereunder.

## **9. Books, Records, and Reports**

The managing Party shall cause to be maintained complete books and records of the Venture in accordance with GAAP, including a capital account for each Party. Each Party shall have the right, at reasonable times upon reasonable notice, to inspect and copy the books and records at its own expense. Within **90 days** after each fiscal year end, the Venture shall deliver to each Party audited (or, if budget does not permit, reviewed) financial statements together with each Party's Schedule K-1 or equivalent tax information.

## 10. Exclusivity

During the term of the Venture and for **one (1) year** thereafter, no Party shall, directly or indirectly, engage in any business activity within the scope of the Venture's purpose except through the Venture.

## 11. Intellectual Property

All intellectual property conceived, developed, or reduced to practice in the course of the Venture ("Joint IP") shall be **jointly owned** by the Parties in proportion to their ownership percentages. Each Party grants the other a non-exclusive, royalty-free license to use its background IP solely to the extent necessary for the Venture.

## 12. Confidentiality

Each Party shall hold in confidence, and use solely for the purposes of the Venture, all non-public business, technical, financial, and customer information disclosed by or on behalf of another Party or the Venture ("Confidential Information"), using at least the same degree of care it uses to protect its own confidential information (and no less than reasonable care). The obligation shall survive termination for **five (5) years**, except that trade secrets shall remain protected for so long as they qualify as trade secrets under applicable law.

## 13. Non-Solicitation

During the term and for **one (1) year** thereafter, no Party shall directly or indirectly solicit for employment any employee or independent contractor of another Party or of the Venture, nor solicit any customer of the Venture for competing purposes. General advertisements and hires resulting therefrom are not prohibited.

## 14. Indemnification; Limitation of Liability; Insurance; Force Majeure

**Indemnification.** To the fullest extent permitted by law, each Party (the "Indemnifying Party") shall indemnify, defend, and hold harmless the other Party(ies) and their officers, directors, employees, and agents from and against any third-party claims, losses, damages, fines, and reasonable attorneys' fees arising out of (a) the Indemnifying Party's breach of this Agreement; (b) the Indemnifying Party's gross negligence, willful misconduct, or fraud; or (c) the Indemnifying Party's breach of any representation or warranty, except to the extent caused by the indemnified Party's own gross negligence or willful misconduct.

**Limitation of Liability.** EXCEPT FOR (I) INDEMNIFICATION OBLIGATIONS, (II) BREACHES OF CONFIDENTIALITY OR INTELLECTUAL PROPERTY OBLIGATIONS, (III) FRAUD OR WILLFUL MISCONDUCT, AND (IV) BREACH OF ANTI-CORRUPTION COVENANTS, NO PARTY SHALL BE LIABLE TO ANOTHER FOR **INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR**

**PUNITIVE DAMAGES, INCLUDING LOST PROFITS OR LOST BUSINESS OPPORTUNITIES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.**

**Insurance.** Each Party shall maintain, at its own expense, commercial general liability insurance of not less than **\$1,000,000 per occurrence / \$2,000,000 aggregate**, workers' compensation as required by law, and such other coverages as are customary for its business, and shall provide certificates of insurance upon request.

**Force Majeure.** No Party shall be liable for any delay or failure to perform (other than a payment obligation) caused by events beyond its reasonable control, including acts of God, war, terrorism, epidemic or pandemic, government action, embargo, labor disruption, or utility/communications failure. The affected Party shall give prompt written notice and use commercially reasonable efforts to mitigate. If force majeure persists for more than **90 days**, any Party may terminate this Agreement by written notice without liability.

## **15. Deadlock Resolution**

**Mediation, then Texas Shoot-Out.** In the event of a Deadlock, the Parties shall first attempt to resolve the matter through **non-binding mediation** under the Commercial Mediation Rules of the American Arbitration Association for not less than 30 days. If mediation fails, either Party (the "Offering Party") may trigger a **buy-sell** by delivering to the other Party (the "Receiving Party") a written notice specifying a price per one percent (1%) of ownership (the "Unit Price"). Within **30 days** of receipt, the Receiving Party shall elect, by written notice, either (i) to **sell** its entire interest to the Offering Party at the Unit Price  $\times$  its ownership percentage, or (ii) to **buy** the Offering Party's entire interest at the Unit Price  $\times$  the Offering Party's ownership percentage. Closing shall occur within **60 days** of the election.

## **16. Transfer of Interests**

**Right of First Refusal.** If a Party (the "Selling Party") receives a bona fide written offer from a third party to purchase all or part of the Selling Party's interest that it wishes to accept, the Selling Party shall first offer the interest to the other Parties pro rata on the same terms. The other Parties shall have **30 days** to elect to purchase. If not fully exercised, the Selling Party may sell to the third party on **terms no more favorable** than those offered to the other Parties within the following **90 days**; any change requires a new ROFR cycle.

**Permitted Transfers.** Notwithstanding the foregoing, a Party may transfer its interest to an affiliate under common control without triggering ROFR or tag/drag, provided the transferee executes a joinder to this Agreement and the transferring Party remains liable.

## 17. Termination and Winding Up

**Termination Events.** This Agreement and the Venture shall terminate upon any of the following: (i) expiration of the term; (ii) completion of the purpose for which the Venture was formed; (iii) unanimous written agreement of the Parties to dissolve; (iv) material uncured breach by a Party (30-day cure period after written notice); (v) **bankruptcy, insolvency, receivership, or assignment for the benefit of creditors** of a Party; (vi) Deadlock resulting in dissolution under Section 15; (vii) force majeure continuing more than 90 days under Section 14; (viii) illegality of the Venture's purpose; or (ix) any additional events specified by the Parties: (a) mutual written consent of all parties; (b) material, uncured breach by any party after 30-day written notice; (c) bankruptcy, insolvency, or dissolution of any party; (d) completion of the venture's purpose; (e) court order or regulatory prohibition; (f) loss of required license or permit.

**Winding Up.** Upon termination, the Venture's assets shall be applied in the following order: (i) payment of debts to third-party creditors; (ii) payment of debts to the Parties (including loans); (iii) return of capital contributions pro rata to unreturned balances; and (iv) distribution of any remaining assets in accordance with Section 5. The Parties shall cooperate in good faith to complete the winding up within **six (6) months** of termination.

**Surviving Provisions.** The following provisions, and any other provision that by its nature should survive, shall survive termination: Section 11 (IP), Section 12 (Confidentiality), Section 13 (Non-Solicitation), Section 14 (Indemnification / Limitation of Liability), and Section 18 (Dispute Resolution; Governing Law).

## 18. Dispute Resolution; Governing Law

**Governing Law.** This Agreement shall be governed by the laws of the State of [STATE], without regard to conflict-of-laws principles.

**Binding Arbitration (AAA).** Any dispute arising out of or relating to this Agreement that is not resolved by negotiation shall be finally resolved by binding arbitration administered by the **American Arbitration Association** under its **Commercial Arbitration Rules** before a single arbitrator (or three arbitrators if the claim exceeds \$1 million), seated in **the principal place of business of the Venture**. Judgment on the award may be entered in any court of competent jurisdiction. Each Party shall bear its own costs; the arbitrator may award fees and costs to the prevailing party where authorized by law. **Nothing in this section prevents a Party from seeking injunctive relief in court to protect confidential information or intellectual property.**

## 19. General Provisions

**Notices.** All notices shall be in writing and delivered to the Parties' addresses above by personal delivery, certified mail, or nationally recognized overnight courier, and shall be deemed given upon receipt.

**Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior understandings, whether oral or written.

**Amendment.** This Agreement may be amended only by a writing signed by all Parties.

**Waiver.** No failure or delay by a Party in exercising any right shall operate as a waiver; no single or partial exercise precludes further exercise. Waivers must be in writing to be effective.

**Severability.** If any provision is held invalid, the remainder shall remain in full force and effect, and the invalid provision shall be reformed to the minimum extent necessary to be enforceable.

**No Assignment.** Except as permitted by Section 16, no Party may assign this Agreement or any rights hereunder without the unanimous written consent of the other Parties. Any purported assignment in violation of this Section is void.

**Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors, and permitted assigns.

**Construction.** Section headings are for convenience only and shall not affect interpretation. "Including" means "including without limitation." This Agreement shall be construed without presumption against the drafter.

**Counterparts; Electronic Signatures.** This Agreement may be executed in counterparts and by electronic signature, valid under the E-SIGN Act (15 U.S.C. §7001 et seq.) and the Uniform Electronic Transactions Act as adopted in the governing state.

## Signatures

[PARTY 1 LEGAL NAME]

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

[PARTY 2 LEGAL NAME]

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE