

Joint venture agreements - an overview

Template for a joint venture agreement

Information

A joint venture agreement is a document setting out how two parties, whether individuals or businesses, intend to work together, setting out details such as:

- the type of work you will do together
- how time and resources will be allocated
- how the profits will be split

The contents of your joint venture agreement will depend on what you are trying to do. You may decide to co-operate on a one-off basis, for a particular project, or for a limited period such as a year. Alternatively, you and your partner may decide to set up a separate joint venture business, owned by both parties. Before you decide, you should seek legal advice as to the best option.

You should both be clear about the nature of your agreement, and satisfied that it is fair to both parties. The agreement should set out in detail what each party will contribute, and what you are trying to achieve. Make sure your expectations are realistic, to avoid problems between the parties later on.

If you and your partner draft a joint venture agreement, you should have it checked by a solicitor, or other legally qualified practitioner, to make sure that your agreement is legally sound. This will help protect you, should the agreement later become the subject of court proceedings.

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Introduction

Joint venture agreements vary widely - according to the parties and activities involved. You can use this template to begin drafting your written agreement, addressing some of the key issues involved. You should always seek legal advice before signing an agreement with another party.

The headings below cover some of the points often found in joint venture written agreements.

Structure of the joint venture

The agreement should set out the nature of your partnership. There are two main types of agreements. If the joint venture is to be a business in its own right, it will be an incorporated joint venture. A co-operative arrangement between two existing parties that keep their separate identities is called a contractual joint venture.

Objectives of the joint venture

What are the objectives for the joint venture? This can be a single statement or a listing of each specific objective. Try to keep to no more than five objectives.

Financial contributions

Both parties should specify how much funding they will put into the venture, and for how long.

Asset transfers

The agreement should list any assets or employees that will be transferred to the joint venture, throughout its life.

Intellectual property

The agreement should state who owns any intellectual property (IP) created during the joint venture, and how any financial benefits from it will be distributed.

Management and control

Your agreement should explain who has responsibility for the processes involved during the joint venture. If you are setting up a new company, the composition of the board - eg chief executive and chief financial officer - should be stated, and the board's voting powers specified.

Shareholders agreement

Incorporated joint venture agreements may also need to include a shareholders' agreement, covering issues such as dividend policy, and how the management accounts will be produced and made available.

Third party approvals

If you will need any consents or approvals from third parties to operate your joint venture, they should be explained in the agreement.

Liabilities, profits and loss

You should state how any profits or losses will be divided between the parties. Liabilities must also be clearly listed.

Disputes

In case of disputes, the agreement should specify a mechanism by which these can be resolved, eg arbitration by an agreed third party.

Exit strategy

The agreement should specify how long the joint venture will last. If the joint venture is open-ended, the agreement should state what notice each party should give if they want to withdraw - and whether any financial compensation would then be due to the other party.

Confidentiality agreement

You may wish to incorporate a confidentiality or non-disclosure agreement as part of your written joint venture agreement. This will help to protect any commercial secrets shared between you during the venture.

Governing law

You should say which nation's law will govern the agreement, eg UK law.

Status

The agreement should include a statement that it is not - in itself - legally binding on the two parties. Instead, it should be seen as a statement of principles - enabling the parties to negotiate a final, legally definitive, agreement in good faith.