



JOINT VENTURE AGREEMENT AMENDMENT & GUIDE

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Overview

Dos and Don'ts Checklist

Joint Venture Agreement Amendment Instructions

Sample Joint Venture Agreement Amendment

1. Overview

After a joint venture agreement has been signed, a change in events or in the parties' intentions can necessitate an amendment to the agreement. If all of the parties agree to the change and sign additional documents, any term in the existing agreement can be amended.

You can use an amendment to make the parties' agreement clearer. Alternatively, a change in business climate or local laws may have caused you to rethink clauses that seemed reasonable when drafted, but have since become unworkable. Rather than leave parties shackled to a dated or impractical agreement, amendments allow contracts to reflect the changing interests and priorities of the signing parties. Indeed, the amendment process itself allows for continuing dialogue between the parties, a fact that develops and solidifies successful business relationships.

This package contains everything you'll need to amend your agreement. A written contract minimizes confusion, misunderstanding, and error, and sets forth the parties' expectations and fulfillment obligations. If mistakes happen or changes occur, amendments can correct or clarify the issues immediately. In every way, this promotes a successful and profitable business arrangement.

2. Dos & Don'ts Checklist

- Before sitting down to write, decide exactly what your goals are for the amendment. A good amendment captures the revised intentions of the parties without invalidating or confusing the original agreement. Clarify the amended terms before writing them down.
- Allow each party to spend time reviewing both the original agreement and the amendment. This will reduce the likelihood, or at least the efficacy, of a claim that a party did not understand any new terms or how those might affect the agreement as a whole.
- Both parties should review the amendment carefully to ensure that **all relevant deal points** have been included. It is better to be over-inclusive than under-inclusive. Do not assume that certain expectations or terms are agreed to if they are not stated expressly on the document.
- The terms of your original agreement are still in effect, so make sure both parties continue to perform their obligations under that agreement until the amendment is completed and signed.
- Sign two copies of the amendment, one for you and one for the other party.
- Keep your copy of the signed amendment with the original agreement it modified. Once the amendment is drafted and signed, it is part of the original agreement and should be treated accordingly.
- Depending on the nature of its terms, you may decide to have your amendment witnessed or notarized. This will limit later challenges to the validity of a party's signature.
- If your amendment is complicated, do not use the enclosed form. Contact an attorney to help you draft a document that will meet your specific needs.

- You can amend an agreement as many times as you want. However, if you decide to do more than one amendment, make sure you are amending the original agreement. In other words, don't make an amendment to an amendment. Later amendments will cancel any conflicting previous amendments.

3. Joint Venture Agreement Amendment Instructions

The following provision-by-provision instructions will help you understand the terms of your joint venture agreement amendment.

The numbers and letters below (e.g., Section 1, Section 2, etc.) correspond to the provisions in the amendment. Please review the document in its entirety before starting the step-by-step process.

- **Introduction.** Identifies the document as an amendment to a joint venture agreement. Write in the date on which the original agreement was signed. Identify the parties and the date of the amendment. The parties must be the same as those who signed the original joint venture agreement (unless one of the new signers is an agent of the same company that originally signed) and should have the same designations as well (i.e., Party One is still Party One, Party Two is still Party Two).
- **Recitals.** Identifies the joint venture agreement that's being modified and explains where your right to change the document comes from. Put in the effective date of the agreement and the section number of the joint venture agreement that allows you to amend it. The title of this section is usually "Amendments."
- **Section 1: Purpose of the Amendment.** Write "First" in the initial blank if this is the first amendment to the agreement, "Second" if it is the second, and so on. Use this section to explain what you hope to accomplish with your amendment, and why you feel it is necessary.
- **Section 2: Amended Provisions.** This is where you actually provide the changes to your original agreement. Write in the section number that will be changed. If you want to change a subsection of Section 8 of your agreement, write 8(a) (not simply "8"). Write in the new language for that section, NOT a description of what you would change. Don't worry about making it "lawyerly." It only has to be clear to you, the other party, and anyone else who may read it.
- **Section 3: Term of the Amendment.** Explains that the amendment will be effective for the same period of time as the original agreement.
- **Section 4: Inconsistency.** Indicates if there is a conflict between amendment language and the language of the original agreement, the amendment language will be the final word on the question.
- **Section 5: Agreement Continuance.** This serves as an "affirmation" of the original agreement. In other words, the only things that change in the original agreement are the terms specifically modified by the amendment. All of the other terms of the original agreement remain effective.
- **Section 6: Entire Agreement.** The parties' agreement that the amendment they're signing (when taken together with the original agreement) is "the agreement" about the issues involved. Unfortunately, the inclusion of this provision will not prevent a party from arguing that other enforceable promises exist, but it will provide you some protection from these claims.

- **Section 7: Modification.** Indicates that any changes to the amendment will be in writing and signed by both parties.
- **Section 8: Severability.** Protects the terms of the amendment as a whole, even if one part is later invalidated.
- **Section 9: Counterparts/Electronic Signatures.** The title of this provision sounds complicated, but it is simple to explain: it says that even if the parties sign the amendment in different locations, or use electronic devices to transmit signatures (e.g., fax machines or computers), all of the separate pieces will be considered part of the same agreement. In a modern world where signing parties are often not in the same city - much less the same room - this provision ensures that business can be transacted efficiently, without sacrificing the validity of the agreement as a whole.
- **Section 10: Authority.** A promise that the parties signing the amendment have the right and power to do so.
- **Section 11: Headings.** Notes that the headings at the beginning of each section are meant to organize the document, and should not be considered operational parts of the agreement.

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JOINT VENTURE AGREEMENT

This Joint Venture Agreement (the "Agreement") is made on _____, 20__ (the "Effective Date") by and between _____, a[n] _____ [individual] [corporation] [limited liability company] [etc.] (the "First Party"), and _____, a[n] _____ [individual] [corporation] [limited liability company] [etc.] (the "Second Party") (each a "Party" and collectively the "Parties").

RECITALS

WHEREAS, the Parties jointly wish to develop:

_____ ; and

WHEREAS, the Parties intend for this Agreement to govern the relationship between them as to the operation, management, and ownership in the Joint Venture (defined below).

NOW, THEREFORE, in consideration of the mutual premises and covenants contained in this Agreement, the Parties hereby agree as follows:

1. FORMATION.

In accordance with this Agreement, the Parties shall enter into a business