



INSTRUCTIONS FOR COMPLETION OF AGC DOCUMENT NO. 299 STANDARD FORM OF PROJECT JOINT VENTURE AGREEMENT BETWEEN CONTRACTORS

2002 EDITION

Standard Form of Project Joint Venture Agreement Between Contractors, AGC Document No. 299 (AGC 299), is intended to constitute the agreement between two contractors interested in forming a joint venture for the purpose of performing work on a specific project. AGC 299 is not intended as an agreement between contractors to establish a permanent joint venture or a joint venture spanning multiple projects.

AGC 299 has been prepared on the basis of certain assumptions about the Joint Venture arrangement, including that it will be managed by an Executive Committee and that costs and expenses will be incurred and paid directly by the Joint Venture during the course of the project. These assumptions may not pertain to each joint venture arrangement, thereby necessitating consideration of appropriate modifications to this document.

AGC 299 has been coordinated for use with the language and concepts found in the AGC 200 Series Contract Documents. The AGC 200 Series has been approved and endorsed by the AGC Private Industry Advisory Council, consisting of design and construction professionals within Fortune 500 companies representing many sectors of the U.S. economy, such as automobile manufacturing, entertainment, banking, insurance, retailing, energy generation and distribution, and health care, and approved by the Building Owners and Managers Association (BOMA) International, a national association of over 18,000 members that own or manage more than 8.5 billion square feet of downtown and suburban commercial properties and facilities in North America and abroad. PIAC and BOMA members meet regularly with AGC contractors to discuss construction contracting issues of mutual concern and to participate in the development and revision of AGC standard form contract documents.

GENERAL INSTRUCTIONS

Standard Form

These instructions are for the information and convenience of the users of AGC 299, 2002 Edition. They are not part of the Agreement nor a commentary on or interpretation of the contract form. It is the intent of the parties to a particular agreement that controls its meaning and not that of the writers and publishers of the standard form. As a standard form, this Agreement has been designed to establish the relationship of the parties in the standard situation. Recognizing that every project is unique, modifications may be required. See the following recommendations for modifications.

Related AGC Documents

AGC 299 is part of the AGC 200 series of contract documents. Consider also using these AGC documents.

AGC Document No. 200, *Standard Form of Agreement and General Conditions Between Owner and Contractor (Where the Contract Price is a Lump Sum)* Order No. 1870

AGC Document No. 202, *Change Order* Order No. 1871

AGC Document No. 203, *Interim Directed Change* Order No. 1874

AGC Document No. 205, *Standard Short Form Agreement Between Owner and Contractor (Where the Contract Price is a Lump Sum)* Order No. 1873

AGC Document No. 220, *Construction Contractor's Qualification Statement for Engineered Construction*
Order No. 716

AGC Document No. 221, *Construction Contractor's Qualification Statement on a Specific Project*
Order No. 1875

AGC Document No. 222, *Architect/Engineer's Statement of Qualifications for a Specific Project* Order No. 1876

AGC Document No. 230, *Standard Form of Agreement and General Conditions Between Owner and Contractor (Where the Basis of Payment is the Cost of the Work With An Option for Preconstruction Services)* Order No. 1880

AGC Document No. 235, *Standard Short Form Agreement Between Owner and Contractor (Where the Basis of Payment is the Cost of the Work)* Order No. 1881

AGC Document No. 240, *Standard Form of Agreement Between Owner and Architect/Engineer* Order No. 1885

AGC Document No. 245, *Standard Short Form Agreement Between Owner and Architect/Engineer* Order No. 1886

AGC Document No. 250, *Standard Form of Agreement and General Conditions Between Owner and Contractor (Where the Basis of Payment is a Guaranteed Maximum Price with an Option for Preconstruction Services)*
Order No. 1890

AGC Document No. 260, *Performance Bond*
Order No. 1895

AGC Document No. 261, *Payment Bond* Order No. 1896

AGC Document No. 262, *Bid Bond* Order No. 1897

AGC Document No. 270, *Instructions to Bidders on a Specific Project* Order No. 1910

AGC Document No. 280, *Certificate of Substantial Completion* Order No. 1920

AGC Document No. 281, *Certificate of Final Completion*
Order No. 1921

AGC Document No. 291, *Application for Payment (Where the Basis of Payment is a Guaranteed Maximum Price)*
Order No. 1931

AGC Document No. 292, *Application for Payment (Where the Contract Price is A Lump Sum)* Order No. 1932

AGC Document No. 293, *Schedule of Values*
Order No. 1933

Legal and Insurance Counsel

THIS DOCUMENT HAS IMPORTANT LEGAL AND INSURANCE CONSEQUENCES, AND IT IS NOT INTENDED AS A SUBSTITUTE FOR COMPETENT PROFESSIONAL SERVICES AND ADVICE. CONSULTATION WITH AN ATTORNEY AND AN INSURANCE ADVISER IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS MAY VARY WITH RESPECT TO THE APPLICABILITY AND/OR ENFORCEABILITY OF SPECIFIC PROVISIONS IN THIS DOCUMENT.

AGC SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASERS ASSUME ALL LIABILITY WITH RESPECT TO THE USE OR MODIFICATION OF THIS DOCUMENT, AND AGC SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM SUCH USE OR MODIFICATION.

COMPLETING THE AGREEMENT

Completing Blanks

Diamonds (◆) in the margins indicate provisions requiring the parties to fill in blanks with information.

Modification

Supplemental conditions, provisions added to the printed agreement, may be adopted by reference. It is always best for supplements to be attached to the agreement. Provisions in the printed document that are not to be included in the agreement may be deleted by striking through the word, sentence or paragraph to be omitted. It is recommended that unwanted provisions not be blocked out so that the deleted materials are illegible. The parties should be clearly aware of the material deleted from the standard form.

It is a good practice for both parties to sign and date all modifications and supplements.

Photocopying the Completed Agreement

The purchaser of this copyrighted document may make up to nine (9) photocopies of a completed document, whether signed or unsigned, for distribution to appropriate parties in connection with a specific project. Any other reproduction of this document in any form is strictly prohibited, unless the purchaser has obtained the prior written permission of The Associated General Contractors of America.

OBTAINING ADDITIONAL INFORMATION

To obtain additional information about AGC standard form contract documents and the AGC Contract Documents Program, contact AGC at 333 John Carlyle Street, Suite 200, Alexandria, VA 22314; phone (703) 548-3118; fax (703) 548-3119, or visit AGC's web site at www.agc.org.

1 AGREEMENT

The date of the Agreement, the identification of each Joint Venturer, the name and principal place of business of the Joint Venture, the Work, the Project and the Owner are essential information to be accurately inserted.

2 RELATIONSHIP OF THE JOINT VENTURERS

2.2 The Joint Venturers are to provide a full description of the Work to be performed by the Joint Venture in Exhibit A to the Agreement.

3 INTERESTS OF THE JOINT VENTURERS

3.2 Indicate the percentage of participation in gains and losses applicable to each Joint Venturer.

3.3 Each Joint Venturer indemnifies the other to the extent of its percentage of participation.

3.4 Each Joint Venturer's compensation solely is through participation in the profits and earnings of the Joint Venture.

4 MANAGEMENT OF THE JOINT VENTURE

4.1 Management of the Joint Venture is through an Executive Committee, consisting of one individual named from each Joint Venturer who shall have a vote equal to the percentage of the Joint Venturer's participation.

4.3 Actions of the Executive Committee is to be by majority vote.

4.5 The Executive Committee is to name a project manager here.

4.6 Some of the Project Manager's powers under the direction of the Executive Committee are listed here.

4.8 The Executive Committee determines by whom and the manner and the method by which separate books of account for the Joint Venture shall be kept and maintained.

4.9 Upon completion of the Work, a complete and final audit and true and correct accounting is made of all expenses and all accounts, vouchers, records and data relating to the Contract and Joint Venture. The cost of these audits are paid from the funds of the Joint Venture.

4.10 All remaining costs incurred and not previously paid are to be paid upon completion of the Work.

4.11 No claims arising out of related to the operation or conduct of the Joint Venture asserted against one or both of the Joint Ventures by a claimant other than a Joint Venture shall be settled except with the unanimous consent of the Executive Committee.

5 FINANCING THE JOINT VENTURE

5.1 Joint bank account(s) shall be opened as described by the Executive Committee. Sums may be withdrawn from the account(s) as the Joint Ventures direct and may be used solely for Work.

5.2 A blank space is provided to enter the amount that each Joint Venture will pay into the Joint Venture Account as initial working capital for performance of the Work.

6 PERFORMANCE OF THE WORK

6.1 Each Joint Venture furnishes the personnel set forth in Exhibit C from their respective organizations.

6.2 The Executive Committee determines the type of equipment and materials to be contributed or rented by the Joint Ventures.

6.4 The cost of the Work includes all items properly chargeable as costs of the Work under the Contract. These costs do not include any charges of the main or branch offices of the Joint Ventures or for the time which may be expended in connection with the Work by any of the Joint Venturers unless assigned to this Project and except as approved by the Executive Committee.

6.8 Upon completion of the Work the Joint Venturers shall secure a bona fide bid for each item or group of items of equipment or tools purchased by the Joint Venture from equipment dealers. Each of the Joint Venturers will have the right to purchase any item at the highest prices bid by such dealers provided that no Joint Venturer will be entitled to purchase a greater percentage of such equipment than its percentage of its interest in the Joint Venture.

7 DOCUMENTS

7.1 The Joint Venturers may receive from one another confidential information including proprietary information to prepare the statement of qualifications and the proposal. Confidential information is designated as such in writing by the Joint Venturer supplying the information. If required by the Joint Venturer supplying the information, the Joint Venturer receiving such information will execute a confidentiality agreement.

7.2 Each Joint Venturer will retain ownership of property rights, including copyrights, to all documents, drawings, specifications, electronic data, and information prepared, provided or procured by it in furtherance of this Agreement of the Work.

8 INSURANCE AND BONDS

8.1 Insurance must be provided by the Joint Venturers that includes Commercial General Liability Insurance, Workers' Compensation, Employer's Liability, Business Automobile Liability, Builder's Risk Insurance (if required), and Professional Liability Insurance (if required).

8.1.1 Each Joint Venturer separately maintains insurance coverages that are as broad as those required by this Agreement and the Contract Documents.

8.1.1.1 This Clause 8.1.1.1 requires the Joint Venturers to provide each other and the Owner proof of insurance coverages by this Agreement and the Contract Documents.

8.2 The parties are to provide any performance and payment bonds required by the Contract.

9 DISPUTE RESOLUTION

9.1-9.2 The parties are encouraged to settle their disputes through direct discussions. If these discussions are not successful, the Contract provides for mediation as a condition precedent to any other form of binding dispute resolution.

9.3 Any disputes not resolved by mediation are to be decided by the dispute resolution process set forth in Exhibit D, a menu of dispute resolution methods to which a dispute may be submitted. These provisions can be utilized singularly or progressively.

9.4 The Joint Venturers are expected to continue performance of the Work during the dispute resolution proceedings.

10 MISCELLANEOUS PROVISIONS

These general provisions govern:

10.1 the assignment of this Agreement by either party.

10.3 governing law.

10.4 severability.

10.5 In Paragraph 10.5 the Joint Venturers agree that their rights, responsibilities and remedies with respect to the Agreement are exclusively those stated in the Agreement.

11 SCHEDULE OF EXHIBITS

Information to be included as attached exhibits include the following: the portion of the Work to be performed by each Joint Venturer; the Contract between the Joint Venture and the Owner; the personnel to be provided by each Joint Venturer, and the dispute resolution menu.

Exhibit D DISPUTE RESOLUTION MENU

The parties are to select the procedure or procedures advisory arbitration, mini trial, binding arbitration, litigation to resolve disputes not resolved by direct discussions and mediation.



AGC DOCUMENT NO. 299 STANDARD FORM OF PROJECT JOINT VENTURE AGREEMENT BETWEEN CONTRACTORS

TABLE OF ARTICLES

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This Agreement has important legal consequences. Consultation with an attorney and an insurance consultant is encouraged with respect to its completion or modification. A diamond ♦ indicates where information is to be inserted to complete this Agreement.

**AGC DOCUMENT NO. 299
STANDARD FORM OF PROJECT JOINT VENTURE
AGREEMENT BETWEEN CONTRACTORS**

**ARTICLE 1
AGREEMENT**

This Joint Venture Agreement (the "**Agreement**") is made this _____ day of _____
in the year _____, by and between

JOINT VENTURER
(Name and Address)

a _____ in the State of _____,
(Describe form of entity)

and **JOINT VENTURER**
(Name and Address)

a _____ in the State of _____,
(Describe form of entity)

the parties collectively referred to as _____,

a Joint Venture (the "**Joint Venture**"), with the principal place of business of the Joint Venture at _____

for services in connection with the following
WORK

for the following
PROJECT
(Name, location and brief description)

pursuant to a Contract (the "**Contract**") with
OWNER
(Name and Address)

Notice to the parties shall be given at the above addresses.

ARTICLE 2

RELATIONSHIP OF THE JOINT VENTURERS

2.1 The Joint Venturers agree to constitute themselves as a Joint Venture for the purpose of performing and completing the Work in accordance with the terms and conditions of the Contract with the Owner, but not for any other purposes, and shall proceed with the performance of the Work on the basis of mutual trust, good faith and fair dealing.

2.2 The Work to be performed by the Joint Venture shall be that identified in Article 1 and as described more fully in Exhibit A to this Agreement, and any change orders or supplemental agreements entered into with the Owner in connection with the Contract.

2.3 This Agreement shall not be construed to constitute the Joint Venturers as partners or to constitute any Joint Venturer the general agent of the other Joint Venturer(s), or impose any liability except arising from performance of the terms, provisions and conditions of this Agreement.

2.4 The Joint Venturers are not making any permanent joint venture agreement to bid for or undertake any contracts other than the Work for the Project.

2.5 This Agreement shall not be construed as a limitation of the powers or rights of any Joint Venturer to carry on its separate business for its sole benefit. This Agreement shall remain in effect only for such length of time as may be necessary to carry out the Work and the terms, provisions and conditions of this Agreement.

ARTICLE 3

INTERESTS OF THE JOINT VENTURERS

3.1 Each of the Joint Venturers 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 Paragraph 3.2.

3.2 The interest of the Joint Venturers in the Contract, any property and equipment acquired in connection with the performance of the Work, any monies which may be derived from the performance of the Work, and the obligations and liabilities of each of the Joint Venturers as between themselves in connection with the Work and any liabilities, costs and expenses in connection with the Work, shall be in the following proportions:

_____ percent (_____%)
for Joint Venturer _____
and _____ percent (_____%)
for Joint Venturer _____

3.3 **INDEMNIFICATION** Each Joint Venturer shall indemnify the other against any loss or liability to the extent of the proportions, hereinabove stated, for whatever reason, including any payments required to be made in the performance of the Work.

3.4 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 provided in this Agreement for services rendered by it on behalf of the Joint Venture.

ARTICLE 4

MANAGEMENT OF THE JOINT VENTURE

4.1 The Joint Venture shall be managed by the Executive Committee. The Executive Committee shall consist of:

(Executive Committee Member s Name) _____

for Joint Venturer _____, and
(Executive Committee Member s Name) _____
_____ for
Joint Venturer _____

who each shall have the authority to act on behalf of the Joint Venture represented in all matters related to the Joint Venture and the performance of the Contract. Each Joint Venturer shall have a vote on the Executive Committee equal to the percentage of its participation as set forth in Paragraph 3.2, or as that percentage may be changed as provided by this Agreement.

4.2 Either Joint Venturer may, upon prior written notice, appoint a new representative to the Executive Committee. Either Joint Venturer may also, upon prior written notice, appoint a temporary representative to the Executive Committee to serve during the temporary absence of its representative named in Paragraph 4.1.

4.3 The actions of the Executive Committee shall be by majority vote and shall be final, conclusive and binding upon the Joint Venture as if each Joint Venturer had affirmatively taken such action, subject however to the dispute procedures provided herein and the requirements of Paragraph 4.11. In the event there is no majority, then (Executive Committee Member s Name) _____

_____ shall make the determination subject to the other Joint Venturer s rights to invoke the dispute resolution procedures set forth In Exhibit D.

4.4 Meetings of the members of the Executive Committee for the 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 Executive Committee as may be considered necessary or desirable. A meeting may be conducted by telephone without prior notice in an emergency, and this method may also be used when such procedure would be expedient for matters needing prompt attention as determined by the Executive Committee member of each Joint Venturer.

4.5 PROJECT MANAGER The Executive Committee shall appoint a Project Manager, and if necessary an Assistant Project Manager, and issue such directives to the Project Manager or Assistant Project Manager as is deemed necessary. The initial Project Manager shall be

4.6 The Project Manager, and if applicable the Assistant Project Manager, shall be removable by the Executive Committee. In the event of the death, inability or refusal of the Project Manager to serve as such, or in the case of removal, the vacancy shall be filled as directed by the Executive Committee.

4.7 Under the direction, control and authority of the Executive Committee, the Project Manager shall act on behalf of the Joint Venturers and shall, in addition to the other powers elsewhere herein delegated:

- .1** Be responsible for the direction, management and coordination of the Work in accordance with policies and procedures established by the Executive Committee, and be responsible for carrying out the Work in accordance with the Contract and letting of contracts necessary to complete the Work.
- .2** Receive all funds accruing to the Joint Venturers, to deposit such funds received by the Joint Venture and to cause the same to be withdrawn by check, draft or other instrument with such single or joint signatories as the Executive Committee may prescribe.
- .3** Maintain such records as prescribed by the Executive Committee, and in the manner as prescribed by the Executive Committee. The Executive Committee shall prescribe the methods of accounting in all matters relating to the affairs of the Joint Venture and the performance of the Work.

.4 Be the Joint Venturer's contact with the Project Owner and be designated as the Contractor's Representative under the construction agreement between the Owner and the Joint Venture.

4.8 The Executive Committee shall determine by whom and the manner and the method by which separate books of accounts for the Joint Venture shall be kept and maintained. The Executive Committee shall prescribe the methods of accounting in all matters relating to the affairs of the Joint Venture and the performance of the Contract.

4.8.1 The books of account of the Joint Venture may be audited from time to time by an independent auditor selected by the Executive Committee. The cost of any such audit shall be paid from the funds of the Joint Venture.

4.8.2 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. A statement of the financial status of the Joint Venture shall be provided each month to the parties, including a trial balance and profit and loss statement. An estimate of the projected final cost of the Work shall be provided quarterly to the parties by the Project Manager.

4.9 Upon completion of the Work, a complete and final audit and accounting shall be made of all expenses and all accounts, vouchers, records and data relating to the Contract and Joint Venture. The cost of all such audits shall be paid from the funds of the Joint Venture.

4.9.1 To the extent that 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 Joint Venturers, the Executive Committee shall determine the manner and method by which such records are kept. The cost for maintaining records in accordance with this Subparagraph shall be borne equally by the Joint Venturers.

4.10 All costs incurred in the performance of the Contract shall be paid, to the extent not previously paid, upon completion of the Work.

4.10.1 As the Executive Committee deems necessary, a reserve shall be established for all liabilities incurred in the performance of the Contract, including funds for disputed and unanticipated costs.

4.10.2 Any funds remaining upon completion of the Work, after payment of all costs as provided in Paragraph 4.10, the establishment of reserves as provided by Subparagraph 4.10.1 and after repayment to each Joint Venturer of any amounts advanced to the Joint Venture as working capital or otherwise, shall be distributed to and divided among the Joint Venturers in the proportions set forth in Paragraph 3.2.

4.11 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 Executive Committee. If the Executive Committee is not then in existence, then the consent of both of the Joint Venturers shall be required, 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.

ARTICLE 5

FINANCING THE JOINT VENTURE

5.1 A joint bank account or accounts (the "Joint Venture Account(s)") shall be opened in a bank or banks and under such description(s) as the Executive Committee may determine. All funds advanced by the Joint Venturers for the performance of the Work and all moneys received from the Owner and from others in connection with such performance shall be deposited in the account(s). Sums may be withdrawn from the account(s) by check, draft or other instrument in such form and with such signatories as the Joint Venturers may direct. Such funds shall be used solely for the Work.

5.2 Within ten days from the execution of the Agreement, each of the Joint Venturers shall pay into the Joint Venture Account(s), as initial working capital for performance of the Work, amounts as follows:

_____ dollars (\$) ◆
for Joint Venturer _____, ◆
and _____ dollars (\$) ◆
for Joint Venturer _____ . ◆

5.2.1 The need for additional working capital shall be determined by the Executive Committee. Within ten days after such determination by the Executive Committee, each Joint Venturer shall pay into the Joint Venture Account(s) its proportionate share, pursuant to Paragraph 3.2, of any needed additional working capital. If the Executive Committee determines that the additional working capital is required before the expiration of the ten days, then it shall be paid into the bank account(s) at the time that the need is determined by the Executive Committee.

5.3 In the event a Joint Venturer fails to contribute its share of additional working capital as required by the Executive Committee, the other Joint Venturer may pay the share. In that event, the percentage interest of the Joint Venturers shall be recalculated so that each Joint Venturer's percentage interest shall be equal to the percentage its actual contributions to the Joint Venture funds bears to the total contributions made by the Joint Venturers. However, the Joint Venturer failing or refusing to contribute its full share of working capital shall not be relieved of its obligation to pay any losses suffered by the Joint Venture to the full extent of its percentage of participation set forth in Paragraph 3.2.

5.3.1 A Joint Venturer contributing funds pursuant to Paragraph 5.3 shall be repaid in full with interest from the Joint Venture Account(s) prior to any sums being paid to the non-advancing member of the Joint Venture. The contributing Joint Venturer shall receive interest on the excess funds at a rate equal to the prime rate prevailing at the place of the Project, from the date of advancement to the date of repayment. The interest so paid shall be deducted from the funds otherwise due the Joint Venturer who failed to contribute its proportionate part of the working capital.

5.4 Except as provided in Paragraph 5.3, no part of any advances deposited in the Joint Venture Account(s) shall be returned to either of the Joint Venturers and no distribution of profits shall be made prior to the completion of the Work except as may otherwise be agreed upon in writing by the Joint Venturers.

5.5 On completion of the Work, all working capital advanced shall be repaid to the Joint Venturer advancing it prior to the distribution of any profits as hereinafter provided.

5.6 All costs and expenses related to this Project and incurred prior to the date of execution of this Agreement shall be borne by the party incurring such costs and expenses.

ARTICLE 6

PERFORMANCE OF THE WORK

6.1 The Joint Venturers shall each furnish the personnel set forth in Exhibit C from their respective organizations who shall possess the skill, experience and knowledge required for the performance of the Work. The Joint Venturers shall furnish additional personnel as may be requested by the Executive Committee.

6.2 The Executive Committee shall determine the type and quantity of equipment and materials to be contributed to or rented by the Joint Venture. Each Joint Venturer shall rent to the Joint Venture on terms approved by the Executive Committee, such of its plant and equipment as is available and suitable for the performance of the Work and is requested by the Executive 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.

6.3 The Joint Venture shall obtain any licenses on its behalf required to execute the Work. Each Joint Venturer shall also obtain any licenses required to execute their respective portion of the Work.

6.4 The cost of the Work shall include all items properly chargeable as costs of the Work under the Contract. Such costs shall not include any charges against the Joint Venture for any overhead expenses or charges of the main or branch offices of the Joint Venturers or for the time which may be expended in connection with the Work by any of the Joint Venturers or their officers or employees, unless assigned to this Project, and except as may be approved by the Executive Committee. Travel expenses and subsistence during travel reasonably incurred in the performance or interest of the Work shall be treated as part of the cost of the Work and shall be paid with Joint Venture funds.

6.5 During the performance of the Work, the Joint Venturers shall invoice the Joint Venture for the amount of Work that each Joint Venturer completed during the previous month. The Joint Venture shall invoice the Owner on a monthly basis for the combined amount. Payments received by the Joint Venture from the Owner shall be distributed to each Joint Venturer in accordance with the amount of their original invoice, less any retainage within _____ (_____) days of receipt of such payment from the Owner. ♦

6.6 Should a Joint Venturer become bankrupt or insolvent, commit any act of bankruptcy or take advantage of any bankruptcy, reorganization, composition or arrangement statute, then such Joint Venturer (the "Insolvent Venturer") shall have no further voice or vote in the management of the Work, and the other Joint Venturer shall assume all of the authority previously possessed by the Insolvent Venturer.

6.7 Notwithstanding Paragraph 6.6, the Insolvent Venturer 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 Joint Venturer, such damage or extra cost shall be charged against the interest of the Insolvent Venturer and payable prior to its share of any profits.

6.8 Upon completion of the Work the Joint Venturers shall 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 Joint Venturers shall have the right to purchase any item or group of items at the highest prices bid by such dealers, provided that no Joint Venturer without the consent of the other(s) 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 Joint Venturer shall desire the same item or items or 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 Joint Venturers, shall be disposed of by sale to outsiders for the best price obtainable.

ARTICLE 7

DOCUMENTS

7.1 CONFIDENTIALITY The Joint Venturers may receive from one another confidential information, including proprietary information, as is necessary to prepare the statement of qualifications and the proposal. Confidential information shall be designated as such in writing by the Joint Venturer supplying such information. If required by the Joint Venturer supplying the confidential information, a Joint Venturer receiving such information shall execute an appropriate confidentiality agreement. A Joint Venturer receiving confidential information shall not use such information or disclose it to third parties except as is consistent with the terms of any executed confidentiality agreement and for the purposes of performance of the Work, or as required by law.

7.2 OWNERSHIP OF DOCUMENTS Each Joint Venturer shall retain ownership of property rights, including copyrights, to all documents, drawings, specifications, electronic data and information prepared, provided or procured by it in furtherance of this Agreement or the Work. Each Joint Venturer may use, reproduce and make derivative works from such documents in the performance of the Work. Each Joint Venturer shall be obligated to indemnify the other Joint Venturers for any claims of royalty, patent or copyright infringement arising out of the selection of any patented or copyrighted materials, methods or systems by the Joint Venturer.

ARTICLE 8

INSURANCE AND BONDS

8.1 INSURANCE The Joint Venture shall procure and maintain in force through the end of the Project (and longer as required by the Contract Documents) Commercial General Liability Insurance, Workers Compensation Insurance, Employers Liability Insurance, Business Automobile Liability Insurance, Builders Risk Insurance (if required), Professional Liability Insurance (if required), as well as any other insurance that may be required or advisable, that will protect, defend and indemnify the Joint Venture and the Joint Venturers from insurable accidents that may arise in the course of performance of the Contract. Each Joint Venturer shall be named as an additional insured on all liability insurance policies procured and maintained by the Joint Venture. Fidelity Insurance shall be obtained by the Joint Venture for loss caused by any person in the employ of the Joint Venture or the Joint Venturers. The cost of such insurance attributable to the Joint Venture shall be an expense of the Joint Venture.

8.1.1 Each Joint Venturer shall separately maintain insurance coverages, that are at least as broad as those required by this Agreement and the Contract Documents, which independently insure each Joint Venturer. This separate insurance shall be excess and non-contributory to the insurance procured and maintained for the benefit of the Joint Venture.

8.1.1.1 The Joint Venture and each Joint Venturer shall provide the others and the Owner with proof of insurance coverages required by this Agreement and the Contract Documents.

8.2 BONDS Any performance and payment bonds required of the Joint Venture by the Contract shall be provided by the parties hereto. It is contemplated that the parties separate sureties will act as co-sureties in the proportion of their respective principal s interests in the Joint Venture as set forth in Paragraph 3.2. The cost of such bond premiums shall be an expense of the Joint Venture. Each party shall execute all applications and indemnity agreements required by the sureties. Each party shall bear its own financial and legal obligations assumed as guarantor or indemnitor in connection with such surety bonds (or other bonds which may be given or executed in connection with the Contract). Each party agrees that its indemnity or indemnities shall be joint and several and not limited by any proportionate interest in the Joint Venture. If the surety(ies) of either Joint Venturer shall require or obtain the benefit of any indemnity provided by a third party or related company indemnitor on behalf of either Joint Venturer, then the Joint Venturer on whose behalf the indemnity was required or obtained shall have such third party or related company guarantee the performance of its obligations under this Joint Venture Agreement.

ARTICLE 9

DISPUTE RESOLUTION

9.1 INITIAL DISPUTE RESOLUTION If a dispute arises out of or relates to this Agreement or its breach, the Joint Venturers shall endeavor to settle the dispute first through direct discussions between the Joint Venturers authorized representatives on the Executive Committee, who shall have the authority to settle the dispute. If the Joint Venturers designated representatives are not able to promptly settle the dispute, the senior executives of the Joint Venturers, who shall have the authority to settle the dispute, shall meet within twenty-one (21) days after the dispute first arises. If the dispute is not settled within seven (7) days from the referral of the dispute to the senior executives, the Joint Venturers shall submit the dispute to mediation in accordance with Paragraph 9.2.

9.2 MEDIATION If the dispute cannot be settled pursuant to Paragraph 9.1, the Joint Venturers shall endeavor to settle the dispute by mediation under the current Construction Industry Mediation Rules of the American Arbitration Association before recourse to any other dispute resolution procedures. Once one Joint Venturer files a request for mediation with the other Joint Venturer(s) and with the American Arbitration Association, the Joint Venturers agree to conclude such mediation within sixty (60) days of filing of the request. Any Joint Venturer may terminate the mediation at any time after the first session, but the decision to terminate shall be delivered in person by the Joint Venturer's representative to the other Joint Venturer s(s) representative and the mediator. The cost of mediation shall be paid from the funds of the Joint Venture.

9.3 DISPUTE RESOLUTION MENU If the dispute cannot be settled by a Dispute Review Board, if established, or by mediation within sixty (60) days, the Joint Venturers shall submit the dispute to any post-mediation dispute resolution process set forth in Exhibit D.

9.4 PROGRESS OF THE WORK The Joint Venturers shall not permit any dispute between the Joint Venturers to affect or threaten the progress and completion of the Work.

ARTICLE 10

MISCELLANEOUS PROVISIONS

10.1 ASSIGNMENT This Agreement is binding upon the representatives, assigns and successors of the Joint Venturers. The interests and rights of a Joint Venturer in the Contract and as a member of this Joint Venture shall not be transferable or assignable without written consent

of the other Joint Venturer(s), except that a Joint Venturer may assign its share in any money to be received by it from the joint venture for the purpose of obtaining a loan or loans from any bank or other lending agency. Any such assignment, pledge, hypothecation or other collateralization of the proceeds or receivables of a Joint Venturer shall be subordinate to any claims, offsets, adjustments and/or repayment of uncontributed working capital and/or default interest to the nonassigning Joint Venturer.

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

10.3 GOVERNING LAW This Agreement shall be governed by the law in effect at the location of the Project.

10.4 SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

10.5 EXTENT OF AGREEMENT This Agreement is exclusively for the benefit of the Joint Venturers and shall not be interpreted or construed as conferring, either directly or indirectly, any rights or causes of action upon any person or entity not a party. This Agreement constitutes the entire agreement between the Joint Venturers, and is subject to no other oral or written proposals, agreements or understandings whatsoever, and can only be supplemented or amended by a written document executed by the Joint Venturers.

ARTICLE 11

SCHEDULE OF EXHIBITS

- Exhibit A: The portions of the Work to be performed by each Joint Venturer, dated _____, _____ pages. ♦
- Exhibit B: The Contract between the Joint Venture and the Owner, dated _____, _____ pages. ♦
- Exhibit C: Personnel to be provided by each Joint Venturer, dated _____, _____ pages. ♦
- Exhibit D: Dispute Resolution Menu.

This Agreement is entered into as of the date entered in Article 1.

ATTEST: _____ ♦

JOINT VENTURER: _____ ♦

BY: _____ ♦

PRINT NAME: _____ ♦

PRINT TITLE: _____ ♦

ATTEST: _____ ♦

JOINT VENTURER: _____ ♦

BY: _____ ♦

PRINT NAME: _____ ♦

PRINT TITLE: _____ ♦

AGC DOCUMENT NO. 299
STANDARD FORM OF PROJECT JOINT VENTURE
AGREEMENT BETWEEN CONTRACTORS

DISPUTE RESOLUTION MENU

Pursuant to Paragraph 9.3, if neither direct discussions nor mediation successfully resolve a dispute, the parties agree the following shall be used to resolve the dispute. If a Dispute Review Board is selected, it is understood its review shall precede mediation.

(Check the appropriate selection(s). These procedures can be used singularly or progressively as agreed to by the parties.)

- _____ **Dispute Review Board** The Dispute Review Board shall be composed of three members. Each Joint Venturer shall select one member of the Dispute Review Board. The two members selected shall in turn select the third member of the Dispute Review Board. This Board shall be selected prior to commencement of the Work, shall meet periodically, and shall make advisory decisions that may be introduced into evidence at any subsequent dispute resolution process. ◆
- _____ **Advisory Arbitration** Advisory Arbitration shall be pursuant to the current Construction Industry Rules of the American Arbitration Association, except that the award shall not be binding on the Joint Venturers. ◆
- _____ **Mini Trial** Each Joint Venturer, in the presence of senior executives, shall submit its position to a mutually selected individual who shall make a non-binding recommendation to the Joint Venturers. Such advisory decision may be introduced into evidence at any subsequent dispute resolution process. ◆
- _____ **Binding Arbitration** Binding Arbitration shall be pursuant to the current Construction Industry Arbitration Rules of the American Arbitration Association unless the Joint Venturers mutually agree otherwise. A written demand for arbitration shall be filed with the American Arbitration Association and the other Joint Venturer within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitations for a legal or equitable proceeding would have run. The location of the arbitration proceedings shall be at the office of the American Arbitration Association nearest the worksite, unless the Joint Venturers agree otherwise. The arbitration award shall be final. Notwithstanding Paragraph 9.2, this agreement to arbitrate shall be governed by the Federal Arbitration Act and judgment upon the award may be confirmed in any court having jurisdiction. ◆
- _____ **Litigation** Action may be filed in the appropriate state or federal court located in the jurisdiction in which the Project is located. ◆