



## Shareholder and Joint Venture Agreements – A Practical Guide

A Joint Venture is a business relationship between parties with a view to mutual profit / benefit.

It is widely used in ventures where the parties can provide different skills for the purpose of an intended outcome, such as:

1. mining ventures – exploration licence, capital and mining skills;
2. manufacturing - factory and raw materials;
3. distribution - manufacturer / retail /wholesale distributor.

Often the outcome of a successful Joint Venture Agreement can sometimes takes years and a lot of capital (money) invested by the parties, especially for mining operations.

The Joint Venture Agreement spreads the risk as opposed to one entity bearing all the liabilities / risk of failure, and as such has tax advantages compared to partnership / corporate structures.

Parties cannot bind other parties to liabilities incurred in a Joint Venture Agreement, unless by way of agreement. Whereas in a company / partnership structure, one party's actions usually binds all.

A Joint Venture Agreement should expressly state that the agreement is not a partnership.

Liabilities incurred by Joint Venture Agreements are incurred individually and not jointly or as agents for each participant. They are parties with a common purpose, but not in a partnership where each party incurs joint and several liability.

Transfer of rights / benefits in the Joint Venture Agreement are usually subject to pre-emptive rights as agreed between the parties – that is – the existing



parties are provided with the first right to purchase the existing parties benefits prior to sale to a third party.

A Joint Venture is not regulated by any laws and is based on a contractual relationship and the rights and obligations as agreed to between the parties.

A Shareholders Agreement is required for an incorporated Joint Venture Agreement. That is - a company is registered to own the joint venture property.

The alternative is an unincorporated joint venture agreement, where the parties themselves own the joint venture property as tenants in common – that is by way of agreed percentages.

Joint Ventures are flexible arrangements, not constrained by regulations of corporations or partnerships.

Please contact SRM Lawyers to answer any enquiry you have relating to your business, proposed joint venture and / or shareholder agreements.

**Contact** Michael Stevens - SRM Lawyers

By email: [michaels@srmlawyers.com.au](mailto:michaels@srmlawyers.com.au)

Ph: 9188 9631 / 0419 257 392

Address 11 / 65 York Street, Sydney