

# NONDISCLOSURE AGREEMENT



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LEGAL

# Nondisclosure Agreement Overview

**WHAT IT IS:** A nondisclosure agreement (NDA), also called a confidentiality agreement (CA), is a document that legally obligate the signer not to disclose information that either you share with them or that they gain access to through their association with you as a partner, contractor, employee, or otherwise.

**WHAT IT DOES:** As a first line of defense, and in layman's terms, it makes people promise to keep your secrets for a certain period of time. Should the signer violate their nondisclosure agreement and, as a result, cause harm or loss to you or your business, it provides legal recourse for damages.

**WHY YOU NEED IT:** If you have special ways of doing business or acquiring clients that others would benefit from AND that is not already generally known, you may have business practices worth protecting. In addition, if you are about to launch a new product or trademark a new tagline or logo, this type of proprietary and private information should be protected.

**WHEN TO USE IT:** You may not need this one as often but it's useful to have ready and available to protect confidential information as needed. You would use this if you are working with or contracting with a third party and you are required to disclose information you want to protect. Of course, your other agreements above include similar provisions of your clients, contractors, and employees. This document would be used in other situations not covered by those above. Some business coaches have "playbooks" or other content or curricula they want to protect and include a clause about not disclosing this information outside the coaching program or using it in their own businesses as well. Something to consider if you do curriculum-based coaching.

# Clause-By-Clause Explanations and Instructions

**Editing Instructions:** The first time you go through the template, customize it to your business according to the instructions below. Sections that should be filled in, altered to suit your needs, or deleted if they're not applicable to you are in **red**. Leave the signature section at the bottom and the **[Client Name]** in the recitals (the part between the title and the sections) blank for now. Then save the document – this will be *your* template going forward. Each time you bring on a new client, use your template and update the recitals with the client's name where it says **[Client Name]**.

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## THE TITLE

On the top of the page, insert your business name in **[Company, LLC or Individual]**. The remainder of the Agreement uses the word “Company” so that you only need to change your business name here and at the signature line.

## THE RECITALS

In the part between the title and the numbered sections, insert your business name in **[Company, LLC or Individual]**. The remainder of the Agreement uses the word “Company” so that you only need to change your business name here and at the signature line. When you bring on a new client, insert the client's name where it says **[Client Name]**. Client Name can be an individual, business name, or LLC. The remainder of the Agreement uses the word “Client” throughout.

## 1. Confidential Information

**Purpose:** This clause identifies the confidential information. It is a very broad and exhaustive list of all confidential information so that you may but should not have to edit.

**Instructions:** Read the definition on this clause thoroughly. If you need to specifically identify additional information. Add a sentence after the second sentence (“Confidential Information means...”) and list your specific information as well. You can add. “Confidential Information shall also mean...[insert your specifics].”

## 2. Protection of Confidential Information and Restrictions on Use

**Purpose:** Now that we have labeled the confidential information in section 1, this clause places a duty on the recipient to actually protect the information.

**Instructions:** None.

## 3. Term

**Purpose:** This clause makes it clear that the duty to protect your information lasts for 3 years. Additionally, if it involves a trade secret (e.g. the Coca-Cola recipe, you can learn more about whether you have a trade secret on our website blog), then the duty is indefinite or until the trade secret is public information.

**Instructions:** None.

## 4. Remedy

**Purpose:** The purpose of this clause is to protect you if there is a breach. It states that monetary damages may be insufficient. This gives you the opportunity to stop the release of information because it happens but also to collect damages afterwards.

**Instructions:** None.

## 5. Indemnification and Hold Harmless

**Purpose:** The purpose of this clause to protect you if the Recipient suffers harm from use of the Confidential Information, they cannot then look to you for recovery of damages.

**Instructions:** None.

## 6. Prevailing Party

**Purpose:** If there is a dispute that requires retaining attorneys, whomever prevails from the dispute will be reimbursed for their attorneys' fees. This clause is incredibly important should you need to retain an attorney as it makes it more cost effective because now your Client may have to reimburse you for legal fees.

**Instructions:** None.

## 7. Governing Law

**Purpose:** This clause clarifies what laws will govern this contract. Contract laws vary state-to-state, so the contract must clarify what state laws govern this particular agreement.

**Instructions:** Replace [State] with your state and county of your company's primary location.

## 8. Electronic Signature and Counterparts

**Purpose:** To allow you and your client to sign this agreement with the same power and authority as signing in person.

**Instructions:** None.

## SIGNATURE BLOCK

**Purpose:** To clarify who is obligating themselves to these terms and also to actually take the final step in reaching agreement. All of your hard work does little good when you go to collect on an unpaid invoice if you do not have a signed copy of this agreement, so be sure to **get it signed and keep a copy**.

**Instructions:** Lastly, insert your business name, name of owner/president, and name of client in the signature block. For job title, be sure to include your title (e.g. Member, President, Manager, CEO, etc) as it denotes that you are signing on behalf of the company and not individually.

Pro Tip: Every time you sign something for the business, it is important to always sign your name as a representative of the LLC and not just individually. This maintains the liability protection you're getting with your LLC. For example, sign: "Wesley Henderson, Member" (or otherwise designate you are signing on behalf of the LLC and not as an individual). Finally, have your client sign and date.