

## Sample Copy

# Non Disclosure Agreement

This Non Disclosure and Confidentiality Agreement ("Agreement") is entered into by and between ABC Company, hereinafter known as the "Disclosing Party", and the undersigned receiving party (the "Receiving Party"), and collectively both parties known as "Parties".

WHEREAS, the Disclosing Party shall disclose or deliver tangible or intangible information to the Receiving party that may be considered confidential or proprietary information;

WHEREAS, the Disclosing Party desires to be assured that the proprietary information owned by them shall not be disclosed to any third party without their consent and shall be maintained and protected by the Receiving Party;

NOW, THEREFORE, in consideration of the mutual promises and covenants included in this agreement, both parties agree as follows:

### **I. Definition.**

Confidential Information shall refer to any kind of information whether oral or written made by or provided for by the Disclosing Party to the Receiving Party or vice versa. It could be written or in oral communication that may refer to any patent, copyright, trademark, or trade secret. The information under this agreement to be declared or constituted as Confidential by the Disclosing Party, regardless of whether such information was provided before or after the date of this Agreement shall be, but not limited to the following:

- 1. Marketing and Development Information** - This includes plans of the Disclosing Party about marketing agenda or business developments and may involve costing, policies, quotes, forecasts, and strategies.
- 2. Business Operations Information** - This refers to any information about the business operations of the party disclosing the information, including the number of personnel, the financial activities within, the information on vendors, providers, and partners that are not openly declared by the Party to the public.
- 3. Product Information** - This refers to all specifications for products produced by the Disclosing Party as well as the products resulting from or related to work or projects performed or to be performed for the Disclosing Party or for its clients, or information about the product during research and development;
- 4. Manufacturing and Production Processes** - This includes identified processes and systematic creation of product output such as manufacturing or production such as, but not limited to formulas, technical procedures, methods, techniques, specifications, including the used devices and equipment, designs, models, or software files used for manufacturing products. This may likewise refer to Proprietary Information;
- 5. Service Information** - This refers to information relating to services provided by the Disclosing Party such as but not limited to manpower scheduling, training, and maintenance;
- 6. Intellectual Property** - This refers to all information creation of the mind such as inventions, designs, symbols, names, and images created for commerce, such as but not limited to logos, computer codes and algorithms both in human-readable and machine-readable form, reports, technical designs, database structure, charts, and other document design specifications, including music which may be subject to copyright.

**7. Technology** - This refers to all technical and scientific information and materials produced from formulation made by the Disclosing Party and by which information has not been publicly used, including to use of any machine, appliance, or components, including the documented scientific process.

**8. Accounting Information** - This includes all financial reports, worksheets, balance sheets, undisclosed assets and liabilities, inventories, payroll, and any other information that may relate to a financial activity and by which information is not disclosed or that such disclosure has not been consented by the Disclosing Party.

Confidential Information may likewise include any information disclosed by any party to the Disclosing Party that is protected by a non-disclosure agreement and by which has been accidentally, incidentally, or acquired by the Receiving Party whether directly or indirectly.

## **II. Obligations.**

The Receiving Party, upon acquiring the confidential information shall hold in trust and confidence the information possessed by said party and shall not disclose it to any other party or use it for its own benefit or any other without the consent of the Disclosing Party.

The Receiving Party may not disassemble, decompile, or reverse engineer products, prototypes, source codes, software, or any other objects that have been shared or provided for by Disclosing Party's that may contain Confidential Information and that are provided to the Receiving Party for purposes under this agreement.

The Receiving Party shall not likewise make copies, of said information unless consent has been given by the Disclosing Party.

This clause shall survive and continue during and after the expiration or termination of this Agreement.

## **III. Exclusions From Confidential Information.**

The Receiving Party shall not need the consent of the Disclosing Party to share, disclose, or copy the Confidential Information in cases where:

1. The Confidential Information, at the time of disclosure, such information is already publicly known;
2. Information received by the Receiving Party has already been known by the Receiving Party prior to its disclosure;
3. The Confidential Information has been obtained by Receiving Party rightfully from any other party other than the Disclosing Party and without reason to believe that the third party is under any obligation or has an agreement with the Disclosing Party;
4. The Confidential Information was developed by Recipient without reference or dependence to the Disclosing Party's Confidential Information.

## **IV. Non-Compete.**

During the effectivity and within five (5) years after the expiration of this agreement, the Receiving Party understands and agrees to not be involved directly or indirectly, in activities that are in competition with the Disclosing Party.

## **V. Return of Confidential Information.**

Upon termination of this Agreement and/or upon request of the Disclosing Party, all Confidential Information disclosed under this Agreement shall be returned to the Disclosing Party. Physical records, or any hardcopy material, print media, or any other physical materials containing Confidential Information shall be delivered or return to the Disclosing Party. Digital records shall be deleted and no copies shall be retained by the Receiving Party.

In case of impossibility of the delivery of Confidential Information by the Receiving Party to the Disclosing Party, the parties may unanimously elect for the destruction of any records, documents, whether physical or digital containing the Confidential Information.

In case of destruction of Confidential Information, destruction shall be certified in writing to the Disclosing Party after the destruction of such Confidential Information before the presence of a duly authorized representative of the Disclosing Party and/or by one of Recipient's duly authorized officers.

## **VI. Ownership.**

This Non Disclosure Agreement is not transferable. The written content of both parties is needed in order to transfer this Agreement.

The Parties acknowledges that each party shall maintain its exclusive ownership over its own Confidential Information except as otherwise falling under the found in the Exclusions from Confidential Information clause.

Neither party may obtain rights whatsoever, by license or otherwise, in the other party's Confidential Information unless otherwise with consent provided for by the other party. Any recommendation of any information made by the Receiving Party to the Disclosing Party that shall be incorporated to the Confidential Information of the Disclosing Party shall form part of the Disclosing party's Confidential Information.

## **VII. Assignment.**

Neither party may assign or delegate any of its rights, or delegate any of its obligations hereunder, without the prior written consent of the other party.

## **VIII. General.**

All additions or modifications to this Agreement must be made in writing and signed by both parties. The effectivity date of this Agreement is the same as the execution date.

## **IX. Warranties.**

The Disclosing Party makes no representation or warranties whatsoever to the Receiving Party as to the accuracy, completeness, or performance of any such Confidential Information. No party shall become liable for the use of the Confidential Information.

## **X. Injunctive Relief.**

The Parties agree that in the event of any breach due to careless handling of the Confidential Information, the aggrieved party shall be entitled to seek injunctive relief for the protection of such party from incurring further damage or which may result to an irreparable injury.

**XI. Counterparts.**

The Parties may execute this agreement in multiple counterparts, each of which is an original but all of which shall constitute one and the same instrument.

**XII. Entire Agreement.**

This Agreement is understood to be the complete agreement of the parties hereto and shall supersede any prior agreements and discussions relating to the subject matter hereof. Any amendments, modifications, or alterations made in this agreement shall require the affirmation by both parties to this Agreement and signed by said parties hereto.

**XIII. Separability Clause.**

Should any of the provisions hereto be held invalid by any competent court, such invalidity shall affect only the said provision and the remaining provisions shall continue to be valid and enforceable.

**XIV. Governing Laws.**

This Agreement shall be governed and construed in accordance with the laws of the United States, to the exclusion of other state laws and without any regard to its conflicts of laws provisions.

Any disputes arising from in this agreement shall be filed with courts of the United States.

Each party hereby consents to the jurisdiction of said courts and waives any objection which they may have at any time to the jurisdiction of such courts, the laying of venue in such courts or the convenience of the forum.

IN WITNESS WHEREOF, the Parties have set their hands on the date specified.

**Receiving Party**

{companyName}  
{CompanyAddress:addr\_line1}, {CompanyAddress:city},  
{CompanyAddress:state}, {CompanyAddress:postal}  
{CompanyAddress:country}  
Representative:  
{nameOf}

Signature:

**Disclosing Party**

ABC Company  
Business Address

Representative:  
\_\_\_\_\_

Signature: