



# Non Disclosure Agreement

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### What is a Non Disclosure Agreement?

A non-disclosure agreement is a formal agreement in which one party agrees to give the other

party essential information about its business or products and the second party agrees not to share the same information with anybody else for a specified period of time. Non-disclosure agreements are very much in fashion in the case of technology companies where the products are mostly developed mutually. A Non Disclosure Agreement is in certain cases used when a company seeks venture capital from some potential financial backers as a method of assurance that proprietary secret is not stolen or leaked to someone else by the prospective investors.

### What is the Need of a Non-Disclosure Agreement?

A Non Disclosure Agreement is generally entered into when two or more than parties consider doing business together and are supposed to disclose proprietary information to each other in order to estimate the potential business relationship.

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## Type of Non-Disclosure Agreement:-

There are mainly two types of non-disclosure agreements

- Unilateral Non Disclosure Agreement:- They should be used when one party will be sharing its confidential information to the other party.

For example: If company X is requesting bids for working on a project. The company Y which is soliciting for the work would have confidential information shared regarding the same project but company X will be sharing only that information which is already publically available like its published rates and experience in that field.

- Mutual Non-Disclosure Agreement:- These are the agreements in which both the parties share confidential information that they wish to stay protected. The reasons for the same can be like seeking funds for investment.

For Example:- If company A & B are planning to enter into a joint venture or merger. Then each company will have to disclose the information about their organization and its working.

## Who should sign a Non - Disclosure Agreement?

Any person, no matter if he is an employee, volunteer or maybe a contractor who so ever has access to confidential information or material must sign a Non-Disclosure Agreement before accessing any such information or material.

## How long a Non Disclosure Agreement is Valid?

Usually, The dates that since when to when the agreement would be valid is mentioned in the contact. However, in case the date since when it will come in effect is not mention then the NDA will come into immediate effect after signing till the contact is valid. Generally, the time period of validity of a Non-Disclosure Agreement is 5 years.

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## What is the confidential information that is protected via the Non-disclosure Agreement?



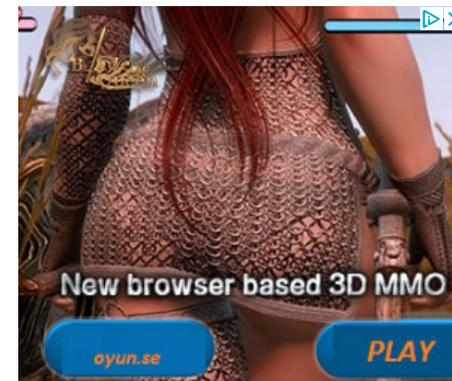
Usually, the confidential information that is protected via the Non-disclosure Agreement is in the form of intellectual property like copyrights, patents, trademarks, trade secrets, financial information or specialized ways of perfuming business transactions.

## What are the points that should be kept in mind while drafting a non-disclosure agreement?

To make sure that a well-drafted NDA is signed and also understood by those who will be privy to this very sensitive information following points should be kept in mind:-

- Be specific about what you want to remain a secret:-The person signing the Non-disclosure agreement need to know that exactly what it is that he needs to keep as a secret. Be Concise and at the same time precise about the secret information so the signing party knows his duties. This makes the drafting of the agreement more crucial part;
- The aim of the Non-disclosure agreement is not to punish but to prevent:- It does not aim at punishing the signing party once he discloses the secret information but the aim is to prevent the secret information from getting leaked;

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- Mention the Exceptions to the Non-Disclosure Agreement:- There must be certain times when it will be the duty of the signing party to disclose the secret information all such conditions must form a part of your exception clause.

For Example:- If an employee needs to provide information about the patent to a manufacturer in order to get the patent produced. These sorts of conditions must be provided in the exception clause;

- Reserve the right to the confidential information:- you should be very clear about the fact that even if the employee is sharing the secret information all the rights to the secret information retain with you;
- Remedies in case of Breach of Agreement:- Usually, in cases of breach of contract the remedy is in the form of monetary compensation or damages but it can be framed as per the consensus of the parties;

**General Clauses of a Non-Disclosure Agreement also include the following:**

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- Representations and Warranties; Definitive Agreement;
- Termination of Obligations;
- Mutual Non-Circumvention;
- Conflict of Interest;
- Non - Solicitation;
- No Poach;
- Amendment of Agreement, Waiver;
- Notices;
- Third-Party Rights.



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on 08 March 2019



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