

Non-Disclosure Agreements and How They Protect Businesses in the Short and Long Run

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In the business environment, confidentiality is considered to be a basic need because it helps secure the essential characteristics of a business, including its strength, competitive advantage, and its overall position on the market. Maintaining a competitive advantage by bringing in innovative ideas is a skill that is necessary for both the short-term and long-term survival of any business. In this regard, a non-disclosure agreement is an essential legal contract that assists in the self-preservation of companies. In the short run, non-disclosure agreements give businesses an affordable and enforceable mechanism for protecting confidential information; in the long run, it helps companies to build and secure their overall position.

A non-disclosure agreement (NDA) is a legal contract between two or more parties. According to Nolo's Plain-English Law Dictionary, it is a contract, "in which a person or business promises to treat specific information as a trade secret and not disclose it to others without proper authorization" ("Nondisclosure Agreement," 2019). Non-disclosure agreements are alternatively referred to as legally binding contracts or confidentiality agreements. These terms can be considered interchangeable, as there is no difference between these types of contracts from the legal perspective. One of the most common scenarios in which a non-disclosure agreement is used is when a party unveils confidential information, such as a trade secret, to another party for various purposes, such as marketing or an evaluation ("Nondisclosure Agreement," 2019). As a rule, a non-disclosure agreement is not likely to protect a trade secret in a situation when the owner of the trade secret has not taken reasonable steps to ensure the protection.

Non-disclosure agreements are equally beneficial for larger corporations and small business owners and entrepreneurs, who might find themselves vulnerable when it comes to protecting their confidential information. One of the benefits of non-disclosure agreements for small business owners and entrepreneurs is that they offer protection of a company's confidential information at little-to-no cost (Friederichs III, n.d.). Constructing a document in an enforceable way with some legal advice and signing it is enough to ensure necessary legal protections. Non-disclosure agreements allow determining the legal consequences of breaching a contract. An effective non-disclosure agreement also contains a specific mechanism of how the effects of violating a contract are to be enforced.

Non-disclosure agreements offer businesses the necessary flexibility in protecting their confidentiality rights. A typical bilateral or a multilateral non-disclosure agreement includes a definition of confidential information, exclusions from confidential information, obligations of the other party, a timeframe of the legal contract, relationships, severability, integration, and a waiver ("Non-Disclosure Agreement (NDA) Template – Sample," 2019). In signing the agreement, the parties are free to choose the confidentiality obligations that apply in their specific case. Likewise, they are free to select the instances in which confidentiality obligations do not necessarily apply. The parties are expected to choose their specific obligations in relation to confidential information, as well as the terms of contract termination. However, the most significant benefit of non-disclosure agreements upon signing is that they allow determining precisely what "confidential information" means in their case. All of these characteristics allow parties to construct the agreement that is best suited for their needs.

When executed carefully, non-disclosure agreements provide significant benefits to businesses that protect their confidential information. The long-term and short-term benefits of non-disclosure contracts for businesses are deeply interlinked. In the short term, a non-disclosure agreement is a convenient legal contract that helps companies to build a practical approach towards handling confidential information in terms of content, time, and consequences, while preserving ties with business partners due to the transparency of their legal relations. In the long-term perspective, companies gain a valuable opportunity to maintain their competitive advantage and stay a relevant participant in the business field they are engaged in. Enforceable NDAs allow businesses to take control of ideas while maximizing prices and minimizing risks not only to themselves but also to their customers. NDAs also help businesses to maximize their returns and to protect themselves from espionage conducted by rival companies and employees.

To conclude, non-disclosure agreements serve as a perfect tool to protect confidential information, which is oftentimes a sensible aspect of a company's competitive advantage. The breach of a non-disclosure agreement results in the party being subjected to a lawsuit. In most cases, penalties reflect the financial losses experienced by the suffering party. In some of the most severe cases, criminal charges may be filed against the party that violated a non-disclosure agreement. All in all, non-disclosure agreements provide nothing but benefits to the parties willing to protect their confidential information while requiring only minimal efforts to be realized. Therefore, every business with confidential information to protect should invest effort into signing this type of agreement. While the premise of a non-disclosure agreement is relatively easy to navigate, legal advice is required to ensure that the non-disclosure agreement will be as effective as possible.

## References

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