

Confidentiality & Non-Disclosure Agreement

Specific Business Transaction

- 🔊 We have several non-disclosure agreements to help you enter discussions while protecting your ideas... this one is primarily geared toward a specific business transaction.
- 🔊 The first part of the Memorandum should be completed and distributed to the Vendor along with a copy of the Confidentiality & Non-Disclosure Agreement.

Attached to this memorandum is a Confidentiality & Non-Disclosure Agreement.

Date: **[Date]**

To:  **[Recipient]**

From: **[Owner/Founder]**
[Company]

Subject: **Non-Disclosure Agreement**

Thank you very much for your interest in working with [Company] and for your cooperation with us regarding our confidential information.

Attached is our standard “Non-Disclosure” Agreement.

The purpose of this Agreement is to establish a formal setting for our business discussion where we must reveal certain proprietary information to enable us to work together more effectively and to fully explore the benefits of our business relationship.

I believe that it embodies everything we discussed.

Please read the agreement carefully.

We recommend that you also have it reviewed by your own qualified legal counsel.

Time is of the essence.

Please sign and return it to me asap.

Thank you very much!

From JIAN

NOTICE:

We wish we could provide an agreement that was tailored *exactly* to your business. While this is not always possible, we feel that we've come very close and that this document provides you with the head-start that you need to get your deal moving. Nevertheless, we must make this disclaimer:

- 🚫 **Do Not Use This Agreement 'As-Is.'**
- 🚫 **This Agreement Is Not Legal Advice.**
- 🚫 **Read it Thoroughly and Make All Appropriate Changes to Fit Your Requirements.**
- 🚫 **You Should Have this Agreement Reviewed and Approved by a Qualified Attorney at Law Before Using It.**
- 🚫 **JIAN Accepts No Liability for the Effectiveness of This Document For Your Purposes.**

Free Access to Attorney, Accountants & Consultants in Your Area

We're building a network of business experts who are eager to help you when you need it. They can review your work, make suggestions, handle unique situations and introduce you to influential people. On our website you can search by expertise and location, then e-mail or jump straight to their website. Although they are professionals and charge for their services, most offer an initial consultation free of charge. They're in your area and you can contact them directly.

- Please visit our website under [Expert Referral Network](#).

Ongoing Update Service Keeps You Current

Things change, laws change, the world changes... new ideas come along all the time. When you register, you can access our website to get updates and changes... like new and improved spreadsheets and documents. They can be downloaded directly to your computer.

- Please visit our website under [Updates](#).
- Remember to bookmark our website: www.JIAN.com

Editing Your Sample Contract

Since this entire agreement is formatted in Word, you can edit it like any other Word document. You can jump from variable to variable by clicking the above  green arrows (JIAN Menu) which will take you forward / backward and highlight the entire sample text identified within the “[]” brackets – simply edit / type-over with your information.

To make sure you have filled in all the variables, use Word's 'FIND' function to locate any “[]” which may contain an unedited variable.

- Click the  icon in the JIAN menu above to turn the expert comments on/off.
- Upon completion, delete any unnecessary blank lines that remain.
- You may format this document any way you like.
- Delete this page.

Confidential Disclosure Agreement

Effective Date **[Date]**

Between **[Company Legal Name], Inc.**, (“[Company]”)
a [State] corporation,
with offices at [Address]
[City], [State] [Zip Code]

and **[Participant]** (“[Participant]”),
with offices at  Address]

Purpose

The parties are currently engaged in negotiations in contemplation of entering into a contract for a business relationship between the parties, the nature and extent of which are not yet fully defined (the “Contemplated Transaction”); and

- 🔊 Let’s say the other party has something similar to yours and your discussion is to facilitate a “make or buy” decision yet you both need to ‘open your kimonos’ a bit first... edit to suit.
- [Company] is aware that [Participant] has previously designed and developed a prototype similar in look, feel and functionality to the [Company] product; and
- In order for such negotiations to proceed, each party may find it necessary or desirable to disclose to the other certain technical and business information; and
- The parties hereby establish these terms and conditions governing the use and protection of certain confidential information (“Confidential Information”) one party (the “Disclosing Party”) may disclose to the other party (the “Receiving Party”).

1. Definitions

Each party’s designated representative for coordinating disclosure and receipt of Confidential Information is:

- For [Company]: [Name]
- For Participant: [Name]

“Confidential Information” of a party shall include only that information or data that is:

- (a) first disclosed by the Disclosing Party in tangible form and is conspicuously marked as “Confidential”, or the like, at the time of disclosure, or;
- (b) disclosed by the Disclosing Party in non-tangible form and orally identified as confidential at the time of disclosure, and is summarized in tangible form conspicuously marked as “Confidential”, or the like, and delivered to the Receiving Party's representative named in Section 1 above within thirty (30) days of the original disclosure. Notwithstanding the foregoing, the business plans, forecasts, projections

and analyses, software, hardware or systems designs, specifications, documentation, code, architecture, structure, protocols, product materials, notes, slides or ideas, including but not limited to, [Company]'s business and product, shall be considered Confidential Information of [Company]. Notwithstanding the foregoing, the business plans, forecasts, projections and analyses, software, hardware or systems designs, specifications, documentation, code, architecture, structure, protocols, product materials, notes, slides or ideas, including but not limited to, Participants business and product, shall be considered Confidential Information of Participant.

2. Effective Dates

This Agreement will only apply to disclosures made within one (1) year of the Effective Date of this Agreement, and this Agreement shall expire on the first anniversary of the Effective Date, unless extended in writing by mutual agreement of the parties. Either party may terminate this Agreement for material breach thereof upon 10 days written notice. Notwithstanding any termination of this Agreement, the obligations set forth under Sections 4 and 5 hereof shall survive such termination.

3. Safeguarding of Information

Each party agrees to safeguard all Confidential Information disclosed by the other with the same degree of care with which it protects its ~~own~~ confidential information (but in no event with less than a reasonable degree of care) and shall not disclose such Confidential Information to any third party unless required to do so by competent legal authority or the advance written consent of the Disclosing Party has been obtained. In the event either party receives notice of any legal proceeding to compel disclosure of Confidential Information provided by the other, it will promptly notify the other party of such fact and afford it the opportunity to contest such proceeding.

4. Use of Information

Each party agrees that it will not use the Confidential Information of the other for any purpose other than evaluating and negotiating the terms of the Contemplated Transaction. The Receiving Party agrees not to reproduce, distribute, prepare derivative works of, publicly display, perform or reverse engineer any such Confidential Information of the Disclosing Party. The Receiving Party shall limit its internal disclosure of Confidential Information to those employees having a strict need to know such information and only for the purpose set forth in this Section 4.

5. Exempted Information

Information that the Receiving Party can establish:

- (a) was in the Receiving Party's possession before receipt from the Disclosing Party;
- (b) is or becomes known to the general public without improper action or inaction by the Receiving Party;
- (c) was rightfully disclosed to it by a third party, provided the Receiving Party complies with any restrictions imposed by the third party;
- (d) is independently developed by the Receiving Party without the use of the Confidential Information provided by the Disclosing Party;
- (e) is disclosed pursuant to a court order provided the Receiving Party uses reasonable efforts to limit disclosure and has allowed the Disclosing Party to participate in the proceeding or;
- (f) is disclosed by the Receiving Party with the Disclosing Party's prior written approval; shall not be considered Confidential Information hereunder.

6. Termination

Upon request, or upon the termination of this Agreement, if no contract for the Contemplated Transaction has been executed by the parties, or upon the cessation of negotiations for such a contract, whichever occurs first, each party shall return to the other all Confidential Information in tangible form provided by the other, including any copies made by the Receiving Party, and shall delete or erase all intangible Confidential Information of the Disclosing Party in its possession. If requested by the Disclosing Party, an officer of the Receiving Party shall certify in writing that all such Confidential Information of the other was returned, erased or deleted. Neither party thereafter may use or disclose the Confidential Information provided by the other party except as expressly permitted by this Agreement.

7. Rights

Neither party shall acquire any rights in or to the Confidential Information of the other under this Agreement, except the limited right to use the Confidential Information for the purposes set out in Section 4 above. Neither party has an obligation under this Agreement to purchase or sell any service or item from or to the other party. Neither party has an obligation under this Agreement to commercially offer any products using or incorporating Confidential Information. This Agreement grants no license by either party to the other, either directly or by implication, estoppel or otherwise.

The Receiving Party shall adhere to the U.S. Export Administration laws and regulations and shall not export or re-export any Confidential information or technical data or products received from the Disclosing Party or the direct product of such Confidential Information or technical data to any prescribed country listed in the U.S. Export Administration Regulations unless properly authorized by the U.S. Government.

Each Disclosing Party represents that it has the right to make the disclosures under this Agreement. The Confidential Information disclosed under this Agreement is delivered "as is" and the Disclosing Party makes no representation of any kind with respect to the accuracy of such Confidential Information or its suitability for any particular use.

Nothing in this Agreement shall preclude either party from using, marketing, licensing and/or selling, any independently developed technology, software or data processing information and/or materials that is similar or related to the Confidential Information disclosed under this Agreement, provided the party has not done so in breach of this Agreement.

8. Relationship

The relationship of the parties is that of independent contractors. This Agreement does not create an agency, partnership or similar relationship between the parties. Neither party acquires any rights to use in advertising, publicity or other marketing activities, any name trade name, trademark or other designation of either party.

9. General

All additions and modifications to this Agreement must be made in writing referencing this Agreement and must be signed by both parties.

This Agreement may not be assigned by either party without the express written consent of the other party and any purported assignment without such written consent shall be void.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of [State], excluding its choice of law rules.

This Agreement supersedes all prior discussions and writings and constitutes the entire agreement with respect to the subject matter thereof.

Understood, Agreed & Accepted

The parties have caused this Agreement to be executed as of the Effective Date above by their duly authorized representatives.

[Company]

Participant

[Owner/Founder] [Title]

[Participant] [Title]

Date

Date

