

BUSINESS SALE CONFIDENTIALITY AGREEMENT TEMPLATE



The Business Sale Confidentiality Agreement - also known as Business Sale Non-Disclosure Agreement (NDA) -can be used to protect a company’s confidential information when a third party is interested in purchasing either the entire issued share capital or the assets of the company. The Agreement protects the goodwill of the business, and the sensitive information (financial details, commercial or technological secrets) which is brought forward in the process of negotiations between the Seller and the potential Buyer. This **Confidentiality Contract** is normally used when a company is engaged in negotiations for the sale of the business, such as mergers and acquisitions, investments discussions, negotiations about joint ventures or talks with consultants or financial institutions for selling and purchasing businesses.

BUSINESS SALE CONFIDENTIALITY AGREEMENT

DATE:

BETWEEN:

..... [*legal name of the company being acquired*] whose registered office is at
..... [*address, city and country*] and registration/fiscal number is
..... (hereinafter referred to as “the Seller” or “the Company”),

AND:

..... [*legal name of the buying company*] whose registered office is at
..... [*address, city and country*] and registration/fiscal number is
..... (hereinafter referred to as “the Buyer”),

Both parties express a mutual recognition of their legal authority to undertake the present Agreement and declare that:

- I. The Buyer is interested in obtaining further information in connection with the possible acquisition of the Company, either the entire issued share capital or the assets (“the Proposed Transaction”). In this Agreement, “the Permitted Purpose” means the purpose of considering or furthering the Proposed Transaction and/or advising in relation to it.
- II. The undertakings contained in this Agreement are given in consideration of the Seller supplying to the Buyer (and/or to its officers, employees and advisers) commercial,

financial and technical information and other material and data of a secret, confidential or proprietary nature relating to the Company in whatever form or medium and whether disclosed orally or in writing. Confidential Information shall not include information:

- which is available to the public or becomes so available through no fault of either party or the Authorised Recipients;
- which was in the possession of the Buyer (as defined in clause 3 below) prior or to the receipt hereunder;
- which is hereafter lawfully disclosed to the Buyer.

The Parties agree and undertake that:

1. NO ANNOUNCEMENT OR DISCLOSURE

Prior to execution of a legally binding agreement, no announcement or disclosure of the interest in selling the Company will be made or solicited by the Buyer without the Seller's prior written consent. If the Seller determine that, by reason of any legal requirement or of any rule or regulation of any regulatory or governmental authority having jurisdiction over the Buyer or any of the Authorised Recipients (as defined in clause 3 below) or with whose directions the Seller or any of the Authorised Recipients are bound to comply, the Seller or any of the Authorised Recipients are required to make any announcement as to any such matter, the Buyer shall consult with the Seller with a view to agreeing the timing and content of any such announcement and will not release any such announcement without the Seller's prior consent.

2. USE CONFIDENTIAL INFORMATION

The Buyer will use Confidential Information for the Permitted Purpose and for no other purpose whatsoever.

3. PERMISSION TO DISCLOSE CONFIDENTIAL INFORMATION

The Buyer will be permitted to disclose Confidential Information to those responsible employees and to those advisers to whom in each case disclosure is proper and necessary for the Permitted Purpose (together the "Authorised Recipients"). The Buyer will procure that the Authorised Recipients are bound by equivalent non-disclosure obligations to those set out in this Agreement.

4. AUTHORISED RECIPIENTS

The Buyer will not to disclose to any person, firm or corporation without the Seller's prior written consent any of the Confidential Information or the fact that Confidential Information has been provided by the Seller or that the Proposed Transaction is under consideration provided that it is agreed that the Buyer shall have the right to disclose all or any part of the Confidential Information to an Authorised Recipient.

This is a sample of the Business Sale Confidentiality Agreement.

To get more information about this contract click here:

 **[BUSINESS SALE CONFIDENTIALITY AGREEMENT](#)**

USER GUIDE

Contracts drafted by the legal experts of Global Negotiator cover all relevant aspects that are negotiated and agreed in the different types of business between companies. However, when these contracts are used you should take into account some recommendations common to all of them that are described in this User Guide.

DATE

The date when the contract comes into force is the one that appears in its header, as mentioned in the final paragraphs of the contract, before signatures (This Contract comes into force on the date written above).

In some contracts -for example in the Supply Contract- the date of coming into force is also mentioned in one of the clauses. In these cases, you have to verify that the two dates inserted in the contract (in the heading and in the corresponding clause) are the same, in order to avoid discrepancies.

PARTIES

Be sure to insert in the first page of the contract the full details of the Parties:

- When a Party is a company you must insert the following information: legal name, legal form (limited, incorporated, etc.), full address, registration data and fiscal identification number.
- When a Party is an individual that works as independent professional (for example a commercial agent) you must insert the following information: full name, profession, full address and fiscal identification number.

CLAUSES

Clauses with different alternatives: choose the most favorable

In the most important clauses of each contract (exclusivity, payment terms, applicable law and competent jurisdiction, etc.) several drafting alternatives are proposed so you can choose the most appropriate to each situation. Therefore, the user before submitting the contract to the other Party must choose the alternatives that seem best suited to their interests, and eliminate the rest.

Clauses with blank spaces to be completed

In several clauses of the contract blank spaces appear with dots (.....) that the user has to complete inserting text. Following the dots, between brackets, you will see the data and explanations to insert the text.

- When the text between brackets is in normal letters (the same as the contract) and separated by "," or the word "o", the user must insert one of the options suggested.

Example of blank space (.....) with options to select between brackets:

Orders handled before completion of the present Contract which produce sales transactions within [1, 2, 3, 6] months shall entitle the Agent to receive the corresponding commission. In this case the user must choose between options 1, 2, 3 or 6 months and insert one in the blank space (.....).

- When the text between brackets is in italics the user has to insert the data and information requested and eliminate the bracketed text.

Example of blank space - (.....) to insert text:

Both parties, by mutual consent, resolve to refer any dispute to the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. The place of arbitration shall be [*city and country*]. In this case the user must insert in the blank space (.....) the city and country chosen to conduct the arbitration and afterwards eliminate the bracketed text [*city and country*].

Notices Clause

Sometimes it may happen that the official address of the Parties which appear at the beginning of the contract is different from which is to be used for communications between the Parties during the terms of the contract. In this case the user should include at the end of the contract a Notices Clause.

Example of Notices Clause:

Notices. - In order to comply with their contractual obligations, the Parties establish the following address for the provision of notices related to this contract:

- Party 1 [*insert full address*].
- Party 2 [*insert full address*].

ANNEXES

The contracts incorporate some Annexes, each of them, referenced to the corresponding Clause. Annexes are drafted in commonly used formats, although the user must adapt these formats and the text inserted in them to each particular situation.

SIGNATURES

People who sign

Persons signing the contract on behalf of the company must have the authority to do so and preferably, be entitled on the basis of a power of attorney. Below the signature, in addition to the full name of the person that signs his/her position must be inserted. When one of the Parties who signs is a natural person (for example a commercial agent in an Agency Contract) obviously he or she is the person that has to sign the contract.

The laws of some countries require that contracts, to be valid, shall be signed in front of witnesses or a public notary. Therefore, before signing a contract you should be informed about the requirements that may exist in each country.

Place and date of signature

Usually, contracts are signed by both Parties on the same date and place. Nevertheless, in international contracts, due to physical distance, it is common that each of the Parties sign in different dates and places. This contract provides for both alternatives, so it comes to choosing the most appropriate to each situation.

Number of copies

Usually, the Parties sign two copies of the contract, each Party retaining one of them, but can also arise the need to sign more copies. In this case all you have to do is mention explicitly the number of copies to be signed in the paragraph that is included at the end of the contract (Both Parties declare their conformity to the present contract, which is signed in copies, each of which shall be considered an original).

GENERAL RECOMMENDATIONS

The Parties must sign all pages of the contract, including Annexes, so they are also valid. It is better to use ball point or pen (not pencil) in a color other than black (e.g.: blue); this makes it easier to distinguish an original document from a photocopy.

It is preferable (although no mandatory) to express sums of money and percentages in words and figures. Of course, the words and figures for a given amount must match exactly. You also must insert the currency in which the amounts are expressed. It is advisable to use the rules establish by ISO that name each currency by three capital letters (EUR for euro, USD for dollar, GBP for sterling pound, JPY for Japanese yen, etc. - you can get the acronyms of every currency in the website www.oanda.com).

Once you have chosen the best alternatives of each clause and have completed the blank spaces you should revise the whole contract to remove remaining paragraphs and correct any errors.

LEGAL WARNING

Depending upon your particular situation this contract might not meet your needs and requirements. In case of doubt, you should consult a legal advisor.

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BUSINESS CONTRACTS & AGREEMENTS TEMPLATES

BUSINESS CONTRACTS

- Strategic Alliance Agreement
- Joint Venture Agreement
- Manufacturing Contract
- Supply Contract
- Service Provider Contract
- Consulting Services Contract

COMMERCIAL CONTRACTS

- Exclusive Distribution Contract
- Commercial Agency Contract
- Sales Representative Agreement
- Sales Commission Contract
- Real State Agent Agreement

LICENSE & FRANCHISE CONTRACTS

- Trademark License Agreement
- Technology Transfer Agreement
- Software License Agreement
- Franchise Contract
- Master Franchise Contract

CONFIDENTIALITY CONTRACTS

- Confidentiality Contract between Companies
- Confidentiality Contract for Product or Business Idea
- Confidentiality Contract for Employees
- Confidentiality Contract for Consultants and Contractors

SHAREHOLDERS & INVESTORS AGREEMENTS

- Shareholders Agreement for a New Company
- Investors Agreement
- Business Plan for Investors
- Business Proposal for Investors

BUSINESS SALE AND PURCHASE AGREEMENTS

- Business Sale and Purchase Agreement
- Share Sale and Purchase Agreement
- Broker Agreement for the Sale of a Business
- Broker Agreement for the Sale of Shares
- Confidentiality Agreement for Selling a Business
- Disclosure Letter for Selling a Business
- Letter of Intent to Purchase a Business
- Due Diligence Report
- Due Diligence Checklist
- Legal Due Diligence

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www.globalnegotiator.com

info@globalnegotiator.com



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