

# Employee Non-Disclosure Agreement

- Use this agreement to protect your intellectual property.
- If you use the “Invention Assignment Agreement” you will not need to use this agreement.
- The first part of the Memorandum should be completed, and distributed to all current and prospective Employees along with a copy of the Employee Non-Disclosure Agreement, the Termination Certification, and Exhibits A and B.

Date: **[Date]**

To: **[Employee]**

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

Subject: **Employee Non-Disclosure Agreement**

---

Attached to this memorandum is an Employee Non-Disclosure Agreement, a Termination Certification, an Exhibit A “Prior Works,” and an Exhibit B “Prior Confidentiality Commitments.”

The Non-Disclosure Agreement assures us that you won't discuss or otherwise distribute confidential information that you come in contact with while working for the employer.

The Termination Certification is to be completed in the event that your employment terminates, and assures us that you have returned all Company information and will not disclose any information of which you have knowledge of.

Exhibits A and B are discussed in the Agreement.

Please review these documents carefully. We recommend that you also have it reviewed by your own qualified legal counsel.

If the terms of the Employee Non-Disclosure Agreement are acceptable, please sign and return this document to us. You will be provided with a copy for your records.

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 Attorneys, 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](http://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.



[Company], or (3) any Company equipment, supply, facility or trade secret information is used to develop or improve, or (4) are not developed entirely on my own time;

- **“Inventions”** means any and all discoveries, improvements, ideas, concepts, creative works, and designs, whether or not they are in writing or reduced to practice and whether or not they are patentable.
- **“Works of Authorship”** means those works fixed in any tangible medium of expression from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device, whether or not they are copyrightable.
- 🔊 Make "Confidential Information" as specific as possible in order to restrict the permitted uses of your confidential information by the Employee.
- **“Confidential Information”** means any and all information that is not generally known and that is proprietary to [Company] or any of its clients, consultants, licensors, licensed dealers or distributors. Confidential Information includes, without limitation, business plans, customer lists, consultants, financial information, and trade secrets about [Company] and its products and information or other proprietary information relating to designs, formulas, developmental or experimental work, know-how, products, processes, computer programs, source codes, databases, designs, schematics, other original works of authorship, or other subject matter related to [Company]’s research and development, manufacturing, engineering, purchasing, finance, marketing, promotion, distribution and selling activities, whether now existing, acquired, developed or made available anytime in the future to [Company]. All information which I have a reasonable basis to consider confidential or which is treated by [Company] as confidential shall be presumed to be Confidential Information, whether originated by me or by others. I agree that any Confidential Information acquired by me is the property of [Company].

#### 4. Confidentiality

- 🔊 Section 4 sets the permissible uses of the confidential information by the Employee, and states that the Employee must not discuss or otherwise reveal the Information either during his employment or after.

I agree at all times during the term of my Employment by [Company] and from then on to hold in strictest confidence, and not to use, except for the benefit of [Company], or to disclose, transfer or reveal, directly or indirectly to any person or entity any Confidential Information without the prior written authorization of [Company].

#### 5. Prior Works



- 🔊 Any intellectual property that the Employee owned prior to his employment with [Company] is exempt from this Agreement. The Employee should list that property as thoroughly as possible in Exhibit A (Prior Works).

In connection with Section 4 above, I understand and agree that all Intellectual Property which I made prior to my association with or Employment by [Company] are excluded from the scope of this Agreement. I have attached a complete list of all Prior Works in Exhibit A, including patent numbers and brief descriptions of all Intellectual Property in which I claim an interest.

#### 6. Third Party Information

- 🔊 In Section 6, the Employee is making the same assurances regarding confidentiality and non-disclosure as to confidential information of third parties coming into his possession while an Employee of [Company].

I recognize that [Company] has received, and in the future will receive confidential or proprietary information from third parties, subject to a duty on [Company]’s part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree that I owe [Company] and such third parties, during the term of my association and from then on, a duty to hold all such confidential or

proprietary information in the strictest of confidence and not to disclose it to any person, firm or corporation (except as necessary in carrying out my work for [Company] consistent with [Company]'s Agreement with such third party) or to use it for the benefit of anyone other than for [Company] or such third party (consistent with [Company]'s Agreement with such third party) without the express written authorization of [Company]. Any such information shall be considered Confidential Information for the purposes of this Agreement.

## 7. Return of Materials

- ☞ In Section 7, the Employee agrees to return any confidential information, in whatever form, to [Company] either upon termination or at [Company]'s request.

At the request of [Company] or on the termination of association or Employment by [Company], I will immediately deliver to my immediate supervisor at [Company] all papers, notes, data, reference materials, sketches, drawings, memoranda, documentation, software, tools, apparatus and any other materials furnished to me by [Company] or that were prepared or made, in whole or in part, by me at any time during my association with or employment by [Company], together with the attached Termination Certification, which I agree to sign and deliver.

## 8. Trade Secrets of Others

- ☞ Section 8 states that the employer is agreeing not to ask the Employee to disclose any confidential information he may have regarding any third parties, but the Employee must include a list of those third parties with whom he may have such an Agreement.
- ☞ Attach as Exhibit B ("Prior Confidentiality Commitments") a list of any current Agreements the Employee has with others regarding confidential information.

I understand that it is the firm policy of [Company] to maintain the rights of any party with whom I have a confidentiality or proprietary rights Agreement. I will not disclose to [Company] or induce [Company] to use the proprietary information of others. I do not have any existing obligation to others that might be inconsistent with any of the provisions in this Agreement, except for those obligations identified on a separate page and attached to this Agreement as Exhibit B.

## 9. Non-Circumvention

- ☞ The Employee must **con** [redacted] to keep the information received in the scope of his employment with [Company] confidential, even after the termination of his employment.
- ☞ Where previous sections prohibit the Employee from disclosing the information to third parties, Section 3 prohibits the Employee from using the information in any manner not agreed upon by the parties. For the first insert, enter the time frame that should be made for as long as you anticipate the information remaining non-public. Try not to go overboard and set a ten or fifteen year period unless the circumstances require it.
- ☞ You may want to change "Effective Date of this Agreement" to say the "Date of Termination of my employment and/or association with [Company]"

In consideration of the Company's disclosure of the Confidential Information, I shall not at any time prior to the date immediately preceding the [first / second / third / fourth / fifth] anniversary of the Effective Date of this Agreement, attempt in any manner to commercially exploit [the proposed business concepts and plans of [Company] / the [Company]'s business concepts, including x, y, and z] or any of the Confidential Information without [Company]'s prior written consent, that may be given or withheld by [Company] in its sole discretion.

## 10. At Will Employment, Surviving Terms

My association with or my employment by [Company] is "at will" and may be terminated by me or

[Company] at any time; however, my obligations in this Agreement will survive the termination of my association with or Employment by [Company]. I will assist [Company] in obtaining and protecting patents and copyrights in Intellectual Property in all countries. Upon rendering assistance to [Company] after my association, [Company] will pay me a reasonable sum as determined by [Company] for my time and expenses.

## 11. Notice

- ☞ In Section 10, the Employee is saying it's okay to let others know that he has agreed to keep certain information confidential.

I authorize [Company] to notify others, including customers of [Company] and my future employers, of the terms of this Agreement and my responsibilities.

## 12. Injunctive Relief

- ☞ In some case, monetary damages are not sufficient; at those times, injunctive relief may be required. For example, if the Employee works for Coca Cola and gets the recipe for the Coca Cola product, [Company] would want to prevent him from using that recipe. Money would not be an adequate remedy. Here the Employee is agreeing to that injunctive relief, should it become necessary.

I understand that in the event of a breach or threatened breach of this Agreement by me, [Company] may suffer irreparable harm and consequently will be entitled to injunctive relief to enforce this Agreement.

## 13. General Provisions

- ☞ Section 12 addresses General Provisions. Those General Provisions that follow are fairly standard. These provisions enhance the balance of the Agreement by explaining the issues such as notice, assignment, legal remedies, waiver, attorneys' fees, and so on.
- ☞ If [Company] breaches the Agreement, this section entitles the owner to recover his costs in the event of litigation. It further states that since monetary damages may be difficult to measure, the owner can seek equitable relief, which would be a judgment requiring [Company] to cease doing whatever it is doing to upset the owner.

I agree that if any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute  each, default or misrepresentation in connection with any provision of this Agreement, [Company]  shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

## 14. Assignment

- ☞ If the Employee assigns its rights to a third party, this Agreement is binding on that party. However, the Employee's rights or obligations under this Agreement are not transferable to a third party without the approval of [Company].

This Agreement shall be binding upon and defer to the benefit of the successors and permitted assigns of the [Enter the names of the parties]. Employee may not assign any of its rights or delegate any of its obligations under this Agreement to any third party without the express written permission of [Company].

## 15. Governing Law

- ☞ You must decide what state's laws govern this Agreement. Generally, it is [Company]'s state of organization. Enter the Name of the State who's law you wish to govern this Agreement.

The validity, construction and performance of this Agreement shall be governed and construed by the internal laws of the State of [State]

## 16. Headings

- 🔊 The headings of the various sections and paragraphs are meant to explain or otherwise give meaning to those sections; they are for convenience only.

The titles and headings of the various sections and paragraphs in this Agreement are intended solely for the convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of this Agreement.

## 17. Certain Invalid Sections

- 🔊 If any part of this Agreement is unenforceable or invalid, the balance of the Agreement should still be enforced. Basically, ignore any sections that are invalid.

If any provisions of this Agreement are held by a court of competent jurisdiction to be invalid under any applicable statute or rule of law, they are to that extent to be deemed omitted and the remaining provisions of this Agreement shall remain in full force and effect.

## Understood, Agreed & Approved

In witness of this, the Employee and [Company] have executed this Agreement as of the Effective Date first written above.

Employee:

[Company]:

\_\_\_\_\_  
[Employee]  
[Title]

\_\_\_\_\_  
[Owner/Founder]  
Founder/CEO



Termination Certification

🔊 In this first paragraph, the Employee is stating that he has returned all of [Company]'s property.

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notebooks, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to [Company], its subsidiaries, affiliates, successors or assigns (together, ["Company"]).


🔊 In the next paragraph, the Employee is stating that he has complied with the Employment Agreement and that Exhibit A to that Agreement that lists any prior works is complete.

I further certify that I have complied with all the terms of [Company]'s Employee Non-Disclosure Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined in Exhibit A of that Agreement), conceived or made by me (solely or jointly with others) covered by that Agreement.

🔊 In this last paragraph, the Employee is agreeing to keep confidential all of the proprietary information of [Company] per the Employee Non-Disclosure Agreement.

I further agree that, in compliance with the Employee Non-Disclosure Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to the products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, databases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of [Company] or any of its clients, consultants or licensees.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature 

\_\_\_\_\_  
Name of Employee / Associate (typed or printed)

# Exhibit A

## Prior Works

Patent Number

Description



# Exhibit B

## Prior Confidentiality Commitments

Date of Agreement

Parties

Description

