

This Nondisclosure Agreement (the "Agreement") is entered into by and between _____ John Smith ___ with its principal offices at ___423 W Elm St , Lowell, Massachusetts 01852_____, ("Disclosing Party") and _____ Mary Johnson_____, located at _____42 Jones St,Lowell,Massachusetts_01852 ("Receiving Party") for the purpose of preventing the unauthorized disclosure of Confidential Information as defined below. The parties agree to enter into a confidential relationship with respect to the disclosure of certain proprietary and confidential information ("Confidential Information").

1. **Definition of Confidential Information.** For purposes of this Agreement, "Confidential Information" shall include all information or material that has or could have commercial value or other utility in the business in which Disclosing Party is engaged. If Confidential Information is in written form, the Disclosing Party shall label or stamp the materials with the word "Confidential" or some similar warning. If Confidential Information is transmitted orally, the Disclosing Party shall promptly provide a writing indicating that such oral communication constituted Confidential Information.
2. **Exclusions from Confidential Information.** Receiving Party's obligations under this Agreement do not extend to information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Receiving Party; (b) discovered or created by the Receiving Party before disclosure by Disclosing Party; (c) learned by the Receiving Party through legitimate means other than from the Disclosing Party or Disclosing Party's representatives; or (d) is disclosed by Receiving Party with Disclosing Party's prior written approval.
3. **Obligations of Receiving Party.** Receiving Party shall hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Disclosing Party. Receiving Party shall carefully restrict access to Confidential Information to employees, contractors and third parties as is reasonably required and shall require those persons to sign nondisclosure restrictions at least as protective as those in this Agreement. Receiving Party shall not, without the prior written approval of Disclosing Party, use for Receiving Party's own benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of Disclosing Party, any Confidential Information. Receiving Party shall return to Disclosing Party any and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately if Disclosing Party requests it in writing.
4. **Time Periods.** The nondisclosure provisions of this Agreement shall survive the termination of this Agreement and Receiving Party's duty to hold Confidential Information in confidence shall remain in effect until the Confidential Information no longer qualifies as a trade secret or until Disclosing Party sends Receiving Party written notice releasing Receiving Party from this Agreement, whichever occurs first.

5. **Relationships.** Nothing contained in this Agreement shall be deemed to constitute either party a partner, joint venturer or employee of the other party for any purpose.

6. **Severability.** If a court finds any provision of this Agreement invalid or unenforceable, the remainder of this Agreement shall be interpreted so as to best to effect the intent of the parties.

7. **Integration.** This Agreement expresses the complete understanding of the parties with respect to the subject matter and supersedes all prior proposals, agreements, representations, and understandings. This Agreement may not be amended except in a writing signed by both parties.

8. **Waiver.** The failure to exercise any right provided in this Agreement shall not be a waiver of prior or subsequent rights.

9. **Notice of Immunity [OPTIONAL].** Employee is provided notice that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (i) files any document containing the trade secret under seal; and (ii) does not disclose the trade secret, except pursuant to court order.

This Agreement and each party's obligations shall be binding on the representatives, assigns and successors of such party. Each party has signed this Agreement through its authorized representative.

DISCLOSING PARTY

Signature _____ Mary Johnson _____

Typed or Printed Name _____ Mary Johnson _____ Date: _____ 30 th
October 2025 _____

RECEIVING PARTY

Signature _____ John Smith _____

Typed or Printed Name _____ John Smith _____ Date: _____ 30th October
2025 _____

Trade Secrets

An NDA can help safeguard business assets, including but not limited to, the following:

- **Processes**

Chemical, mechanical and manufacturing processes are commonly protected under nondisclosure agreements. Examples include processes for manufacturing chocolate powder, chicken pox vaccine or marble picture frames.

- **Business Strategies and Methods**

Business strategies such as marketing schemes, advertising campaigns, business plans and new product announcements can be protected as trade secrets. For example, courts have held that marketing strategies for the sale of propane gas and a business plan for a new franchise are trade secrets. A business method, a manner of conducting business or a way of doing business, is also a protectable trade secret. Examples include a system for analyzing mortgage rates or a process for instructing employees.

- **Designs Blueprints and Specifications**

Designs for products, machines, and structures, or other manufacturing specifications, can be protected as trade secrets. Examples include the design for a photo-processing machine, the blueprint for a casino or specifications for a paint roller.

- **Formulas**

Formulas are an obvious choice for trade secret protection—the most well-known is the secret combination of flavoring oils and other ingredients that give Coca-Cola its distinctive taste (referred to by the company as “Merchandise 7X”). Other formulas that could be protected as trade secrets include pharmaceutical, chemical and cosmetic compounds.

- **Physical Devices and Articles**

Physical devices such as machines, devices or objects can be subject to trade secret protection. Usually, trade secret protection is lost once the device is made public, but protection may enable you to protect it before obtaining a patent or while attempting to sell or license the product.

- **Computer Software**

Computer software is commonly protected under trade secret law because the underlying software code is not readily ascertainable or generally known. A computer program often qualifies for trade secret status during its development and testing stage. (It may also qualify for protection under copyright or patent law.)

- **Customer Lists**

Companies are often very eager to protect their customer lists with NDAs, particularly when a former employee might use a customer list to contact clients. If a dispute over a customer list ends up in court, a judge generally considers the following elements to decide whether or not a customer list qualifies as a trade secret:

- Is the information in the list ascertainable by other means? A list that is readily ascertainable cannot be protected.
- Does the list include more than names and addresses? For example, a customer list that includes pricing and special needs is more likely to be protected because this information adds value.
- Did it take a lot of effort to assemble the list? A customer list that requires more effort is more likely to be protected under an NDA.
- Did the departing employee contribute to the list? If the departing employee helped create it or had personal contact with the customers, it is less likely to be protected under an NDA.
- Is the customer list personal, long-standing or exclusive? If a business can prove that a customer list is special to its business and has been used for a long time, the list is more likely to be protected.

Customer List – Example 1: A salesman worked for an insurance company selling credit life insurance to automobile dealers. When he switched jobs to work for a competing insurance company he took his customer list and contacted the customers at his new job. A court ruled that the customer list was not a trade secret because the names of the automobile dealers were easily ascertainable by other means and because the salesman had contributed to the creation of the list. *Lincoln Towers Ins. Agency v. Farrell*, 99 Ill. App. 3d 353, 425 N.E.2d 1034 (1981).

Customer List – Example 2: Former employees took the client list of a temporary employment service. The former employees argued that the list could not be a trade secret since the information could be obtained through other means. A court disagreed and prevented the ex-employees from using the list because it could not be shown, using public information, which companies were likely to use temporary employees and because the list also included such information as the volume of the customer's business, specific customer requirements, key managerial customer contacts and billing rates. [Courtesy Temporary Serv. Inc. v. Camacho](#), 222 Cal. App. 3d 1278 (1990).

Wholesalers' lists of retail concerns are often hard to protect as trade secrets. Retailers are usually easy to identify through trade directories and other sources, and a list of them ordinarily does not confer a competitive advantage. But there are exceptions—for instance, a list of bookstores that order certain types of technical books and pay their bills promptly may be very valuable to a wholesale book distributor. But if the information is readily ascertainable through trade publications or other industry sources, it is not classified as a trade secret.

In a California case, a court determined that employees who left a business could use their former employer's mailing list to send out an announcement of their change of employment to former clients. The former employer's mailing list was not a trade secret because: (1) the clients became known to the ex-employees through personal contacts; and (2) the use of the customer list simply saved the ex-employees the minor inconvenience of looking up the client addresses and phone numbers. In other words, the information was easy to ascertain. [Moss, Adams & Co. v. Shilling, 179 Cal. App. 3d 124 \(1984\)](#).

- **Collections of Data**

A database—information of any type organized in a manner to facilitate its retrieval—is often protected as a trade secret. For example, a court ruled that a database for inventorying and cost economies on wholesale sandwich production for fast-food retailers was a protectable trade secret. *One Stop Deli, Inc. v. Franco's, Inc.*, 1994-1 CCH Trade Cas. P 70,507 (W.D. Va. 1993). A collection of data that is readily ascertainable, however, is not a trade secret.

Databases may also be protected under copyright law if the method of compiling or arranging the data is sufficiently creative.

- **Know-How**

Know-how does not always refer to secret information. Sometimes it means a particular kind of technical knowledge that may not be confidential but that is needed to accomplish a task. For example, an employee's know-how may be necessary to train other employees in how to make or use an invention. Although know-how is a combination of secret and nonsecret information, we suggest that you treat it as a protectable trade secret. If you disclose know-how to employees or contractors, use a nondisclosure agreement.

Glossary

Cease and Desist – A [letter](#) from the owner of a trade secret (or copyright, patent or trademark) that requests that alleged illegal activity is stopped immediately.

Clean Room – A method of developing proprietary material in which an isolated development team is monitored. The purpose is to provide evidence that similarities to others' works or products are due to legitimate constraints and not copying.

Common Law – A system of legal rules derived from the precedents and principles established by court decisions.

Copyright – The legal right to exclude others, for a limited time, from copying, selling, performing, displaying or making derivative versions of a work of authorship such as a writing, music or artwork.

Database – Information of any type organized in a manner to facilitate its retrieval.

Declaratory Relief – An order from a court sorting out the rights and legal obligations of the parties in the midst of an actual controversy.

Diversity Jurisdiction – Federal courts' right to hear lawsuits based upon non-federal claims; parties must be from different states and the amount in controversy over \$50,000.

Economic Espionage Act – A law making it a federal crime to steal a trade secret or to receive or possess trade secret information knowing that it is stolen.

Evaluation Agreement – A contract in which one party promises to submit an idea and the other party promises to evaluate it. After the evaluation, the evaluator will either enter into an agreement to exploit the idea or promise not to use or disclose the idea.

Fiduciary Relationship – When one person stands in a special relationship of trust, confidence or responsibility to another.

Generally Known – Information is generally known if it has been published or publicly displayed or is commonly used within an industry.

Improper Means – The illegal acquisition of trade secrets through theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy or espionage through electronic or other means.

Inevitable Disclosure Doctrine – Under this court-made rule, adopted by only a few courts, a court can stop an ex-employee from working for a competitor if the former employer shows that the employee will "inevitably disclose" trade secrets of the former employer.

Injunction – A court order requiring that a party halt a particular activity. A court can issue an injunction at the end of a trial (a permanent injunction) or immediately, rather than wait for a trial (a [preliminary injunction](#)).

Two factors are used when a court determines whether to grant a preliminary injunction:

- (1) Is the plaintiff (the party bringing the lawsuit) likely to succeed in the lawsuit? and
- (2) Will the plaintiff suffer irreparable harm if the injunction is not granted?

The plaintiff may seek a temporary restraining order, which lasts only a few days or weeks. A temporary restraining order may be granted without notice to the infringer if it appears that immediate damage will result-for example, that evidence will be destroyed.

Jurisdiction – The authority of a court to hear a certain type of case.

Know-How – A particular kind of technical knowledge that may not be confidential but that is needed to accomplish a task.

License – A contract giving written permission to use an invention, creative work, trade secret or trademark, in return for payment.

Misappropriation – The theft or illegal disclosure of trade secrets.

Non-Competition Agreement – A contract in which a person or company agrees not to compete with the business of another company for a period of time.

Non-Solicitation Provision (also known as a “diversion provision”) An agreement that restricts an ex-employee’s ability to solicit clients or employees of the ex-employer.

Option Agreement – An agreement in which one party pays the other for the opportunity to later exploit an innovation, idea or product.

Patent – A grant from a government that confers upon an inventor the right to exclude others from making, using, selling, importing, or offering an invention for sale for a fixed period of time.

Readily Ascertainable – Information readily ascertainable if it can be obtained legally within an industry, at a library or through publicly available reference sources.

Reverse Engineering – Disassembly and examination of products that are available to the public.

Trademark – Any word, symbol, design, device, slogan or combination that identifies and distinguishes goods.

Trade Secret – Any formula, pattern, device or compilation of information that is used in business, that is not generally known, and that gives the owner of the secret an opportunity to obtain an advantage over competitors who do not know or use it.

Uniform Trade Secrets Act (UTSA) – An act created by lawyers, judges, and scholars, and adopted by 43 states and the District of Columbia, in order to confirm the trade secret rules of different states

- ([View Federal Act](#) – [View Trade Secret Laws by State](#))

Work Made for Hire – (1) A copyrightable work prepared by an employee within the scope of employment; or (2) A copyrightable work specially ordered or

commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.