



Litigation Alert

CONFIDENTIALITY AGREEMENTS

What Should They Contain

&

Why You Need Them!

Confidentiality Agreements have become the norm in most businesses. Employees at all levels are asked to execute Confidentiality Agreements to protect the Company's "trade secrets." The purpose of a Confidentiality Agreement is to take affirmative steps to protect proprietary information and intellectual property.

ESSENTIAL ELEMENTS OF A CONFIDENTIALITY AGREEMENT

- ✓ The Agreement should contain the identity of persons and entities covered by the Agreement;
- ✓ The Term "Confidential Information" must be clear and specifically defined and may include: all electronically stored data from any source, for example, emails, text messages, voice mails, blogs, and blackberry data to name a few, financial data, writings, computer programs, as well as computer support and data systems, equations, methods of processing, flowcharts, concepts, inventions, sources of supply, manufacturing, research, purchasing, merchandising, selling, present and prospective customers, plans, programs, reports, research, forecasts and drawings;
- ✓ There must be promissory language contained in the Agreement clearly stating the party who signs the Agreement will keep the information confidential and it will not be disclosed to third parties or used for the individual's personal benefit;
- ✓ The Company must define what is not confidential, which generally includes anything in the public domain;
- ✓ The Agreement should contain a clear statement of the remedies in the event of a breach, such as damages and injunctive relief;
- ✓ Time parameters should be part of any Confidentiality Agreement.

FOR FURTHER INFORMATION

To discuss *drafting your own Confidentiality Agreement* or for further information please contact our Litigation Team, Kim Ritter (kritter@minorbrown.com) or John Logan (jlogan@minorbrown.com). This advisory bulletin is a complimentary service to Minor & Brown PC clients.