

Detailed NDA Review Checklist

1. Pre-Review Preparation

- Identify all parties
 - Confirm full legal names and addresses
 - Ensure parent companies, subsidiaries, and affiliates are listed
 - Clarify why you need the NDA
 - Define the purpose (e.g., partnership talks, hiring, vendor evaluation)
 - Determine how long you'll share information
 - Assess what you'll share
 - List types of confidential data (technical specs, financials, customer lists)
 - Gauge sensitivity (trade secrets vs. general business info)
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2. Definition of Confidential Information

- Check scope
 - Must list specific categories (not just "all information")
 - Should exclude public domain and independently developed data
 - Ensure standard exclusions
 - Already known by recipient
 - Publicly available through no breach
 - Law-mandated disclosures (with notice to discloser)
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3. Purpose and Use Limits

- Purpose clause
 - Use only for the stated business objective
 - No broad permissions to share or repurpose data
- Distribution rules
 - Limit access to employees or contractors on a need-to-know basis

- Require recipients to sign equivalent NDAs
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4. Term and Duration

- Agreement term
 - Start/end dates or event-based termination
 - Automatic renewals flagged or removed
 - Post-termination obligations (“survival”)
 - Commonly 2–5 years after end date
 - Perpetual obligations need strong justification
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5. Care Standards and Security

- Standard of care
 - “Reasonable care” or higher (e.g., same care as own data)
 - Industry-specific security measures
 - Access controls
 - Physical safeguards (locked cabinets, secure offices)
 - Electronic safeguards (passwords, encryption)
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6. Return or Destruction

- Return vs. destroy
 - Require return or certified destruction of all copies
 - Include digital files, printed materials, and derivatives
 - Timing and certification
 - Set a deadline (e.g., within 30 days of request)
 - Ask for written confirmation of destruction
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7. Remedies and Liability

- Remedies for breach

- Injunctive relief (court-ordered stop of misuse)
 - Liquidated damages (reasonable penalty amounts)
 - Liability limits
 - Balanced indemnification (each party covers its own breaches)
 - Caps on damages or carve-outs for negligence
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8. Governing Law and Dispute Resolution

- Jurisdiction
 - Choose a familiar court system or arbitration forum
 - Avoid distant or unfamiliar venues
 - Dispute process
 - Mediation or arbitration steps before litigation
 - Fee-shifting or cost-allocation rules
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9. Mutual vs. Unilateral Structure

- Unilateral NDA
 - Only one party discloses information
 - Common when hiring or vendor engagements
 - Mutual NDA
 - Both parties share confidential data
 - Ensure obligations and remedies mirror each other
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10. Integration and Amendment

- Entire agreement clause
 - Confirms the NDA is the sole agreement on confidentiality
- Amendment rules
 - Changes require written, signed addenda
 - No verbal modifications

11. Red Flags to Watch For

- Overly broad definitions (“any information”)
- Survival periods longer than 5 years without reason
- One-way indemnities forcing you to cover the other party
- Unlimited affiliate disclosures
- Vague destruction requirements
- Missing governing law or no remedy provisions

12. Post-Signing Management

- Central repository
 - Store executed NDAs with metadata (date, parties, expiration)
- Calendar reminders
 - Track survival end dates or renewal windows
- Stakeholder notifications
 - Inform legal, IT, and relevant business teams
- Periodic audits
 - Review compliance and revoke access when needed

13. Enhancing with NDA Review AI

- Configure AI playbooks
 - Set risk thresholds and custom rules
- Automate clause detection
 - Flag nonstandard or high-risk terms instantly
- Validate AI findings
 - Have legal counsel review AI-flagged issues
- Feedback loops
 - Update AI models with in-house precedents

Use this checklist alongside your preferred NDA review tools to reduce risk, save time, and ensure every agreement meets your standards.