FOUNDERS / FUNDRAISING INSTRUMENTS

# Mutual NDA — Fundraising Context

*A mutual confidentiality agreement written specifically for sharing a deck and financial model.*



## Summary of Terms

This Mutual Non-Disclosure Agreement ("**Agreement**") is entered into between [Company Name], Inc. ("**Company**") and [Investor Name] ("**Investor**") in connection with the Investor's evaluation of a potential investment in the Company. Written specifically for the scenario where a founder shares a pitch deck and financial model with a prospective investor — not a generic commercial mutual NDA repurposed for fundraising.

### 1. Definition of Confidential Information

"Confidential Information" means any non-public business, financial, technical, or strategic information disclosed by either party in connection with evaluating the potential investment, whether disclosed orally, in writing, or electronically, and whether or not marked "confidential." This explicitly includes: pitch decks and investor presentations; financial models, projections, and historical financial statements; capitalization tables and ownership information; customer, vendor, and partnership lists; product roadmaps and strategic plans; and the fact that discussions between the parties are taking place at all.

> WHAT TO WATCH FOR (INVESTOR SIDE) Confirm the definition covers information disclosed "in connection with the evaluation" broadly, not just materials formally marked confidential — a narrower definition can leave verbal disclosures in diligence calls unprotected, which is exactly where sensitive numbers often get discussed first.

### 2. Exclusions

Confidential Information does not include information that: (a) is or becomes publicly available through no fault of the receiving party; (b) was already known to the receiving party without a confidentiality obligation prior to disclosure; (c) is independently developed without use of or reference to the disclosing party's Confidential Information; (d) is rightfully received from a third party without breach of any confidentiality obligation; or (e) is required to be disclosed by law, regulation, or court order, provided the receiving party gives prompt written notice to allow the disclosing party to seek a protective order or narrow the scope of disclosure, to the extent legally permitted.

> WHAT TO WATCH FOR (INVESTOR SIDE) Confirm exclusion (e) requires prompt notice *before* compliance, not just a bare statement that legally compelled disclosure is excused — the notice requirement is what actually gives the disclosing party a chance to respond before the information is out.

### 3. Term

The confidentiality obligations in this Agreement survive for `18-24 months` from the date of disclosure, or from the date of this Agreement if no specific disclosure date applies.

> WHAT TO WATCH FOR (INVESTOR SIDE) An investor evaluating several companies in the same sector will generally push for a term that actually expires, not an indefinite or unusually long obligation — term length is one of the more commonly negotiated points in an otherwise standard NDA, and pushing back on an unusually long term is routine, not a red flag about the investor.

> MARKET RANGE 18–24 months is standard for early-stage fundraising NDAs. Later-stage or public-adjacent deals sometimes run shorter, given how quickly information becomes stale or independently discoverable.

### 4. Non-Use

Each party agrees to use Confidential Information solely to evaluate the potential investment, and not for any other purpose, including any competitive purpose. Neither party will use Confidential Information to solicit the other party's employees, customers, or investors for a period of 12 months following disclosure.

> WHAT TO WATCH FOR (INVESTOR SIDE) This clause is what actually protects the Company if the Investor also holds a position in, or is evaluating, a competing business — confirm the "solely to evaluate" limitation is stated explicitly and not merely implied by the document's general tone.

### 5. Return or Destruction of Materials

Upon the disclosing party's written request, or upon termination of discussions regarding a potential investment, the receiving party will promptly return or destroy all Confidential Information in its possession and confirm such destruction in writing, except that the receiving party may retain a single archival copy solely for legal, compliance, or audit purposes, subject to the confidentiality obligations of this Agreement continuing to apply to that copy.

> WHAT TO WATCH FOR (INVESTOR SIDE) A fund's own compliance and audit obligations often make a literal, no-exceptions "destroy everything" commitment impractical — expect institutional investors to request the standard archival-copy carve-out above; a company that refuses it outright is usually signaling unfamiliarity with institutional practice rather than obtaining meaningfully stronger protection.

### 6. No Obligation; No Partnership

Nothing in this Agreement obligates the Investor to make an investment, or the Company to accept one. This Agreement does not create any partnership, joint venture, agency, or employment relationship between the parties.

> WHAT TO WATCH FOR (INVESTOR SIDE) This clause exists precisely so that early-stage conversations — sharing a deck, a first call, an initial diligence request — cannot later be characterized as an implied commitment by either side. It should be read as protective of both parties equally, not as a one-sided disclaimer.

### 7. Governing Law

This Agreement is governed by the laws of the State of Delaware, or the relevant jurisdiction of the Company's incorporation, without regard to conflict-of-laws principles.

## Why a Fundraising-Specific NDA Differs From a Generic Mutual NDA

A generic commercial mutual NDA is written for two counterparties exchanging information toward a business relationship — a vendor deal, a partnership, a pilot. A fundraising NDA is written for a narrower, more predictable exchange: a founder disclosing forward-looking, often unaudited financial and strategic information to a party deciding whether to fund the company. The definition of Confidential Information above is deliberately broader on financial projections and cap table detail than a typical commercial NDA would be, and the non-use clause is deliberately explicit about competitive use — both because that is precisely the information at risk in this specific exchange, not because the parties' relationship is otherwise different from any other mutual confidentiality arrangement.

Lengdon — lengdon.com — September 2026 template edition.