

Drafting Non-Compete Agreements

This playbook outlines the procedure for drafting non-compete agreements to safeguard a company's intellectual property. It includes key considerations to ensure that the agreements are legally sound and enforceable.

Step 1: **Define Purpose**

Clearly define the purpose of the non-compete agreement. Explicitly state how the agreement is intended to protect the company's intellectual property (IP).

Step 2: **Identify Parties**

Identify the parties involved in the agreement, typically the company and the employee or contractor, and ensure that their full legal names are accurately documented.

Step 3: **Scope of Restriction**

Detail the scope of the restrictions including geographical limits, duration, and any specific activities or industries that are prohibited. The restrictions should be reasonable and not overly broad to enhance enforceability.

Step 4: **Consideration**

Ensure that valid consideration is provided to the party who is being restricted by the non-compete. This is typically monetary but can include other forms of compensation.

Step 5: **Legal Review**

Have the non-compete agreement reviewed by a legal professional to ensure that it adheres to local laws and regulations and that it is likely to be enforceable in a court of law.

Step 6: **Execute Agreement**

Have both parties sign the agreement. Ensure that the signatures are witnessed and/or notarized as may be required by local laws.

Step 7: **Monitor Compliance**

Set up procedures to monitor compliance with the non-compete agreement and to deal with any potential breaches.

General Notes

State Variations

Note that the enforceability of non-compete agreements can vary significantly by jurisdiction. Some states have strict rules about their use, and others may prohibit them entirely.

Update Regularly

Regularly review and update non-compete agreements to reflect changes in the law, industry standards, and the specific situation of the company.

Employee Communication

Clearly communicate with employees about the terms and implications of the non-compete agreement, ensuring they understand their rights and obligations.

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