

# Non-Disclosure Agreement — Co-Founder Pre-Incorporation (India)

Mutual NDA between individuals discussing a business concept before incorporating a company

## HOW TO USE THIS TEMPLATE

1. Sign BEFORE discussing your business idea with any potential co-founder.
2. This protects you at the earliest and most vulnerable stage — before the company exists.
3. This NDA does NOT transfer IP — execute a Founder IP Assignment after incorporation.
4. Even if you trust the person, the NDA creates a legal record for future protection.
5. Keep the signed copy safe — you may need it if a dispute arises later.

## PARTIES

Party A — Full Name	[Your full legal name — the idea originator]
Party A — Address	[Your residential / correspondence address]
Party A — PAN	[Your PAN Number]
Party B — Full Name	[Potential co-founder's full legal name]
Party B — Address	[Their residential / correspondence address]
Party B — PAN	[Their PAN Number]
Date of this Agreement	[DD Month YYYY]
Business Concept (one sentence)	[e.g. 'a SaaS platform for automated GST reconciliation for SMEs']

## RECITALS

1. Party A has developed a business concept, idea, and preliminary plan relating to the business described above (the "Business Concept").
2. Party A wishes to explore the possibility of co-founding a company to pursue the Business Concept with Party B, and in connection with such discussions, wishes to share certain confidential information with Party B.
3. Party B is interested in evaluating the Business Concept with a view to potentially co-founding a company with Party A.
4. Both Parties recognise that in the course of these discussions, each may share information that is proprietary, confidential, and commercially sensitive.
5. The Parties therefore wish to enter into this Agreement to protect each other's confidential information during the evaluation and discussion process.

NOW THEREFORE, the Parties agree as follows:

## 1. DEFINITIONS

**1.1 "Confidential Information"** means any and all information disclosed by either Party to the other in connection with the evaluation of co-founding the proposed business, including: the Business Concept, product or service ideas, and market opportunity analysis; technical innovations, methodologies, and know-how; business plans, financial projections, and strategic plans; customer or user research, insights, and market data; partnership, investor, and supplier relationships; personal networks, contacts, and introduction lists; competitive analysis and intelligence; and any other non-public information shared in connection with the discussions.

**1.2 "Evaluation Period"** means the period during which the Parties are discussing the Business Concept with a view to potentially co-founding a company.

**1.3 "Incorporation"** means the registration of a company (Private Limited, LLP, or other structure) to pursue the Business Concept.

## 2. MUTUAL CONFIDENTIALITY OBLIGATIONS

**2.1 Standard of Care.** Each Party agrees to: (a) hold all Confidential Information of the other Party in strict confidence; (b) not disclose it to any third party without the prior written consent of the disclosing Party; (c) use it solely for the purpose of evaluating the co-founding opportunity and for no other purpose whatsoever; (d) protect it with at least the same degree of care used for its own most sensitive information, but never less than reasonable care; and (e) immediately notify the other Party of any suspected or actual breach.

**2.2 No Competitive Use.** Neither Party shall use the other Party's Confidential Information, directly or indirectly, to pursue the Business Concept independently or through any third party without the consent of the disclosing Party.

**2.3 No Disclosure to Third Parties.** Neither Party shall disclose the existence of these discussions or any details of the Business Concept to any investor, potential co-founder, service provider, or other third party without the prior written consent of the other Party.

## 3. IP OWNERSHIP — CRITICAL PROVISIONS

**3.1 Pre-Existing IP.** Each Party retains ownership of all intellectual property that it owned or developed prior to the date of this Agreement ("Pre-Existing IP"). This Agreement does not transfer any ownership of Pre-Existing IP from either Party to the other.

**3.2 IP Created During Evaluation Period.** Any intellectual property created by either Party during the Evaluation Period in connection with the Business Concept — including product concepts, technical designs, prototypes, business plans, or software code — shall be subject to a formal IP Assignment Agreement to be executed upon Incorporation. The ownership of such IP shall be determined by the Co-Founder Agreement or Founder IP Assignment Agreement to be entered into at Incorporation.

**3.3 No Transfer by This Agreement.** This Agreement does not transfer any intellectual property rights between the Parties. No licence, assignment, or grant of rights of any kind is made or implied by this Agreement.

**3.4 Obligation on Incorporation.** If the Parties decide to proceed with Incorporation, they agree to promptly execute: (a) a Co-Founder Agreement; (b) individual Founder IP Assignment Agreements assigning all relevant IP to the company; and (c) any other agreements necessary to establish clear IP ownership in the company.

## 4. NO OBLIGATION TO PROCEED

**4.1** Nothing in this Agreement obliges either Party to proceed with Incorporation, to form any business arrangement, or to continue discussions. Either Party may discontinue discussions at any time without liability, subject only to the ongoing confidentiality obligations of this Agreement.

**4.2** This Agreement does not constitute a partnership, joint venture, employment relationship, or any other form of business association between the Parties.

## 5. RETURN OF INFORMATION ON DISCONTINUATION

5.1 If either Party decides not to proceed with the Business Concept, or if discussions are discontinued for any reason, each Party shall promptly: (a) return all written materials containing the other Party's Confidential Information; (b) permanently delete all electronic copies from their devices and cloud storage; and (c) certify such return and deletion in writing.

## 6. TERM AND SURVIVING OBLIGATIONS

<b>Evaluation Period Duration</b>	Until Incorporation or until either Party serves written notice of discontinuation
<b>Post-Discontinuation Confidentiality</b>	[24] months from the date of discontinuation
<b>Trade Secret Obligations</b>	Indefinite

6.1 This Agreement shall remain in force during the Evaluation Period. If Incorporation occurs, this Agreement shall be supplemented by the formal Co-Founder Agreement. Confidentiality obligations survive discontinuation for the periods specified.

## 7. REMEDIES AND GOVERNING LAW

7.1 Each Party acknowledges that breach of this Agreement would cause irreparable harm for which monetary damages would be inadequate. Each Party shall be entitled to seek injunctive relief without bond in addition to all other remedies at law.

7.2 This Agreement is governed by the laws of India. Any dispute shall be resolved before courts of [City].

## 8. GENERAL PROVISIONS

8.1 This Agreement constitutes the entire agreement between the Parties on its subject matter. Amendments must be in writing and signed by both Parties. Severability applies to each provision independently. Execute on appropriate non-judicial stamp paper.

## EXECUTION

PARTY A	PARTY B (POTENTIAL CO-FOUNDER)
Signature: _____	Signature: _____
Name: _____	Name: _____
PAN: _____	PAN: _____
Date: _____	Date: _____
Place: _____	Place: _____

### IMPORTANT NOTE

**CRITICAL:** This Agreement does NOT transfer IP rights. Upon Incorporation, every co-founder MUST sign a Founder IP Assignment Agreement assigning all relevant IP to the company. Failure to do this is the most common IP mistake in Indian startups and the most common deal-killer in investor due diligence. Template only — not legal advice.

## ADDITIONAL PROTECTIONS FOR PRE-INCORPORATION STAGE

**9.1 Restrictions on Independent Development.** During the Evaluation Period and for twelve (12) months after any discontinuation of discussions, neither Party shall independently pursue, develop, or commercialise the Business Concept or any substantially similar concept without the written consent of the other Party, unless and until that concept is independently developed without reference to any Confidential Information shared under this Agreement.

**9.2 Investor and Partner Non-Solicitation.** During the Evaluation Period, neither Party shall approach any investor, accelerator, incubator, or strategic partner specifically for the purpose of pursuing the Business Concept without the other Party's written consent. If either Party has existing investor relationships that could be relevant to the Business Concept, they shall inform the other Party before approaching such investors in connection with the Business Concept.

**9.3 Documentation of Contributions.** Each Party shall keep dated records of their contributions to the Business Concept development during the Evaluation Period. These records may include contemporaneously dated notes, sketches, code commits, emails, and messages. Such records shall be made available to establish the respective contributions of each Party in the event of any dispute about ownership of IP created during the Evaluation Period.

**9.4 Social Media and Public Disclosure.** Neither Party shall post about, tweet, blog, or otherwise publicly disclose any aspect of the Business Concept, the terms of these discussions, or the identity of the other Party as a potential co-founder, without prior written consent. Disclosure to close family members or personal advisors bound by equivalent confidentiality obligations is permitted.

**9.5 Governing Law, Stamp Duty, and Counterparts.** This Agreement is governed by the Indian Contract Act 1872 and applicable laws of India. It shall be executed on non-judicial stamp paper of appropriate denomination per applicable state Stamp Act. It may be executed in counterparts and by electronic or PDF signature, each of which shall be deemed an original and together shall constitute one binding agreement.