



Confidentiality Agreement Template and Checklist

If the University uses third parties to do work, confidential information may be shared with those third parties on a need-to-know basis. The third parties must protect the information; privacy and security, as would the University. A confidentiality agreement helps to assure this protection. Use this template and the confidentiality agreement sample to draft your agreement or clause. Remember to also address unique/particular needs of your agreement not listed below:

CHECKLIST

- 1. Do you need a confidentiality agreement or a clause for an agreement?**
- 2. Identify the parties to the confidentiality agreement (including the University).**
- 3. List the specific reasons why a Confidentiality Agreement is needed.**
- 4. Determine what information needs to be shared, and why -- describe the information.**
- 5. Is the sharing/use consistent with the original purpose(s) for collecting the information?**
- 6. Only share the information that needs to be shared to get the task done, nothing more.**
- 7. List and follow applicable legal/policy constraints or limits on sharing the information.**
- 8. List and follow applicable legal/policy permissions for sharing the information.**
- 9. Describe how and when the information will be communicated to the third party.**
- 10. Describe all the ways in which the third party will use the information.**
- 11. Describe how the third party will store the information, including security.**
- 12. State whether copies (partial or complete) can be made and how they will be stored.**
- 13. State whether personally identifiable information will be derived from the information.**
- 14. Describe how long the information (including part/copies/derived) will be kept.**
- 15. State when and how the information will be returned/destroyed (a time or an event).**
- 16. What happens if the agreement terminates or is breached; unexpectedly/prematurely?**



AGREEMENT/TEMPLATE

Confidentiality agreements protect information supplied to a third party by defining what the third party may do with the information, how it will be protected, communicated, stored, used, whether copies will be made, how copies will be treated, with whom it will be shared, how long it will be kept, how/when it will be returned or destroyed at the end of its useful life for work done by the third party.

If you need a confidentiality agreement, you will have to draft conditions that govern confidentiality of information to be disclosed or shared with a third party. Your objective is to protect the information in the hands of the third party at least as well as it is protected at the University. If you already have an agreement with the third party, then you will only need a confidentiality clause(s) to add to the agreement before execution, or to add to executed agreements if both parties agree to the amendment.

Confidentiality agreements can be simple, or complex, depending on the amount and sensitivity of information, security, legal and policy requirements, services, and other details of the arrangement.

A confidentiality agreement can be simple for a contractor working in the University, alongside staff:

Party Z and the University agree that Party Z will at all times conduct itself as though governed by the Freedom of Information and Protection of Privacy Act, and apply all appropriate security and privacy protections consistent with such coverage to information provided by the University or derived from such information.

It could be slightly more detailed for a contractor doing a single simple task with clearly defined data:

Party Y and the University agree as follows:

The University will provide [information] as an encrypted file to Party Y for the purpose of [service].

Party Y agrees that it will use [information] only for the purpose of [service], and will not copy the information nor share or permit access to it, any part of it, nor any information derived from it, by any other party.

Party Y agrees to at all times protect [information] with effective security, including properly implemented encryption and effective, up-to-date computer security measures, such as anti-virus and firewall software.

Party Y agrees to return all copies of [information] to the University on the earlier of [date] or the completion of [service].



The following template should, together with the checklist above, cover most situations. Please consult with the FIPP Office if you have any questions or would like assistance with a confidentiality agreement.

CONFIDENTIALITY AGREEMENT [or other title for the agreement]

BETWEEN

[The University of Toronto], (the University) **AND** [Party X], (the collecting/receiving party)

WHEREAS ...

[Explain why the University and Party X] are entering into the agreement. what is the purpose of the agreement? What is intended to be accomplished and why?]

The "Whereas" section is not necessary, but does provide valuable context for why the agreement exists.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

In this agreement:

Confidential information means information, specified in paragraph 4. below, disclosed to Party X under this agreement, any copies or portions of it, and any information that is derived from it.

Define terms that are unique to the Agreement or that are not common knowledge, program terms, acronyms, etc., for example;

“student information” means personal information of students found in official University records

"ROSI" means Repository of Student Information, and refers to the University system of that name.

2. PRIVACY LEGISLATION

The University is covered by the *Freedom of Information and Protection of Privacy Act* and the *Personal Health Information Protection Act*. In it work on behalf of the University, Party X will at all times conduct itself as though covered by these statutes.

3. PURPOSE OF THE DISCLOSURE OF CONFIDENTIAL INFORMATION

State/explain the reason why personal information is being disclosed/shared.

Explain what is to be done with the information by Party X on behalf of the university.

4. DESCRIPTION OF CONFIDENTIAL INFORMATION TO BE DISCLOSED

Describe and if possible, completely list the confidential information



5. USE OF CONFIDENTIAL INFORMATION

Party X will use confidential information provided to it under this agreement, or any information derived from it for the following purposes:

[list uses permitted for the information by Party X]

For example;

Party X will only use the information to contact students to conduct Survey Z.

--- or ---

Party X will not use the information for any other purpose.

6. METHOD OF DISCLOSING CONFIDENTIAL INFORMATION

The University will provide [describe confidential information] to party X in the following way; [describe transfer method, file format, including security/encryption].

For example;

The University will provide Party X the information as an Excel spreadsheet on an encrypted USB memory device -- or, by email in the form of an encrypted Excel spreadsheet.

7. SECURITY OF THE CONFIDENTIAL INFORMATION

Party X will secure the confidential information in transit, storage, and in use, as follows:
[describe Party X security requirements, including secure communication of information, security for information in storage, and protection in use.]

For example;

Party X will maintain the information in encrypted form on its computers, and only individuals who need access to it to complete Survey Z will be provided access to it for that purpose.

Party X will protect access to the information/computers/files ... including directories, passwords and other means of possible access, and will not permit anyone other than authorized individuals to access the personal information.

No part of the information will be copied or shared without the express written permission of the University.

Survey results will be provided to the University as an Excel spreadsheet on an encrypted USB memory device -- or, by email in the form of an encrypted Excel spreadsheet.



8. DURATION OF AGREEMENT AND RETENTION OF PERSONAL INFORMATION

This Agreement is in effect from [start date] and will terminate on [termination date].

--- or ---

This agreement is in effect until all copies of the information have been returned to the University or destroyed according to this agreement.

Party X will return all copies of the information to the University one week after completing [service].

Party X will destroy all copies of the information forthwith on completion of [service].

9. CUSTODY/CONTROL AND TERMINATION OF AGREEMENT

All confidential will be in the custody and control of the University at all times.

In the event of the termination of this Agreement, the confidential information disclosed under this Agreement, and all information related to it, shall be returned to the University [or all copies of the information, or any part of it, will be destroyed by {specify details of the disposal}]. Party X shall forthwith notify the University in writing that the disposal has been completed in the agreed manner.

10. AMENDING PROCEDURES

This Agreement may not be amended except by the written agreement of the parties.

11. OTHER CLAUSES

Insert any clauses/conditions unique to the agreement, including schedules, appendices or other addenda.

IN WITNESS WHERE OF this Agreement has been signed on behalf of the University by

[University signatory] [Date] [Witness]

IN WITNESS WHERE OF this Agreement has been signed on behalf of the collecting partyby

[Party X] [Date] [Witness]