

Update: 13 June 2007 Confident about your confidentiality deed?



Fleming Muntz
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Summary

Confidentiality deeds are a common and useful feature of the commercial landscape. Drafting them to accommodate the needs of particular transactions ensures that they are effective and enforceable.

What is a confidentiality deed?

A confidentiality deed or agreement is a document which obliges one party not to disclose particular information belonging to the other. It is commonly coupled with restrictions on how the information can be used.

It is usually in the form of a deed and, to be enforceable, only material that is genuinely confidential can be protected.

What are the benefits?

While confidentiality deeds and their applications are hugely varied, the benefits arise most commonly in these situations:

- Due diligence in anticipation of a business acquisition, to allow the potential purchaser access to commercially sensitive financial and other information
- Technology development contracts, where confidentiality is necessary to ensure that the right to patent the underlying idea is not lost
- Employment or contracting, to protect information accessed both during and after the employment or contract.

What are the problems?

While the obligations of confidentiality are reasonably uniform, different businesses will have different information that is genuinely confidential and needs protection. Casting the net too widely, or not widely enough, is a common failing of "standard" confidentiality deeds.

A good confidentiality deed will also control manipulations or analyses of the information, such as financial modelling carried out by a prospective business purchaser.

Finally, the agreement must extend to all forms of information, whether physical or electronic, human- or machine-readable.

How can Fleming Muntz help?

Fleming Muntz's experienced business lawyers can help identify what information you can and should protect, as well as prepare a deed that allows you to move ahead in a transaction, confident that your interests will be protected.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

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