



Growing Your Company with Contracts

**Key Considerations in Facilitating and Protecting Your
Employment and Commercial Relationships**

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Webinar Agenda

Growing Your Company with Contracts: *Protecting and Facilitating Your Employment and Commercial Relationships*

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Commercial	Reducing Legal Friction in Transactions	4

Growing Your Company with Contracts

- Venture-backed startups and growth stage companies
- Are your legal efforts helping your company grow, or are they just a necessary expense?

Does your company have a legal strategy?

Adopting a thoughtful and deliberate legal strategy can help grow your company

BUSINESS STRATEGY

- Strategic Objective
- Parameters and Limitations
- Positioning and Path to Success
- Unique Value Proposition
- Key Partners
- Revenue Streams
- Customer Segments
- etc.

Legal Strategy

Does your company have a legal strategy?

Some indications your company has adopted a legal strategy:

	Objective	Perspective	Process	Counsel	Documentation
No	End in itself	“Business Decisions” vs “Legal Decisions”	<ul style="list-style-type: none"> • Checking the box • Reducing costs 	Focused primarily on legal considerations	No documentation
Yes	Means to an end	Legal Decisions are a type of Business Decision	<ul style="list-style-type: none"> • Strategic value • Reducing friction • Reducing costs 	Focused on relationship between strategic and legal considerations	Simple documentation

Steps for Drafting Employment Agreements

Employment agreements help create transparency between employer and employee, impact company culture, and provide important protections for companies.

1 Know Where Your Employees are Located

2 Determine Which Agreements Make Sense to Use

3 Ensure Compliance With State Law

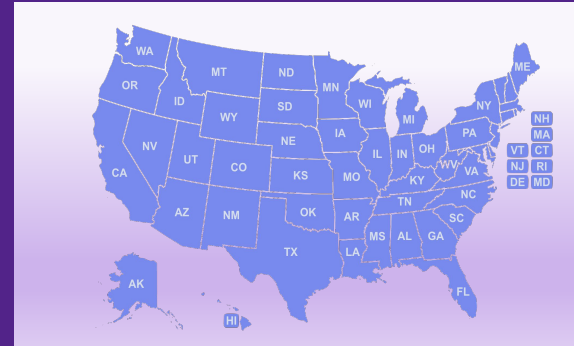
Which state's laws govern your employment agreements?

Lawyer answer: it depends

General rule: the law of the state where the employee works

Keep Track of Your Employees with a Relocation Policy

- Know where your employees are located by having a strong written relocation policy in your employee handbook
- Options include:
 - Requiring pre-approval of any relocation
 - Have list of pre-approved states
 - At minimum, require notice of relocation
- Enforce the policy consistently



NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (this “**Agreement**”), effective July 1, 2023 (“**Effective Date**”), is by and between ABC Co. (“**Company**”) and Jane Smith (“**Recipient**”).

1. **Purpose.** The parties have entered into an employment relationship (the “**Relationship**”). For purposes of the Relationship, Company may disclose, and may have already disclosed, to Recipient certain confidential information that Company desires Recipient to keep confidential, to be used or disclosed by Recipient only in connection with the Relationship and pursuant to the terms of this Agreement (the “**Purpose**”).
2. **Confidential Information.** “**Confidential Information**” means any information (including any and all combinations of individual items of information) disclosed by Company to Recipient prior to or following the Effective Date that relates to (a) the actual or anticipated business, products, services, research, or developments of Company or its affiliates, or (b) confidential information of third-parties in the possession of Company, including without limitation, with respect to both (a) and (b), Trade Secrets, customer lists, research, product plans, software, developments, inventions, discoveries, ideas, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, financial information, and other business information disclosed by Company, or its affiliates, either directly or indirectly, in writing, orally, or by drawings or inspection of premises, parts, equipment, or other property of Discloser, its affiliates, or its subsidiaries. “**Trade Secrets**” has the meaning set forth under 18 USC § 1839(3), as amended as of the Effective Date. Notwithstanding the foregoing, Confidential Information does not include any information that (i) was publicly known and available in the public domain prior to the time of disclosure by Company; (ii) becomes publicly known and available in the public domain after disclosure by Company through no action or inaction of Recipient; (iii) is in the possession of Recipient at the time of disclosure by Company; (iv) is independently developed by Recipient without use of or reference to the Confidential Information; (v) is received by Recipient from a third party without an accompanying duty of confidentiality; (vi) is furnished to a third party by Company without restrictions similar to the terms of this Agreement on the third party’s right to use or disclose; (vii) is required by law to be disclosed by Recipient, provided that Recipient gives Company written notice of the requirement prior to disclosure; or (viii) has been approved for use or disclosure by Company.
3. **Non-Use and Non-Disclosure.** To the extent permitted by law, Recipient agrees that during and after my employment with the Company, Recipient will hold in the strictest confidence, and take all reasonable precautions to prevent any unauthorized use or disclosure of Company Confidential Information. Recipient will not (i) use Company Confidential Information for any purpose whatsoever other than for the benefit of the Company in the course of employment, or (ii) disclose Company Confidential Information to any third party without the prior written authorization of the President, CEO, or the Board of Directors of the Company. Prior to disclosure, when compelled by applicable

What Types of Employee Agreements Make Sense for Your Company?

Two overarching considerations:

1. What agreements do you need in place to protect the company? And with which employees?
2. How will your employee agreements affect company culture?

Options include NDAs, non-compete/non-solicitation agreements, arbitration agreements, and invention assignment agreements

Employment Agreements

Non-Compete/Non-Solicitation

- Complete bans
- Income thresholds
- Notice and disclosure requirements
- Reasonableness requirements
 - Duration
 - Geography
 - Scope
- Legitimate business interest

NDAs

- Federal prohibition on limiting disclosure of sexual harassment/assault
- State prohibitions on limiting disclosure of all forms of discrimination and workplace violations
- Trade secrets and other confidential information not affected

Arbitration

- Federal limits on arbitration of sexual assault/harassment claims
- State bans on arbitration of any employment claims
- Potential conflict between federal and state law that is unresolved

Commercial Considerations

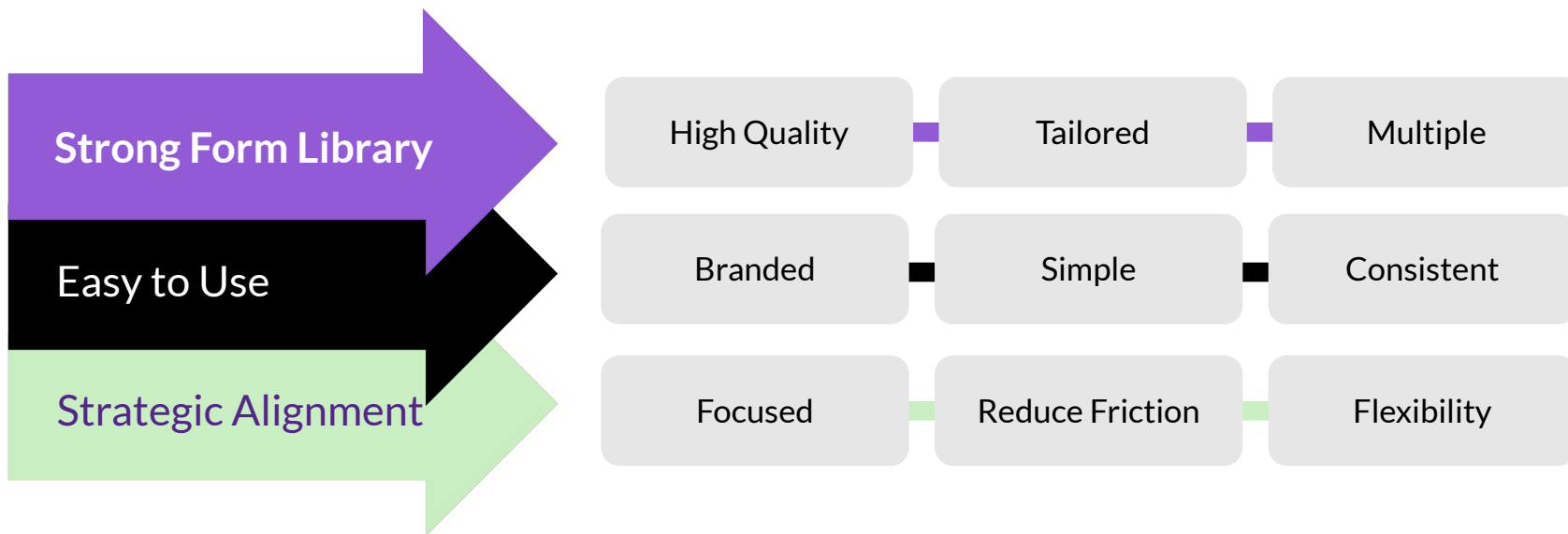
Growing your company with commercial agreements

- Getting the right substance for your agreements
- Implementing the right processes for your agreements



Commercial Agreements: Substance

Getting the right commercial agreements to grow your company



Commercial Agreements: Process

Document Management

- Reliable system for storing and searching your documents
- Version control

Delivering Documents

- Word, Locked Word, PDF, Fillable PDF
- Processing Electronic Signatures

Negotiating Documents

- Use of Term Sheets, LOIs, MOUs, or bulleted emails
- Phone calls and redlines

Legal Due Diligence

Preparing for success in financing or acquisition legal due diligence on employment and commercial matters

- **Employment Agreements**

Fully-executed, IP assigned, state and federal compliance, appropriate and enforceable restrictive covenants, properly documented separations

- **Commercial Agreements**

Fully-executed; assignable / change of control; be cautious with restrictive covenants, exclusivity, outbound licensing, or other encumbrances



A green geometric shape consisting of a horizontal line on the left and a diagonal line on the right, meeting at a point at the top right.

Thank you!

Questions & Answers