**This template Legal Hold letter is intended as a general framework for a Legal Hold issued to potential document custodians once the duty to preserve relevant evidence has been triggered. This is not a one-size-fits-all solution. Legal Holds must frequently be tailored to fit the particular situation. Issuing a Legal Hold is only the first step in the process. After obtaining confirmation that a formal Legal Hold has been issued, outside counsel may need to engage directly with the client, including IT personnel, in order to:**

|  |  |
| --- | --- |
| * **Identify ESI Locations**
* **Identify Key Players**
* **Conduct Custodian & IT Interviews**
 | * **Confirm Suspension of Routine Deletion**
* **Monitor Employee Compliance**
* **Amend & Re-Issue the Hold**
 |

**Every case is an e-Discovery case. As a result, litigators are expected to either develop competency with this process and the related terminology or associate with an attorney who can provide support on specific e-Discovery issues.**

**Legal Hold – Immediate Attention Required**

**[DATE]**

**Privileged & Confidential**

**Attorney-Client Communication**

**BY E-MAIL**

[Name]

[Company / Organization]

[Address 1]

[Address 2]

**Re: Legal Hold – Immediate Attention Required by Document Custodians**

**[CAPTION, DESCRIPTION OF CLAIM & RELEVANT ISSUES]**

Dear \_\_\_\_\_\_\_\_\_\_\_\_\_:

This notice is to alert you that a Legal Hold is now in effect [**OR** remind you that a Legal Hold is in effect] in connection with claims by [PLAINTIFF / CLAIMANT] against [COMPANY / ORGANIZATION] arising out of [INCIDENT / FACTUAL BACKGROUND]. You are receiving this notice because you may have possession, custody or control of evidence that is potentially relevant to this matter. Your assistance to preserve or confirm preservation of such materials is required. Please treat this communication as confidential and privileged. Do not discuss this letter or the underlying [LAWSUIT / CLAIM] with other employees of [COMPANY / ORGANIZATION] except as directed by the undersigned.

The matter at issue involves … [INSERT DESCRIPTION OF ALLEGATIONS AND CONSIDER APPENDING COPY OF COMPLAINT, CLAIM LETTER OR OTHER RELEVANT MATERIALS]. The [COMPANY / ORGANIZATION] denies these allegations and intends to defend against such claims.

This Legal Hold, which will remain in effect until further notice, requires that [COMPANY / ORGANIZATION] make reasonable, good-faith efforts to identify and preserve potentially relevant evidence.[[1]](#footnote-1) The definition of “relevant” is broad for this purpose. Therefore, the obligation to preserve includes, but is not limited to, documents pertaining to the following:

The preservation requirement encompasses both hard-copy documents and electronically stored information (“ESI”) that are potentially relevant to the event or issues identified above. ESI is interpreted as a particularly broad term by U.S. courts as it includes all digital or analog materials in electronic format. **This specifically includes email.** Other types of ESI include, but are not limited to, word processing files, spreadsheets, database files, PDFs, design drawings, graphs, charts, presentation materials, calendars, task lists, internet or telephone logs, voicemail files, images, text messages, and other data or data compilations. Possible locations of ESI include, but are not limited to, desktop and home PCs, laptops, network/share drives, external hard drives, flash drives, CD-ROMs, archive systems, backup tapes, mobile devices and cloud storage. This includes personally owned devices, email accounts or storage locations that have been used for business purposes. Please advise the undersigned if you are aware of specific ESI locations which you suspect may not otherwise be easily identified.

**If you have not done so already, please take immediate steps to search for and identify materials that may be potentially relevant to the subject event or issues.** These documents, including drafts of documents, must be preserved and routine destruction or deletion policies must be halted. In the event that disabling routine deletion requires the intervention of the IT department, please advise the undersigned and/or the IT department to assure that appropriate steps are taken.

This Legal Hold is being distributed to the following individuals who are known to have been involved in [DESCRIPTION OF INCIDENT, ETC.], or have otherwise been connected to issues relevant to the claims, and are subject to this Legal Hold:

Immediately contact the undersigned if you are aware of additional individuals or any third-parties that may possess potentially relevant evidence. [**OR** This Legal Hold is being distributed to the individuals listed in Appendix \_\_ who are known to have been involved in [DESCRIPTION OF INCIDENT, ETC.] or that were otherwise involved with matters relevant to the claims. Please closely review this list and immediately contact the undersigned if you are aware of additional individuals or any third-parties that may possess potentially relevant evidence.][[2]](#footnote-2)

All potentially relevant evidence, including duplicates, should be preserved and may not be erased, discarded, destroyed, or altered while this hold remains in effect.[[3]](#footnote-3) Until you are informed that this Legal Hold has been released, please (1) notify the undersigned if, for any reason, you leave your position, (2) preserve documents even if another employee is in possession of the same document, and (3) preserve documents in all forms even if an electronic document is identical to a hard-copy document.

The failure to comply with this requirement may subject [COMPANY / ORGANIZATION] or individual employees to judicial sanctions or other repercussions. Therefore, you are asked to broadly construe this Legal Hold. Please preserve potentially relevant materials when in doubt.

You will soon be contacted to discuss locations of potentially relevant evidence, the overall preservation obligation, and your connection to the claims. In the meantime, I ask that you please acknowledge receipt of this Legal Hold by replying to my transmitting email.

Very truly yours,

1. Please see the Company’s Legal Hold Policy, a copy of which is appended, for further information regarding the duty to preserve evidence that is potentially relevant to litigation or an investigation. [↑](#footnote-ref-1)
2. Appropriate IT personnel are also being placed on notice of [COMPANY / ORGANIZATION]’s duty to preserve. [↑](#footnote-ref-2)
3. Electronically stored documents can be altered by accessing a file or copying a file to another drive or folder. Exercise case in performing such actions. Contact the undersigned should you have any concerns. [↑](#footnote-ref-3)