**This template Legal Hold letter is intended as a general framework for a Legal Hold issued to a litigant’s IT personnel 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 IT Department**

**[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 your role in [COMPANY / ORGANIZATION]’s IT Department likely provides you with possession, custody or control of evidence that is potentially relevant to this matter. Please treat this communication as confidential and privileged. Do not discuss the underlying [LAWSUIT / CLAIM] with other employees of [COMPANY / ORGANIZATION] except as directed by the undersigned. Discussions as to this letter are to be limited to other employees within the IT Department except as directed by the undersigned.

Employees who have been identified as potential document custodians have received or will be receiving Legal Hold letters instructing them to (1) search for and identify materials that may be potentially relevant to the subject event or issues, (2) take steps preserve such materials, and (3) halt any routine destruction or deletion policies. However, many employees do not have the capability to disable routine deletion. For that reason, [COMPANY / ORGANIZATION] requires the IT Department’s support in order to comply with its preservation duty. **Necessary actions as to potential document custodians may include, but may not be limited to, the following:**

* Disabling email roll-off periods;
* Increasing mailbox quotas;
* Preserving data on mobile devices;
* Ceasing any hardware recycling practices;
* Removing backup tapes from recycle schedules; and,
* Avoiding any other deletion of materials created or received by employees subject to this Legal Hold.

To date, the following employees have been identified as having 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:

The IT Department must disable routine deletion practices, or confirm that routine deletion practices are disabled, as to these employees. 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. The Legal Department will be in contact with potential document custodians in connection with efforts to determine the appropriate scope of [COMPANY / ORGANIZATION]’s preservation duty.

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. The IT Department’s assistance will be required during efforts to identify ESI locations which may contain potentially relevant evidence.

All potentially relevant evidence, including duplicates, should be preserved and may not be erased, discarded, destroyed, or altered while this hold remains in effect.[[2]](#footnote-2) 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.

The IT Department will soon be contacted to discuss disabling of routine deletion, locations of potentially relevant evidence, and the overall preservation obligation. 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. 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-2)