

Data License Agreements

A Practical Guidance® Practice Note, Checklist and Template
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Data License Agreements

This practice note provides an overview of data license agreements. The note discusses key provisions typically found in data license agreements, such as the license grant, sublicensing, derived and usage data, data delivery, confidentiality obligations, security requirements, representations and warranties, indemnification, and post-termination use of the data. The note explains how data can potentially be protected under intellectual property laws including copyright law, trade secret law, and contractual covenants, supporting the notion of data as a licensable asset.

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Data License Agreements Checklist

This checklist summarizes key terms to be addressed in data licensing agreements. The checklist covers important provisions such as the license grant, sublicensing, derived and usage data, use of data in AI models, delivery of data, confidentiality, publication, security, data controls, audits, disclaimers, representations and warranties, indemnification, and treatment of data after termination of the agreement. The checklist provides best practices for negotiating and drafting these provisions.

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Data License Agreement (Short Form) (Pro-Licensee)

This template is a data license agreement between a licensor and a licensee for the license of datasets. The agreement grants the licensee a license to receive, store, use, reproduce, modify, aggregate, display, and distribute the data to the licensee's authorized subscribers through the licensee's platform. The agreement defines key terms, specifies the data delivery method, and addresses changes to the data, fees, intellectual property rights, term and termination, representations and warranties, limitations of liability, confidentiality, and indemnification. The agreement is annotated with drafting notes alerting the drafter to considerations and cautions regarding certain provisions and offers customization for varying circumstances.

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Chad Rutkowski is a recognized expert on the intersection of copyright and technology. He is the author of Lexis Practical Guidance notes on data licensing and Creative Commons licenses, speaks regularly on copyright issues in software and AI, and is the principal author of the firm's Beyond Source Code web tool, which digests all court decisions addressing the scope of copyright protection in the non-literal elements of source code. As co-lead of BakerHostetler's Digital Transformation and Data Economy team, as well as the IP & Technology Transactions and Outsourcing team, he assists clients in the midst of the "digital transformation."

Chad helps clients identify and capture the intellectual property (IP) in their valuable data, algorithms and enterprise software. Clients rely on him to help identify their IP, build internal processes for its management, navigate open source and other open innovation strategies and create licensing programs that enable full value realization. He further protects that value in disputes and litigation, whether through enforcing clients' IP rights or fending off attacks by competitors.

Chad writes and presents regularly on the robust protections afforded by copyright law to software, data, artificial intelligence and related innovations. He has helped clients protect innovations in healthcare technology, water management, smart cities, population health management and online consumer lending.

Chad's interest in how IP law has adapted to digital transformation began in his former role as a founder and business manager of a digital media publisher. Drawing from his professional and legal experiences, he contributes regularly to the firm's IP blogs. Additionally, he is an active member and current Secretary of the Copyright Society of the USA, and is the past chair of the Copyright and Emerging Technology subcommittee and current chair of the Social Media subcommittee of the ABA IP Law Section. Chad has been recognized as "highly experienced in copyright-related matters relating to software" by Legal500, AV Preeminent-rated by Martindale-Hubbell and has been voted by his peers as a Pennsylvania Super Lawyer and Rising Star.

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