

**Item 1.**

**Software and Database License  
Agreement Checklist**



# Software and Database License Agreement Checklist

Need help? We have [materials that explain how to use this form](#) and guide you through a typical contract analysis. Keep in mind also that this checklist covers substantive issues associated with database and software licenses only. Use this checklist as part of a complete review of your agreement using the [General Procedure Contract Checklist](#) and consult with your institutional purchasing agent to confirm that all applicable procurement laws and regulations have been followed.

## Does the license grant cover the uses your faculty, students and staff, as appropriate, will expect to make of the software or database information?

Indicate below the most extensive use of software or data you anticipate needing. **The importance of protecting expected uses cannot be overstated!** [More information on this issue is available.](#)

use software for internal purposes only

## Does the license grant cover your expected modes of access?

Indicate below the widest mode of access you anticipate needing.

from a single machine only

## Does the license agreement require the Customer to enforce its provisions against third parties, or otherwise

### **try to affect the rights of third parties?**

Indicate below any provisions affecting third party rights.

Agreement requires Customer to take responsibility for the actions of people who may use the software or database, but are not parties to the agreement, for example, students.

Agreement purports to restrict or limit the fair use rights (or other rights) of persons, like students, who are not parties to the agreement.

Agreement provides that Customer will ensure adherence to the terms of the contract by employees or third parties such as students (very commonly included in confidentiality provisions).

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### **If the licensed material includes a database, will the library need archival rights with respect to superceded materials or after termination of the agreement?**

Library will need archival rights.

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### **Does the agreement include any provision that requires the Customer to indemnify the Vendor?**

Indicate below any provisions that require the Customer to indemnify the Vendor.

Agreement requires Customer to indemnify Vendor against harms that could result from Customer's use of data.

Agreement requires Customer to indemnify Vendor against harms resulting from some other cause (any cause).

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### **Does the agreement include an indemnity from the Vendor that its materials will not infringe the intellectual property**

## rights of third parties?

An intellectual property indemnity will usually be in a form similar to the following, though it may be much more detailed:

**Vendor will defend, indemnify and hold Customer harmless from any action based on a claim that Customer's use of the Database in accordance with this agreement, infringes any patent, copyright, or trade secrets of any third party.**

The agreement contains an indemnity from the Vendor regarding intellectual property claims.

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### Indicate below whether the agreement includes any of the following provisions

- A clause that requires the Customer to bring suit for claims under the agreement within a limited period of time (this is called a shortened statute of limitations).
- A clause that makes another state's law govern or control the contract.
- A clause that gives the Vendor a right to terminate without providing Customer any rights to terminate.
- A clause that provides for automatic renewal of the agreement or that requires Customer to notify Vendor shortly before the end of the contract term in order to renew.

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### Is the license a beta test agreement; for free or steeply discounted software; for research software; or otherwise atypical?

Indicate below whether an extenuating circumstance applies.

- Beta test software
- Free software
- Steeply discounted software

- Nonprofit vendor
- Database information from the public domain

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