

May 2025

# Tackling AI in Privacy Contracting

Baker McKenzie

Gilead Sciences

Wolters Kluwer

# Speakers



**Cristina  
Messerschmidt**  
Senior Associate  
Baker McKenzie



**Trinity Carr**  
Assistant General  
Counsel, Regulatory  
Wolters Kluwer



**Joanne Charles**  
Associate General Counsel,  
Sr. Director AI Governance  
Gilead Sciences



# Agenda

**01** Introduction to AI: Artificial Intelligence in a Snapshot

---

**02** Engagement with Key Stakeholders

---

**03** Contract Segments

---

**04** Checklist for Evaluating AI Contracts

---

**05** Questions

---

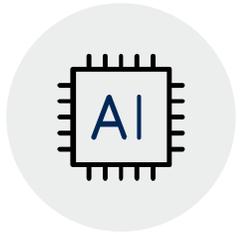
# 01 Artificial Intelligence in a Snapshot

# AI Defined

**Artificial Intelligence (AI)** is "the computerized ability to perform tasks commonly associated with human intelligence, including reasoning, discovering patterns and meaning, generalizing knowledge across spheres of application, and learning from experience" (Source: FPF)

- **Machine Learning** is a branch of AI concerned with AI models that "learn" from the success or accuracy of their outputs, and can adapt their programming over time, with minimal human intervention
- An **AI System** is a group of machine learning models, AI and non-AI technologies that work together to accomplish specific tasks, e.g., such as ranking posts in a feed
- An **AI Model** is what is used to perform tasks moving forward, with new data, once the AI has already been trained
- A **Foundation Model** is a large AI model that can be adapted to a wide variety of tasks and applications

# What is Generative AI?



---

Generative AI is a type of artificial intelligence that is capable of **creating new data** and content that did not previously exist.

It does this by learning the underlying patterns and structure of a particular dataset, and then **generating new content** that follows the nature of the original data.

# 02 Engagement with Key Stakeholders

# Effective Engagement with Key Stakeholders

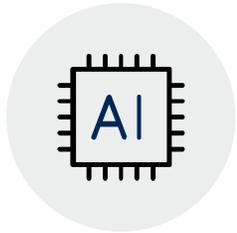


# Effective Engagement with Key Stakeholders (cont'd)



# 03 Contract Segments

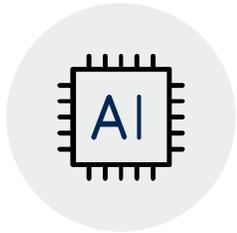
# Definitions



---

“**AI Features**” means any feature, functionality, or tool made available to Customer by Supplier under these Terms that uses artificial intelligence, including Generative AI, Machine Learning, and related technologies (“**AI**”) and Third-Party Components (defined below). “**Generative AI**” means a machine-based system that, for implicit objectives, infers, from the input it receives, how to generate content such as text, video, images, or software code. “**Machine Learning**” means a subfield of artificial intelligence whereby computers have the ability to learn without explicitly being programmed.

# Recitals

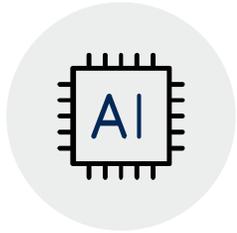


---

These AI Additional Terms (these “**Terms**”) supplement the above Agreement between Customer and Supplier. With respect to the use of any AI Features (defined below), Supplier represents and warrants that it shall meet the terms of this Exhibit.

All capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Agreement. Except as provided in these Terms, the Agreement remains in full force and effect and governs Customer’s access to and use of the AI Features. **To the extent of any conflict or inconsistency between these Terms and the Agreement, these Terms shall control.**

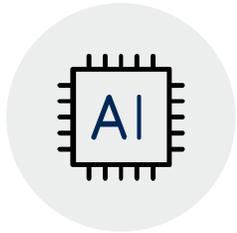
# Indemnity



---

Supplier shall indemnify, defend, and hold harmless Customer from and against any and all claims, damages, liabilities, losses, and expenses, including reasonable attorneys' fees, arising out of or relating to any third-party claim alleging that the AI Features infringes or violates any intellectual property rights or applicable laws. This indemnity shall not apply to any claims arising from Customer's misuse of the AI Features or Customer's own actions in connection with the AI Features.

# Warranties

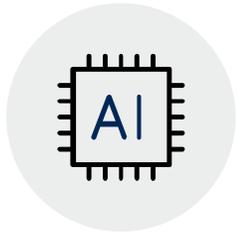


---

In addition to and without limiting Supplier's representations and warranties under the Agreement, Supplier represents and warrants that:

- (i) the AI Features were, and will continue to be, developed, provided, and maintained in a **professional and workmanlike manner** in strict accordance in all material respects with these Terms and any applicable statement of work, and in accordance with Supplier's specifications and any applicable commercial standards generally observed in Supplier's industry;
- (ii) the AI Features have complied, and will continue to comply, with the **terms of the Agreement and all applicable laws, rules, and regulations {...}**

# Permitted Data Use



---

Customer authorizes Supplier to process the Input via the AI Features to provide Customer with the AI Output. To the extent any Input contains Personal Data (as defined in the Agreement or an exhibit thereto), Customer instructs Supplier and its sub-contractors to process such Personal Data solely for the purpose of providing the AI Features and AI Output and in accordance with the Agreement.

# 04 Checklist for Evaluating AI Contracts

# A Starting Point for Evaluating AI Contracts

	What is the business aiming to accomplish/what is the AI tool in question?
	What rights are granted in the AI tool itself?
	What rights are granted in the AI output?
	What data (including personal data) will be ingested by the AI tool? How will this data be used (e.g., for training, to provide services only)?
	What quality commitments are made with respect to the AI tool?
	What legal commitments are made with respect to the AI tool? Will vendor be able to assist with customer's privacy legal obligations (e.g., data subject rights)?
	How will the parties allocate risk related to the use of the AI tool?
	How will the parties allocate rights in data, continued use of the AI tool, and use of output from the AI tool post termination?
	What are the contractual commitments with other parties (or internal policies) that may constrain use of the AI tool?

# Questions

The background features a white central area where the text is located. This white area is framed by abstract, flowing shapes in various shades of blue, ranging from a light cyan to a deep, dark blue. The shapes appear to be layered and overlapping, creating a sense of depth and movement. The overall composition is clean and modern.