Exercise: Data provision - Identifying problems in a license agreement

Notice: The example is based on a real case, but the license agreement was shortened and reduced to essential paragraphs.

Discuss the following questions in small groups:

1. Discuss why the paragraph assigned to you might be critical.

Assignment: Paragraphs - Groups	
Group 1	Preface + No. 2
Group 2	No. 3
Group 3	No. 4
Group 4	No. 5+6
Group 5	No. 7
Group 6	Preface + No. 2
Group 7	No. 3
Group 8	No. 4
Group 9	No. 5+6
Group 10	No. 7
Group 11	Preface + No. 2
Group 12	No. 3
Group 13	No. 4
Group 14	No. 5+6
Group 15	No. 7
Group 16	Preface + No. 2
Group 17	No. 3
Group 18	No. 4
Group 19	No. 5+6
Group 20	No. 7

2. Would you recommend that researchers sign these contracts?

Example:

A professor is interested in receiving data for an automated analysis from an international financial services provider. At her request, she receives a contract proposal including the following paragraphs.

ACADEMIC RESEARCH AGREEMENT

This Academic Research Agreement (the *"Agreement"*) is entered into as of date noted below by and between Data Unlimited Ltd. (the *"Data provider"*) and the undersigned individual, on behalf of himself and any research assistants individually identified and approved in writing by the data provider (collectively, *"Researcher"*). Data Provider and Researcher (each a **"Party"** to this Agreement) agree as follows:

1.   Background: Researcher wishes to use the Data provider financial data identified in Exhibit A (the *"DU Content"*) to engage in an academic research project (*"Project"*).

2.   License: Data Provider hereby grants to Researcher, for the Term of this Agreement, a non-exclusive, non-transferable, right and license to: (i) receive the DU Content through XML access; (ii) store the DU Content for the duration of the Project; (ii) analyze the DU Content, in conjunction with an application for automated or algorithmic analysis, strictly and exclusively for deriving material for Researcher's planned article/treatise/paper
(*"Derived Data"*).

3.   Terms of use of DU Content: Any Paper generated as a result of the Project (a *"Paper"*) may be published and made available to academic audiences in the form of conference presentations, web pages, seminars and journal publications, provided that Researcher shall give the Data provider at least 30 days to review the results of any Project prior to publication of any Paper. The Data provider may make reasonable use of such Papers to promote the DU Content. No product derived from a Project, whether tangible or intangible, which utilizes the DU Content may be sold for profit or commercialized in any way without the Data provider's prior written approval.

4.   Restrictions: Researcher shall not use the DU Content other than for the Project or as expressly permitted herein and shall not reproduce, modify, distribute, transmit, display, perform, publish, transfer, create derivative works from, broadcast or circulate any or all of the DU Content to anyone without the express prior written consent of the Data provider. Researcher shall give the Data provider the opportunity, on at least a quarterly basis, to inspect the use made by Researcher of the DU Content and the results to date of such use, and the security measures Researcher employs to ensure compliance with this Agreement.

5.   Return of Materials: Upon expiration or termination of this Agreement for any reason, Researcher shall return to the Data provider or destroy the DU Content.

6.   <u>Content</u>: Data Providers reserves all right, title, interest and ownership in the DU Content and any work deriving therefrom.

7.   <u>Warranties</u>: DU Content is provided on an "as is" basis without warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

8.   <u>Applicable law and jurisdiction</u>: This Agreement shall be interpreted and construed in accordance with the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the courts in London.