Generative Artiﬁcial Intelligence Policy

Effective [date]

## Introduction

[Firm name] recognizes that large language model-based, generative AI applications (collectively, "AI" or "generative AI"), such as OpenAI's ChatGPT, have the potential to be incredibly useful and time-saving in various tasks within the law firm. We anticipate a growing interest in the use of AI in our law firm's operations. However, we also acknowledge that AI technologies are still being refined and can produce inaccurate or distorted information, creating significant risks for the firm. Therefore, it is essential to establish clear guidelines for the responsible use of AI. This policy provides guidelines for using AI in a way that protects [Firm name]'s and its clients’ proprietary information, ensures compliance with applicable laws, regulations, ethical standards, and upholds the firm's values.

As AI is a rapidly evolving technology, [Firm name] will review and update this policy to reflect technological advancements, legal developments, and industry best practices.

## Scope

This policy applies to all [Firm name] employees, attorneys, consultants, agents, vendors, and other third parties who have access to firm data. For purposes of this policy, these individuals will be referred to as “firm staff."

This policy applies to the direct use of generative AI tools by firm staff members, separate from any generative integrations that [Firm name] has embedded or will embed in its products. Although [Firm name] may partner with companies offering AI (e.g., research platforms, document management, practice management, etc.), firm staff's direct use of AI tools offered by these same companies is not covered by the partnership or services agreements with those companies but is instead subject to the companies' terms of use for their AI tools.

## Definitions

The term “firm data" should be interpreted broadly for purposes of this policy, and includes, but is not limited to, at least the following: All law firm business information and all personal data (whether of employees, attorneys, contractors, consultants, clients, adverse parties, related entities, consumers, users, or other individuals) that is accessed, collected, used, processed, stored, shared, distributed, transferred, disclosed, destroyed, or disposed of by any of the law firm's systems; all proprietary information and intellectual property (including, but not limited to, case files, legal documents, legal research, client lists, client contact information, client contracts, client's proprietary data, and any non-public law firm information); and any data or deliverable created or collected in the course of representation of clients. Firm data includes information in written, electronic, audio, video, or any other form or medium.

The terms "client" or "firm client" refer to any individual or legal entity that has entered into an engagement agreement or contract for legal services with [Firm name].

The term "client data" refers to any data that firm clients, adverse parties, related entities, or referral sources, provide to [Firm name] for the purpose of legal representation or related services.

## Principles for the use of AI

Firm staff should observe the following principles when using AI:

### Compliance with legal and regulatory requirements

Firm Staff must comply with all applicable laws and regulations governing the use of AI. This includes compliance with data protection and privacy laws, intellectual property laws, and anti-discrimination laws.

### Protection of data privacy and security

Firm Staff must ensure the protection of data privacy and security when using AI. The use of AI tools and applications must comply with the Firm's data privacy and data security policies.

### Human oversight

Firm Staff must carefully review AI-generated material for inaccurate or incomplete information and potential infringement of third-party rights. **You** are ultimately responsible for all content produced with the assistance of AI, as if you were the original creator. The source of AI-generated material should be disclosed when appropriate.

## Guidelines for the use of AI

### Required actions

* Before using any generative AI tool for any law firm business, firm staff must opt out of letting generative AI tools use any data they feed the tool to train their AI models.
* Before using any generative AI tool for any firm business, firm staff must consider unintentional consequences of sharing firm data or client data which should remain confidential or if it is too sensitive to share. **Do NOT enter any client-specific data** into a generative AI tool.
* Firm staff must carefully review AI-generated material for accuracy, completeness, and protection of both third-party rights and [Firm name]'s proprietary information.

### How you may use generative AI

* If you use AI for authorized, law firm-related activities, you must use accounts created with [Firm name] email addresses/credentials.
* Your usage of AI must comply with this policy, [Firm name]'s Code of Conduct, and the confidentiality obligations outlined in the employment documentation signed by firm staff at the time of hire.
* You may only use data with generative AI tools that is legally obtained and used with the necessary permissions.
* You may only use data with generative AI tools that is not classified as confidential or includes information where a client is being individually identified.
* You may only use vendor integrations or products featuring generative AI that have been approved by firm management and the IT team.
* Firm staff must report any security incidents or suspected breaches immediately to [email or contact information].

### Prohibited use of AI

* Do not use personal accounts with AI tools for law firm-related purposes.
* Do not use client data with generative AI tools.
* Do not use personally identifiable information, (e.g., client names, addresses, emails, phone numbers, account numbers) or protected health information (e.g., dates related to the health or identity of individuals, date of birth or death, provider names, medical records) with generative AI tools.
* Do not use generative AI tools for law firm-related purposes if you have not opted out of letting generative AI tools use any data you feed to the tool to train their AI models.

## Enforcement

The IT team, executive director, and firm management will verify compliance with this policy through various methods, including but not limited to, business tool reports, and internal and external audits. Any exception to the policy must be approved by the director of IT, the executive director, the firm’s managing partner, or their designees, in advance. Any firm staff member found to have violated this policy may be subject to disciplinary action, up to and including termination of employment or engagement, or legal action where appropriate.

## Billing policy

### Required

* Obtain advanced approval from the matter’s responsible partner before using a tool. Keep the responsible partner apprised on all work created using an artificial intelligence tool. Continuing and ongoing dialogue throughout the duration of the case is required.
* Clearly communicate to the client that the work involved the use of artificial intelligence tools.
* Clearly explain the benefits of using artificial intelligence tools, such as increased efficiency and accuracy, which may result in cost savings for the client.
* Ensure that the client understands the limitations and potential risks associated with using artificial intelligence tools.
* Keep detailed records of the time spent using artificial intelligence tools for each client matter.
* Provide transparent and itemized billing statements that clearly indicate when artificial intelligence tools were used, and the corresponding tasks performed.
* Regularly assess and review the accuracy and quality of the work produced by artificial intelligence tools to maintain client satisfaction, to comply with ethical and other rules governing the practice of law, and to avoid placing the firm in peril for misuse or misplaced reliance on these tools.
* Stay up to date with industry best practices and advancements in artificial intelligence tools to continuously improve the services provided to clients.

### Prohibited

* Don't charge clients a separate fee specifically for the use of artificial intelligence tools without their explicit consent and understanding.
* Don't solely rely on artificial intelligence tools for critical legal judgments or decisions without appropriate human oversight and review.
* Don't overstate or exaggerate the capabilities or outcomes of artificial intelligence tools to clients.
* Don't use artificial intelligence tools to perform work that requires human expertise, discretion, or judgment beyond the capabilities of the tools.
* Don't use artificial intelligence tools to automate client communication or engagement without considering the impact on the attorney-client relationship and the client's expectations.

## Summary

Generative artificial intelligence tools are rapidly growing and expanding. It is an exciting time for the legal industry and will, most likely, disrupt many elements of the practice of law. However, one item that AI cannot do is provide critical thinking. Our clients have engaged with the firm and its staff because of our knowledge, experience, and expertise. While [Firm name] promotes using available technology to further the efficiency in the practice of law, we must proceed with caution.

Common sense is key. Remember the following above all else: Information coming from generative artificial intelligence tools often comes straight from the most unreliable data source on the planet, the World Wide Web. Do not risk your reputation as a lawyer or the good name of the firm simply to save a few steps.