Contract clauses

Who Procurement teams

What Contract principles

Your contract clauses will depend on your specific situation, use case, and needs, and if you are buying off-the-shelf, customized, or building AI. If you are buying an off-the-shelf solution, your team can conduct a gap analysis to understand to what extent the vendor's standard license terms comply with your requirements. If you are buying something that is customized or build, then your team has the chance to put your requirements into the contract.

Here, we provide an overview of some types of commercial and technical requirements to help jumpstart your thinking on what clauses to consider. These are not intended to be comprehensive lists, or serve as legal advice and should be complemented by your organization's standard technology procurement clauses.

It's also important to remember that contracts are just one aspect of managing risk. A good contract is short and clear, and should be a tool for trust building and collaboration, versus a long legal document all about transferring risk onto the other party. Even the most stringent contract is not a failsafe for managing risk. Be aware of what is feasible for vendors to agree to around issues like transparency and accuracy. Unrealistic expectations can lead to prolonged contract negotiations or failures.

Model contract clauses and additional resources

Several governments non-governmental entities have created model contract clauses, or are in the process of drafting them, including:

- The updated EU AI model contractual clauses

- The Australian government's AI model clauses
- The Society for Computers and Law's Artificial Intelligence Contractual Clauses
- The GovAI Coalition's template vendor agreement
- The Center for Inclusive Change's AI Procurement: Essential Considerations in Contracting

Additional resources include:

- The Comprehensive AI Contract Guide from World Commerce and Contracting (WCC) with key contractual obligations, negotiation areas, and success factors specific to AI procurement in government contexts
- WCC's Most Negotiated Terms research which covers the key terms that get negotiated and disputed in contract from both a buyer and supplier perspective.
- The AI Procurement Lab's Procurement Tools for Buying AI

Potential commercial requirements include:

- **Licensing and use,** depending on the scope of your contract, to confirm licensing model and renewal terms.
- **Data use**, to align on how the organization's data will be used and allow for evolutions in security standards.
- **Intellectual property (IP) rights,** to outline who owns and will retain ownership over what.

Potential technical requirements include:

- **Performance,** to enable regular assessment of how the solution is performing in terms of accuracy.
- **Testing and validation,** to enable milestone-based payments tied to testing and acceptance.
- **Human oversight,** to provide risk mitigation and promote human-in-the-loop practices.
- **Data quality and provenance**, to document training data and sources and who is responsible for data quality, improvements, and due diligence.
- **Ongoing maintenance,** to ensure the ongoing maintenance of the solution.
- **Security compliance,** to ensure the organization can configure and run error reports, and set security standards
- **Transparency and auditability,** to provide compliance reports and feasible auditability depending on the technology.
- **Responsible AI compliance**, to ensure compliance with key AI policies as agreed upon by the organization and the vendor.
- **Exit and transition**, to ensure clear data export and transition terms.

If compliant with your legal context, you may also consider a requirement around **contract transparency** to enable you to make the full or part of the contract publicly available. This transparency can also support knowledge sharing across public entities and other jurisdictions.