



CONTRACT CHECK LIST

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Vendor Contracts: What To Review Before You Sign

During any given year, your company may sign dozens of vendor contracts. The scopes of work may range from simple services, such as daily janitorial work, to complicated software agreements that support your company's operations. In most cases, the vendor will perform the service, you will pay for the service and each party will go about its business. If satisfied, your company may even renew the vendor's service.

Unfortunately, issues do arise where even the “simplest” vendor contract can turn into a complicated dispute. That is why it is always best practice to review, and in some cases negotiate, vendor contracts prior to signing. Even a limited review of certain key terms can minimize risk and save your company time and resources should a dispute arise.

What Terms Should Always Be Reviewed Prior to Signing?

- *Payment*: this is the amount and frequency by which your company will be required to pay for the service. Some vendors will bill *in advance*, meaning payment is due up-front to cover the first billing cycle (monthly, annual, etc.), while other vendors bill *in arrears*, meaning payment is due at the end of the billing cycle. Vendors may even request a deposit at signing, especially if they are providing customized equipment. You should always request a grace period so your company has time to cure a late payment before a vendor can terminate its service for default.
- *Insurance*: the types and amounts of insurance vendors carry will likely vary depending on the service being provided. At baseline, you should always verify that a vendor carries a commercial general liability (CGL) policy. A CGL policy will likely insure most of the vendor’s day-to-day business operations. Depending on the scope of the work being provided, you may consider requesting that your company be added as an “additional insured” on the vendor’s CGL policy. “Additional insured” status may allow your company to recover a claim directly against the vendor’s CGL policy should you incur damages resulting from the vendor’s work.
- *Liability*: if something goes wrong with the vendor’s work, you want to ensure that the vendor will be responsible for fixing the issue and in some cases even be required to reimburse your company for any damages it incurs (including claims from third parties). “*Indemnification*” provisions detail under what circumstances and for how much each party may be liable to the other party for damages resulting from performance under the contract.
- *Termination*: contracts that create a continuing relationship – versus a one-time purchase or service – should specify the circumstances under which either party may terminate the agreement. While not always possible (especially where the vendor is making substantial up-front investments), building in the right to terminate a contract early “for convenience” helps minimize the risk and provides helpful flexibility. Without such a right, the vendor may contest whether your company can end the relationship and may even seek payments for the full term of the contract, even if you try to terminate it early.

As with any negotiation, it is unlikely that every term will always be addressed in your company’s favor. However, focusing on understanding and negotiating these key terms can minimize your company’s contractual risk while still ensuring that your company benefits from the work being provided by its vendor partners.

**This client alert is for informational purposes and is not legal advice. View [previous issues](#) of Monday Minute.*

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