

Standard contract clauses regarding IPR

PPI contract template

1. IPR ownership

- 1.1. **Ownership of IPRs generated during the PPI procedure** - All intellectual property rights (IPRs) in any deliverables, software, products or other results developed under this Contract ("foreground IPRs") shall vest in the Contractor, unless otherwise expressly agreed in writing.
- 1.2. **Ownership of IPRs in pre-existing materials** - Each Party shall retain ownership of all IPRs in pre-existing materials ("background IPRs"). No transfer of ownership of background IPRs is implied under this Contract. Each Party grants the other non-exclusive and royalty-free access rights to its background IPRs, as far as strictly necessary for the performance of this Contract.

2. Use of the PPI solution and IPR licenses

- 2.1. **License to the Public Procurer** - The Public Procurer shall be granted a non-exclusive, perpetual, irrevocable, worldwide and royalty-free license to use the PPI solution for his own purposes.
- 2.2. **Right to sub-license** - The Public Procurer also obtains the right to oblige the Contractor to grant non-exclusive licenses to third parties under fair, reasonable and non-discriminatory terms and according to market conditions, where this is objectively necessary for the deployment of the innovative solution for public interest purposes.

Such licenses shall not limit or prejudice the Contractor's right to commercially exploit the innovative solution, nor shall they go beyond what is necessary to achieve the above objectives.

- 2.3. **Commercial exploitation and royalties** - The Contractor shall be free to commercially exploit the PPI solution, including by licensing its IPRs, provided that such exploitation does not limit or prejudice the rights granted to the Public Procurer under this Contract.

No royalties shall be payable by the Contractor to the Public Procurer for such commercial exploitation.

3. Transfer, exclusive licensing and assignment of the PPI solution

Any transfer, assignment or exclusive licensing of the IPRs in the PPI solution shall be subject to the continuation of the Public Procurer's license and rights under this Contract.

The Contractor shall ensure that any assignee assumes all relevant obligations relating to these IPRs.

4. Indemnification and liability

- 4.1. **Obligation to indemnify** - The Contractor shall indemnify, defend and hold harmless the Public Procurer, its employees, agents and Contractors from all claims, actions, damages, losses, costs and expenses (including reasonable legal fees) arising out of or in connection with any allegation that the use of the PPI solution infringes or misappropriates any IPRs of a third party, to the extent such infringement results from the Contractor's performance of the Contract.
- 4.2. **Conditions** - The indemnification obligation under 4.1. shall be subject to the following conditions:
- The Public Procurer promptly notifies the Contractor in writing of any such claim;
 - The Contractor is given sole control of the defence and settlement of the claim, provided that no settlement imposing any obligation on the Public Procurer may be entered into without its prior written consent;
 - The Public Procurer provides reasonable assistance to the Contractor, at the Contractor's expense, in the defence of the claim.
- 4.3. **Liability** - The Contractor shall have no liability under this Clause to the extent that the alleged infringement arises from:
- Compliance with specifications, designs or instructions provided by the Public Procurer;
 - Modification of the innovative solution by the Public Procurer or a third party not authorised by the Contractor;
 - Use of the innovative solution outside the scope of the license granted under this contract.
- 4.4. **Liability cap** - Unless otherwise explicitly agreed, the Contractor's total liability under this indemnification clause shall be limited to [cap (use an SME-friendly cap, e.g. 100-200% of the Contract value)], except in cases of wilful misconduct or gross negligence.