

## **Contract Review Checklist: Pre-Legal Risk Mitigation**

At **TheOwnersProject.com**, we view the signing of a contract as the single most significant moment of risk transfer in a project's lifecycle. While this checklist is not a replacement for professional legal counsel, it is a strategic tool designed to help an Owner "red-line" a document before it ever reaches a lawyer's desk. By identifying fundamental issues early, you can protect your interests and significantly reduce billable legal hours.

This guide empowers you to evaluate the business logic and operational safeguards of an agreement across five critical pillars:

### **The Five Pillars of Contract Scrutiny**

- **Scope of Work (The "What"):** We ensure the description of work is detailed enough for a third party to verify completion, while explicitly stating what is excluded to prevent scope creep.
- **Payment Terms (The "When"):** We move beyond "upon completion" to define specific milestones or net-period schedules, ensuring retainage is held back until final sign-off to keep the counterparty engaged.
- **Termination Clauses (The "Out"):** We verify your ability to exit for "convenience" with a clear notice period and define exactly what constitutes a "breach" for cause, including who owns the work-in-progress if the relationship ends.
- **Liability & Insurance (The "Safety"):** We check for mutual indemnification to protect you from their mistakes and ensure your total financial exposure is capped, usually at the total value of the contract.
- **Timelines & Delays (The "Clock"):** We address "Acts of God" through Force Majeure clauses and evaluate the necessity of Liquidated Damages—daily fines for project lateness—with extreme caution.

### **The "Owner's Project" Red Flags**

We train our clients to hunt for three specific legal phrases that often conceal deep, asymmetric risk:

1. **"Time is of the Essence":** A dangerous term that can turn even a minor delay into a material breach of contract.
2. **"Sole Discretion":** This puts you at the mercy of the other party's opinion for approvals and payments; we always advocate for "reasonable discretion" or "industry standards" instead.
3. **"Uncapped Liability":** A catastrophic clause that allows the other party to pursue your business—and potentially personal assets—far beyond the value of the project.

By applying these filters first, you ensure that your legal team spends their time refining a strong framework rather than fixing basic business oversights.

*For an owner, signing a contract is often the moment where the most risk is transferred. This checklist isn't meant to replace legal counsel, but to help an owner "red-line" a document before it even reaches a lawyer's desk—saving time and billable hours.*

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## CONTRACT REVIEW CHECKLIST

**Contract Name:** \_\_\_\_\_ **Counterparty:** \_\_\_\_\_

### 1. Scope of Work (The "What")

- **Clarity:** Is the work to be performed described with enough detail that a third party could verify completion?
- **Exclusions:** Does it explicitly state what is **not** included?
- **Deliverables:** Are there clear dates or milestones for every major output?

### 2. Payment Terms (The "When")

- **Schedule:** Is it net-15, net-30, or milestone-based? (Avoid "upon completion" for long projects).
- **Retainage:** Is there a percentage held back until final sign-off?
- **Penalties:** Are there late fees for them (if they don't pay) and for you (if you don't deliver)?

### 3. Termination Clauses (The "Out")

- **Termination for Convenience:** Can you exit the contract without cause? What is the notice period (e.g., 30 days)?
- **Termination for Cause:** What constitutes a "breach"? Is there a "cure period" (time to fix the mistake before the contract ends)?
- **Post-Termination:** Who owns the work-in-progress if the contract ends early?

### 4. Liability & Insurance (The "Safety")

- **Indemnification:** Does the language protect you from their mistakes? Is it "mutual"?
- **Limitation of Liability:** Is your total exposure capped (usually at the total value of the contract)?
- **Insurance Requirements:** Does the contract require you to carry coverage you don't currently have?

### 5. Timelines & Delays (The "Clock")

- **Force Majeure:** Are you protected from "Acts of God" (weather, strikes, pandemics) that delay the project?
- **Liquidated Damages:** Are there daily fines if the project runs late? (Be very careful here).

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### "The Owner's Project" Red Flags

*Tell your users to look out for these three specific phrases that often hide deep risk:*

- **"Time is of the Essence":** *This is a legal term that makes any delay, no matter how small, a material breach of contract.*
- **"Sole Discretion":** *If the other party has "sole discretion" to approve work, you are at their mercy for payment. Aim for "reasonable discretion" or "industry standards."*
- **"Uncapped Liability":** *Never sign this. It means if something goes wrong, they can come after your business and potentially your personal assets beyond the project's value.*