

Table 1

Contract Item	What	Who	Why	How	Gaps	Solutions	Additional Considerations for Different Contract Types
Contractual Liability	Obligations under the contract	Both parties	To ensure performance and mitigate risk	Clearly defined terms, conditions, and performance standards; regular review and update	Ambiguous terms, lack of clear performance metrics, unrealistic timelines	Precise language, detailed specifications, flexible timelines, regular progress reviews	Time and Materials: Clear guidelines for change orders and project management. Fixed-Price: Specific deliverables and fixed pricing, performance metrics, and acceptance criteria. Cost-Reimbursement: Detailed cost tracking, strict expense controls, and regular audits. Performance-Based: Specific performance metrics, incentives, evaluation criteria, and payment mechanisms.
Indemnification	Protection against third-party claims	Usually the supplier	To allocate risk and limit liability	Clearly defined indemnification clauses, specifying the scope of coverage and limitations	Overly broad or vague indemnification clauses, lack of insurance requirements	Narrowly tailored indemnification clauses, specific insurance requirements, clear limits on liability	Consider the specific risks associated with the procurement.
Intellectual Property Rights	Ownership and usage of IP	Both parties	To protect intellectual property rights	Clear IP ownership clauses, licensing agreements, confidentiality provisions	Lack of IP protection, unauthorized use of IP	Strong IP protection clauses, confidentiality agreements, regular IP audits	Ensure clear ownership and usage rights for all IP involved in the procurement.
Warranties and Guarantees	Assurances of quality and performance	Usually the supplier	To ensure product or service quality	Detailed warranty and guarantee clauses, specifying terms, conditions, and remedies	Insufficient warranties, lack of clear remedies	Comprehensive warranties, specific performance standards, clear remedies (e.g., repair, replacement, refund)	Tailor warranties and guarantees to the specific needs of the procurement.
Insurance	Financial protection against risks	Both parties	To mitigate financial losses	Insurance requirements, specifying coverage amounts and types	Inadequate insurance coverage, lack of timely claims processing	Mandatory insurance requirements, regular insurance policy reviews, efficient claims procedures	Ensure adequate insurance coverage for all parties involved in the procurement.
Limitation of Liability	Caps on damages	Both parties	To limit potential financial exposure	Clear limitation of liability clauses, specifying maximum liability amounts	Excessive liability, lack of caps	Reasonable limits on liability, equitable allocation of risk	Balance the need to protect both parties from excessive liability.
Dispute Resolution	Mechanisms for resolving disputes	Both parties	To avoid costly litigation	Dispute resolution clauses, specifying preferred methods (e.g., negotiation, mediation, arbitration)	Lack of efficient dispute resolution mechanisms	Clear dispute resolution clauses, neutral third-party involvement, expedited procedures	Choose a dispute resolution method that is efficient and cost-effective.