
K-Notes: Software Development Agreement

from LexRatio

Balance is Key

The developer needs the agreement to allow for flexibility. While the client needs to preserve their interest. Both of these must be balanced. Especially avoid imposing too much obligation on the developer.



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“We should include certain types of back license clauses in case anything goes wrong. In case the entire software is not transferred, the customer needs to have certain safeguards that he can use in its entirety.”

KEY TAKEAWAYS

- **Avoid the word ‘knowingly’**

It’s always important to pay attention to IP infringement clauses. Especially in this one, the word ‘knowingly’ is too vague.

- **Include more than an IP infringement clause**

If a glitch in software resulted in personal injury or any other consequence, having only an IP infringement clause would not cover the resulting consequence.

- **Buyers Should Choose to Own**

Owning the entire software is really the only acceptable option when it comes to IP ownership. The software has been tailored for the client, so the developer may not be able to make use of it elsewhere. There is no reason for the developer to own a part of it.

- **Include specific number of days for each stage**

Because there are a number of development stages during this process, it’s important to give a time reference for each one. This will help to make the agreement clear and set expectations. These can be negotiated to suit each situation. But they must be clear.

“We shall not impose too much obligation on the developer. As a customer, we should have additional and necessary safeguards on how to object: if anything goes wrong in the preparation, testing, and confirmation stages, once we start to use the software, and if there is any necessary maintenance.”