



SORAINEN

IP Rights

Distribution of Liability
Between Designer and
Contractor

Mirjam Vichmann

Pärnu


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Topics



1. Intellectual Property (IP) rights in computer programs/software
2. IP Rights' Regulation in Design/Construction Agreements
3. Distribution of liability between designer and contractor

1. IP Rights in Computer Programs/Software




What are intellectual property rights:

„The rights given to persons over the creations of their minds“ (World Trade Organisation, https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm)

„Copyright in a work arises upon the creation of the work by the author of the work. Moral rights and economic rights constitute the content of copyright.“ (Estonian Copyright Act § 11(1))

„Copyright in a work is created with the creation of the work.“(Estonian Copyright Act § 7(1))

Where to find a draft IP
Assignment and License
Agreement and other
necessary draft documents
for your company



<https://startupestonia.ee/resources>

2. IP Rights' Regulation in Design/Construction Agreements



*„/.../ the Contractor shall transfer **any and all economic rights** to intellectual property objects to be created during the implementation of the Contract, **at the moment of creation**, to be owned exclusively by the Employer, including, /.../.“*

*„The Contractor shall be deemed (**by signing the Contract Agreement or at the moment of creation, whichever is applicable**) to give to the Employer a non-terminable transferable non-exclusive licence of the work in any form or by any means, /.../ licence to **copy, use, modify** as it finds appropriate and/or necessary and communicate the Contractor's Documents (and such other design documents, if any) and the Work, including making and using modifications of them.“*

2. IP Rights' Regulation in Design/Construction Agreements



„The Contractor confirms that it has all the rights to assign and license intellectual property rights and that the intellectual property rights of third parties are not violated during the performance of the Contract. The Contractor will be liable for any claims of third parties relating to possible intellectual property.“

2. IP Rights' Regulation in Design/Construction Agreements



Fees for the IP rights

*„The royalty for the licence is included in the **first payment to be made for performed Works under the Contract.**“*

3. Distribution of Liability Between Designer and Contractor



*„The Contractor will ensure the conformity, completeness and compliance of the **Design Documentation** and its parts with the applicable legislation, regulations, standards and the Client’s terms of reference. The Contractor will constantly check the Design Documentation during the performance of the Work in order to identify errors, inconsistencies and non-overlaps between different parts of the project.“*

3. Distribution of Liability Between Designer and Contractor



„If the Contractor discovers deficiencies in the Design Documentation during performing the Work, the Contractor will immediately eliminate them at its own expense. In no case do the possible deficiencies in the Design Documentation provide a basis for changing the Contract Price.“

Contact us



Thank you! 😊

Mirjam Vichmann

mirjam.vichmann@sorainen.com

+372 55 569 155

sorainen.com

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