



Identifying Commercial Contract Risks

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| 1 | 2 | 3 | 4 | 5 |
|-------------|----------|----|------|-----------|
| Major issue | Not good | OK | Good | Excellent |

| No | Area | Score (1 to 5) |
|--------------|--|----------------|
| 1 | Does your organisation have a clearly documented system to avoid or minimise unauthorised variations? | |
| 2 | Do key managers and staff know the expiration and option dates of ALL key contracts? | |
| 3 | In a dispute, will you be able to quickly and easily locate and retrieve all relevant specific contract documents (the original contract, files, correspondence, reports etc)? | |
| 4 | Do you have processes to ensure that similar contract problems will not reoccur? | |
| 5 | Have all your contracts gone through a detailed approval process before they were signed (which includes a review by experienced contract professionals)? | |
| 6 | Do ALL persons in the organisation who are authorised to contractually bind the organisation understand the seriousness of agreeing to an indemnity clause? | |
| 7 | Are you confident that your organisation will be able to defend itself against a commercial contract legal action (a breach of contract/negligence/misleading and deceptive conduct etc claim) 5 years from today? | |
| 8 | Have all key executives and managers from the CEO down identified the various potential risks of poorly implemented or non-existent contract management process? | |
| 9 | Are your financial systems updated to reflect any cost/revenue variations from the contract? | |
| 10 | Are you certain that you are not losing any money due to cost leakages in your procurement contracts or revenue leakages in your sales contracts? | |
| 11 | Can you analyse your contracts across vendor, customer or products? | |
| 12 | Do you undertake regular risk assessments of your contracts and have mitigation plans in place to manage key risks? | |
| 13 | Do you as a seller (or your contractors if you are a buyer) have adequate public liability and professional indemnity insurance? | |
| 14 | Do you have appropriately trained contract management staff across your organisation to effectively manage your contracts? | |
| 15 | Do non-legally qualified staff create and sign large commercially sensitive contracts? | |
| Total | | |

Note:

- Results:
 - Score: 60 + = you have a well structured contract management system
 - Score: 45-60 = you need to keep watching your contract management system
 - Score: under 45 = Your contract management system needs immediate attention.
- The lower the individual (or the total) score the more risks your organisation faces.
- You still may be facing significant risks with a high score.
- As this Diagnostic is not a scientific sample and is only for education and discussion purposes no action should be taken unless first advised by a commercial contract professional.

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Identifying Key Commercial Contract Risks That Your Department/Organisation Faces

| Priority A/B/C | Identification | Mitigation | By Whom | By When | Done |
|-------------------|----------------|------------|------------|------------|------|
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Note: Leave priority choice to the end of the activity. A = greatest priority and C = least priority