



Contract Management As It Should Be



The perfect storm

Contracts are the lifeblood of any organisation; they are key to getting business done. Organisations large and small have countless active contracts at any given time, with terms and obligations to monitor and risk to mitigate. So, how are all of these businesses storing and managing their contracts? The truth is, most aren't — even if they think they are.

Some companies have “legacy” contract management systems consisting of a series of filing cabinets in which hard-copy agreements collect dust in folders labeled ineffectively by the name of the counterparty or deal. Typically, these are forgotten until it's time to dust them off because of a dispute, a renewal, or for disposal under a records retention policy.

A more “modern” system may use the digital equivalent of the file folder: a hierarchy of folders on a local drive, in Microsoft® Outlook or SharePoint or perhaps a cloud storage tool like Dropbox or Box that captures all contractual documents. In most cases, contracts are created using Microsoft Word templates and shared over email for collaboration, mark-up, and negotiation. In the worst cases, old contracts are unearthed and re-purposed for the new agreement. Once completed, the basic details of the contracts, such as business names, execution and expiration dates, and key terms are entered into a Microsoft Excel spreadsheet to track.

But in terms of actual utility, these tools provide little more than storage — and opaque storage at that. Lawyers and business leaders can't use these static data repositories for anything more complex than basic queries. It's the data equivalent of the mythical Bermuda Triangle: you can certainly shove all your data into this quagmire of a filing system, but given the perfect storm of disorganisation and opacity within it, coupled with the lack of taxonomy and functional searchability, you might never find your contract again. In addition, these so-called systems offer virtually no opportunity for meaningful analysis of contract terms and associated data, meaning risk isn't tracked and value is missed.

Don't resign yourself to wandering about in the nightmare of contracts. It's time to extricate yourself from the confusion with a contract management system.

What contract management should look like

Contract management should be more than mere compartmentalisation and storage. Rather, effective contract management is a comprehensive process that requires orchestrating dozens of moving parts to work together in concert. Each phase of contract management involves multiple steps and parties.

When all phases and stakeholders come together in a centralised contract management ecosystem, you have unprecedented control and visibility into all contracting activities, workflows, approvals, documents, and metrics — speeding up transactions and delivering greater value to the business while improving accuracy and lowering risk.

To encourage each part of your contract management process to move in harmony, you need an intelligent, collaborative end-to-end hub.

Here's how the contract lifecycle unfolds — and how a contract management system can help at every stage along the way.

Request or submission

The contract lifecycle starts with a business unit requesting a draft agreement on the company's standard terms or alternatively the submission of a draft contract on third-party paper.

In the case of a request, the goal is to get the critical information needed to create the appropriate contract and get it into the hands of the right person while ensuring the least amount of resistance. That way, you can avoid the risk of drafting unsuitable terms or failing to include essential provisions while mitigating the risk of rogue agreements that are entered off the books.

You can expedite this process by using a system that provides dynamic forms that can be populated with the key details required to draft the contract and then marry the data and responses with a template document to automatically generate the necessary agreement.

However, not all contracts will be drafted by your team — sometimes they will be on third-party paper. In this case, it's important that the contract management system also offers the ability to submit contracts into the platform that are not on your organisation's standard terms. At the point of submission, the system should provide for the collection of all critical information regarding the agreement, or better yet, automatically extract it from the contract.

Drafting

Unless you have received a contract on third-party paper, the next step is to create an agreement from the collected information that incorporates all required terms and conditions.

To ensure consistency, preapproved templates and clauses with built-in guidance, should be readily available through the contract management system; self-service options for simple, straightforward contracts will also streamline the drafting process and help the legal department focus on more complex deals with higher-risk profiles.

An automated solution — especially one that integrates with the G-Suite and Microsoft Office applications — can ensure that you generate more consistent documents, avoid the errors inherent in manual contract drafting, and eliminate the bottlenecks that occur when legal is expected to create every agreement.

Negotiation

Negotiators from both sides will ensure that the terms of the agreement support their interests and further their overall strategic business goals.

In this phase, it's critical that both sides accurately track the status of the agreement as it moves its way through numerous versions and required reviews by legal and other departments.

When contract negotiation is carried out over email, comments are scattered, required changes are missed, and issues not logged. It can also take longer to obtain the necessary approvals for deviations to the business' standard contractual playbook. But, by using a single, consolidated system, all stakeholders can monitor the process and review changes in real time. All comments, annotations, and questions are collated centrally, tasks can be created and assigned, and the necessary approvals given and tracked.

Approval

The next step is to secure approval of the contract's final terms from the appropriate stakeholders. Contracts of differing values and risks may have different approval processes.

All required personnel must put eyes on the document before signing off on its terms; therefore, a contract management system that ensures all approval rules are followed and reminds the approvers within a reasonable time to confirm that they have reviewed the contract is essential to avoiding lags. A parallel approval process — especially one that allows review on mobile devices — can further expedite this stage.

Execution

All parties must sign the agreement to make it effective.

Waiting for hard-copy signatures from authorised signatories can slow the execution process significantly and needlessly. Digital signatures, by contrast, can accelerate the time to closing a deal, again, especially if you can capture or authorise electronic signatures from mobile devices wherever the signatory may be. Either way, an automated system that follows up with outstanding signatories can reduce the customary chasing down of signatures that is characteristic of many contracting processes, and unnecessarily steals so much time from the legal function.

Obligations

Throughout the life of the contract, both parties must adhere to its terms.

While spreadsheets can track critical terms and key dates, they won't notify parties of breaches or advise them when they need to take action, or even what action needs to be taken.

But it's not just about the business' obligations — automation can also make sure that counterparty obligations are tracked so that the business can ensure it extracts every bit of value from the agreement.

A contract management system that includes process automation tools can seamlessly help ensure that the company meets its contractual obligations and deadlines, avoiding costly breaches, premature termination of beneficial business relationships, and litigation or reputational harm.

Did you know?

The top five most important technologies cited by corporate law departments are:

- eBilling/spend and matter management
- Contract management
- Legal research
- Document management
- Legal hold

The five most common technology solutions that law departments said they don't currently have but are looking to procure include:

- Document management
- Legal business intelligence
- Contract AI for analysis, risk assessment or due diligence
- Contract management
- Legal workflow automation

Compliance

Business leaders and third parties may enquire about a contract's terms, a party's record of performance, or even the contracts themselves to ensure that the organisation isn't running afoul of laws, regulations, or any internal policies or controls.

Manual contracting systems provide only limited visibility into these compliance questions. To answer business and legal inquiries, organisations need an easy way to quickly find relevant documents and information about the provisions contained within their contract portfolio. Sifting through filing cabinets, poring over spreadsheets, and firing off countless emails simply won't cut it when a business needs to identify specific contracts, clauses, or terms quickly. A contract management system provides a searchable repository with a clear contractual taxonomy that can pull up the necessary information within a matter of moments. Better yet, for ease of use and interpretation, that information can be delivered in a visual dashboard format with charts and graphs.

Amendment/renewal

The contracting cycle begins anew when a contract expiry or renewal date approaches or when a law shifts and requires a change to contract terms. Missing a key date can mean losing the opportunity to revise, cancel, or renew a contract, which can translate into lost contractual rights and greater risk exposure, not to mention lost revenue.

Renewal and expiry dates can get lost in a sea of spreadsheets, but a systematised and automated workflow system can track these dates and send timely notifications to the proper personnel to take the necessary action.

The key benefits of a contract management platform

Beyond the obvious benefits already noted, contract management platforms offer additional advantages for both lawyers and the organisations they serve.

BENEFITS FOR LAWYERS

1. Decrease cycle time

With contracts, time is literally money. The more you can accelerate the contract creation and approval process, the faster you can close deals. With automated contract assembly, redline generation, AI contract review, routing workflows that streamline approvals as well as electronic signature integration, you can improve the speed of your organisation's contract execution, boosting business satisfaction and outcomes — not to mention your bottom line.

2. Lower risk

Contract management software helps reduce risk in several ways. First, self-service contract assembly based on templated, standard-form documents and clauses can help improve quality, accuracy, and consistency. Additionally, systematised approval workflows and routing procedures can prevent nonstandard contract provisions from slipping through the cracks, or contracts being executed in the wrong form or without the correct authority.

Further, data gathered in the system about the contracting process and its outcomes can be used to identify persistent bottlenecks and problem areas, allowing the corporate legal team to address risks quickly and proactively. Finally, when your contract management system integrates with intelligent contract review and analysis tools, your legal department can review and extract useful information about documents earlier, so they can spot red flags that may need to be dealt with during the negotiation phase.

3. Establish a clear system of record

While it shouldn't be the only benefit of a contract management system, as has been historically the case, a centralised repository does serve as a virtual filing cabinet for all contracts and related information to be stored, sorted, and categorised, providing a single source of truth for the business and legal team. However, unlike a filing cabinet, contract data can be linked with automated workflows so that lawyers are proactively notified about obligations and key dates.

A contract management system can store all critical contract information, terms, and data in a structured way, making contacts and their constituent provisions quick and simple to search and find.

Not only does this system store all of your important agreements, but it goes a step further by making them fully searchable. That means it will take you mere moments to find the documents and provisions you need to evaluate critical terms and provisions, unlock value, and identify risk.

4. Demonstrate the legal department's value to the business

With the legal department often seen as a cost center, it's critical that it is proactive in demonstrating its value to the business. For contract management, the in-house team needs to show it is speeding transaction execution, as well as helping to create value and mitigate risk. For example, a contract management system can be used to make self-service document assembly tools available to business users so they can generate draft contracts more swiftly and efficiently. Not only does this allow the legal function to respond quickly, but it frees up the legal team to offer higher-level, strategic advice that is more valuable to the business. Integrated workflow tools can also be used to notify business users about contract status, as well as important dates and milestones in the contract lifecycle — providing a much greater level of transparency.

All data gathered from a contract management system can also be used to directly report to management and the business as to the value of the legal team and its performance. That data can be displayed in dashboards to show workload, aggregate contract value contributed to, legal response times, disputes positively resolved, risks mitigated etc. Armed with this data, your organisation will never be in doubt about the huge impact that the legal team delivers.

BENEFITS TO THE BUSINESS

1. Provide clear reporting and transparency

With a centralised, searchable, and intelligent repository, your business users will have greater visibility throughout every stage of the contracting lifecycle — so they know where their contract is in the process at any point in time. Within moments, a business user can access the latest version of a contract, see its status and key issues, as well as collaborate and communicate with the allocated lawyer. Contract portfolio dashboards within a contract management system deliver key data to lawyers and functional heads so they can easily interrogate and analyse contractual operations and performance across the business. Reports can quickly be created, templated, and exported to be shared with key stakeholders.

2. Ensure collaboration

Contract management systems can break down organisational silos, promoting smoother collaboration between legal, sales, procurement, finance, third parties, and outside counsel, by giving everyone a real-time view into the standing of commercial agreements and allowing for collaborative commenting, task management, and status updates in a familiar social platform. Contract lifecycle management is taken out of email and local drives, with all stakeholders, regardless of their location or time zone, kept aware of important milestones, deliverables, approvals, and other key activities, so they're never out of the loop.

3. Collect data to drive better decision making

Comprehensive contract management systems offer organisations an unprecedented, 360-degree view into their contractual operations and performance. Armed with this data and insight, business functions can drive better contractual decision making, position themselves to negotiate more favorable terms, and reduce the business's risk exposure. Organisations can also study their contracting process to pinpoint the inefficiencies and bottlenecks and revise any problematic stages to speed the time to deal closure, mitigate risk, and improve business outcomes. In short, a contract management system offers a continuous feedback loop that can consistently and iteratively enhance overall business performance.

4. Improve efficiency and productivity

Antiquated systems for contract management take their toll on business personnel. These outdated systems require managers to continually monitor their emails for approvals (or approval requests) and spend countless hours tracking down missing information for contract terms, handling enquiries about the status of contracts, and manually inputting contract data in spreadsheets and siloed applications. Modern contract management systems come with productivity and collaboration tools embedded, rendering these time-consuming tasks obsolete.

It's time to whip your contracts into shape

With many businesses facing increased competitive pressure, an increasingly complex regulatory landscape, and strained profit margins, the stakes have never been higher for contracts in organisations. Include a poorly negotiated clause, fail to secure an approval, or miss a deadline or deliverable and your organisation is likely not only to suffer lost profits or savings, but also to damage relationships and expose itself to potentially costly litigation. Therefore, organisations must shore up their contracting processes with as many safeguards and automated protections as possible.

Fortunately, contract management systems offer a safety net that helps legal teams escape the contract Bermuda Triangle, managing their burgeoning workloads and addressing regulatory and compliance demands without consuming more resources.

By consolidating all contracts in a single, secure, and searchable repository and creating consistent, repeatable, and automated contracting processes and workflows, organisations can protect their revenue streams, avoid risks, and enhance business value. They can also free their legal, procurement, and business teams from manual and routine administrative work so they can add greater value to the bottom line and demonstrate that value.

And from there, it's all smooth sailing.

About HighQ

HighQ® is a solution for secure document exchange and team collaboration. Used by some of the world's leading law firms, investment banks, and corporations, HighQ enables enterprise-grade document management with the best corporate social tools. Securely exchange critical business information and collaborate with colleagues, customers, and partners in one unified space.

Thomson Reuters is a leading provider of business information services. Our products include highly specialised information-enabled software and tools for legal, tax, accounting, and compliance professionals combined with the world's most global news service – Reuters.

To discover HighQ, visit legal.thomsonreuters.com.au/highq