

Article by CGF Research Institute & Cylon Technology

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Feeling the sting after the contract

Why is it that organisations spend thousands of Rands with legal experts, wanting the best legal advice and assistance to draft a contract, yet after its completion, the contract is not managed?

Contracts in all forms and sizes are the foundation of a modern business - they provide the framework by which the organisation manages its relationships between its customers, suppliers, partners, as well as its employees. "Most often, a single contract has the ability to affect many departments within the organisation. The terms and provisions can have a devastating impact across the marketing, sales, procurement, finance, administration, risk management, manufacturing, information technology and service delivery areas if not managed correctly," says Terry Booysen, CEO of CGF Research Institute (Pty) Ltd.

As contracts form a critical part of the organisation's business life cycle, getting the contractual terms within a contract correct therefore, is absolutely paramount. It can often take months to construct the wording to accurately reflect the terms, conditions, deliverables, pricing, service levels, compliance obligations and other contractual obligations. Commenting further, Gregg Barrett, a Contracts Management Specialist at Cylon said, "So often, after the contract has been agreed and signed, organisations lose sight of the contract and its critical importance within the business operation, leading to numerous problems. Even worse, when a dispute or uncertainty arises between the original contracting parties, the contract is nowhere to be found."

In today's fast business pace, and exacerbated by complex business structures and inter-woven supply chains, organisations will become more reliant upon contracts and the management thereof, in order to keep track of the information contained therein. This is especially true in first world economies where organisations and or individuals are quick to litigate when services levels are breached or contractual obligations are not fulfilled.

To this extent, managing the contracts within an organisation is essential and it's not only because of a threat from a frustrated partner or customer - legislators are just as keen to get their pound of flesh should your organisation disregard the importance of good contracts management and its safekeeping. "Good corporate governance in the arena of Contracts Management is very clear," adds Booysen. He further commented saying, "South African companies, similar to other countries, must deal with numerous issues relating to compliance, criminal and regulatory risks which should be mitigated through responsible Contracts and Records Management systems and processes."

"In spite of the heavy penalties for non-compliance, many organisations still don't see the need for an effective Contracts Management (and Records Management) system and such where the contract management processes is centralised in order to, amongst other, achieve greater efficiencies and improved profitability for a competitive advantage," said Barrett.

Increasingly, there are more regulatory and compliance measures being imposed upon organisations worldwide in an effort to improve corporate controls and governance. From a South African perspective, some of these measures are found within the Public Finance Management Act of 1999, the National Archives and Record Service Act of 1996, the Promotion of Access to Information Act of 2000, the guidelines within King II / III, various ISO standards and much more. Organisations will need

to find ways to balance the legal requirements expected behind their contracts management, against their contractual duties to deliver as well as to compete within their respective markets.

In summary, to quote H.Felix Kloman, a Fellow of the Institute of Risk Management (London) as well as an author of various Risk Management books and articles, "Risks are measures of the probabilities of unexpected outcomes, both positive as well as negative, arising from our decisions and acts. Contracts are techniques for risk sharing, in which we join with a counter-party to share both benefits and harms."

Regardless of the size of the organisation, contracts are the cornerstone of every business transaction and access to the contractual information becomes pivotal to managing the risk as well as making informed decisions for the business. Not having access to the contracts, in an efficient and timely manner, will lead to certain irreparable damage.

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Further Media Information:

About CGF Research Institute (Pty) Ltd

CGF specialises in conducting desktop research on Governance, Risk and Compliance (GRC) related topics. The company has developed numerous products that cover GRC reports designed to create a high-level awareness and understanding of issues impacting a CEO through to all employees of the organisation.

CGF's capabilities extend to management consulting, executive learning and facilitation of Corporate Governance and Risk awareness workshops, which caters for large corporates to small and medium sized businesses.

About Cylon Technology

Cylon Technology is a subsidiary of Sakhumnotho Investment Services and is the leading provider of Contract Lifecycle Management solutions in Africa, representing the world leader, Upside Software, throughout the region. Cylon Technology is the highest certified Upside Software partner and was the first Upside Software partner globally. Together Cylon and Upside have undertaken numerous implementations at organisations in South Africa.

Upside Software develops and markets Contract Lifecycle Management (CLM) Software and related solutions to customers' world-wide and is ranked #1 in Enterprise Contract Lifecycle Management software by all the major industry analysts. Upside Software delivers solutions globally through its head office in Edmonton, Alberta, Canada and it's global partner network.

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