Contract Analytics: Executive Overview

"How many of my contracts are 3rd party versus internal?", "How many non standard clauses in these 3rd party contracts may result in lost revenue, missed discounts and or legal action?"

Many organizations have standard clause libraries for drafting new contracts on their own paper. This includes standard terms for payments, discounts, conditions such as Most Fauoured Customer(MFC), pricing etc. These standard templates are rarely accepted without modification.

Largely due to 3rd party contracts, the organization now has a set of "non-standard" clauses within their contract corpus. Those non-standard clauses could, for example, provide higher discounts and penalties. Without the ability to find, track and monitor non-standard clauses, the organization is open to lost revenue, missed discounts and/or legal action. This is exacerbated when the organization is both a supplier and vendor to the same organization.

Contracts can be hundreds of pages long and could take dozens of hours to review. With lawyers' fees, depending upon experience, at $200 to $1,500/hour it is not cost effective to manually search tens of thousands of contracts for non standard clauses. Seal Contact Analytics allows a reviewer to review any particular non-standard clause in minutes saving time and thousands of dollars.

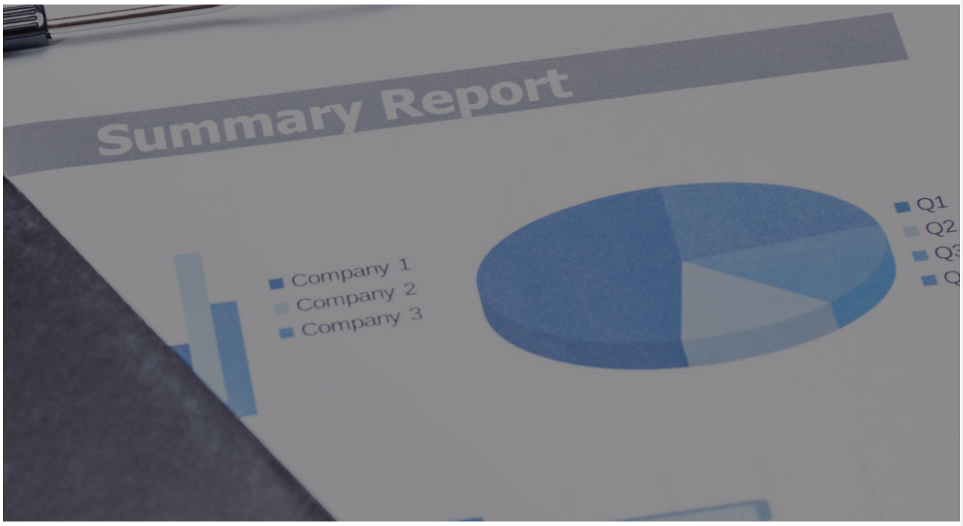
Take the example of payment terms and discounts: Within the 3rd party clause the discount of 2.5% is lost if full payment is not made within 14 days, whereas, within the organization standard clause the discount of 5% is lost only when the vendor does not make payment within 28 days. This discrepancy means that the 3rd party has twice the discount available and twice as long to pay. This type of discrepancy cannot be seen without the use of the non-standard clause detection within Seal Contract Analytics.

Take another example where a pricing clause may be present within a 3rd party contract. Spotting and separating out non standard MFC clauses is critical to every company as this clause leaves the organization open to massive pricing risk. However, because this clause originated from the 3rd party it is hard to locate it. Seal Contract Analytics makes this easy as it can search both 3rd party and internal contracts.

Non-standard clause detection is also helpful during M&A or divestment due diligence. Speed and reduction of risk are the largest factors of any M&A transaction, as there is often limited time available for risk assessment. Therefore, an organization must quickly identify the contracts that have standard clauses and terms from the contracts that have non standard terms in order to ascertain the true risk of customer commitments. This also reduces the costs of due diligence as the legal teams can use their time more effectively focusing on the at risk items.

How many of your contracts have had clauses altered, removed or added? Do you have contracts with conflicting clauses? What type of risk is this exposing you to?

Contract negotiations include many changes to clauses, insertions of new clauses and/or removal of such. This can lead to unforeseen risk or commitments being placed into contracts without being detected. This manifests when a combination of clauses alters the meaning of the actual contract as an entity.



Take for example a contract with a limitation of liability clause, an insurance clause and a termination for breach clause. In the termination clause, it states that if a breach of contract occurs the liability is unlimited, yet, within the limitation of liability clause a cap of $500,000 is present. The insurance clause also details that for an unforeseen event, no cover will be given. This combination has now opened the target party to unlimited indemnity to the other party when those events occur.

Now take this example a step further: 2 years into the 5 year agreement a 6th amendment adds unlimited liability for not only a single party, but also covers financial loss to all customers of that party. To find those concepts a customer would need to review the whole contract manually and fully understand each and every clause. In the case of the amendments, every time a new one is drafted and applied, the same review would need to be done.

To reduce the need for a full contract review Seal provides the ability to detect clause groups within contracts and linked addendums, taking all the items as a group and applying the clause group detection logic. This is especially important when dealing with 3rd party paper contracts for which the resources to review all clauses and then fully understand the interlinked items would be significant and costly.

Seal Contract Analytics provides the ability to define advanced policies that can detect clause groups and immediately present this to review for conformation. Once enabled, this advanced policy can be deployed across all data sets, reducing time to review for the initial location and ongoing review. Additionally, with the use of linked item detection (patent pending), the amendments can be tied to and processed as a group to the main contract; thus, detecting and providing early warnings on changes made well into the contract's lifecycle that could introduce risk or financial penalties.

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