

LEGAL WRANGLING



BY ANDREW TAYLOR

Andrew Taylor is the co-founder of Legal Legends, a company that aims to revolutionise the legal industry by being Africa's first eCommerce website for quality legal services aimed specifically at start-ups and entrepreneurs.

Sweating the fine print

Signing a contract is a big deal, and you never want to sign anything you don't fully understand.

TRICKY BUSINESS
It's hard to foresee what might go wrong in the future, but there are a few rules of thumb to help you protect your company's interests.

WHILE IT IS almost always a grudge purchase, ensuring that you have had a legal eye cast over a contract you intend to conclude means that you are protected, that you understand the nature of the obligations you are taking on and perhaps, an even better deal for you.

Given that legal agreements are an important aspect of commerce, we have distilled key points for you to consider, before engaging with external counsel. This will make the process more efficient and, hopefully, less expensive.

Reviewing a contract is a tricky business, not entirely different from asking a builder to finish building a half built house. However, there are some useful techniques to ensure you get the most out of the exchange with your lawyer.

Always create a timeline

You have lived and breathed your business and this transaction, while your attorney is possibly hearing about the matter for the first time. Setting the scene correctly puts your attorney in the picture and explains what you want out of the exchange. Print this out for your attorney.

It will help an attorney identify key areas of risk which you might

not have anticipated. Be sure to also tell your external counsel how quickly you need the review to be done. Setting expectations means there is less chance of disappointment later.

Provide supporting documents

It wastes your time and money when your attorney has to come back to ask you for supporting documentation. Try to anticipate which documents will be relevant to your transaction and bring copies of them to the meeting for your attorney to consider. If you have previous versions of the agreement, for example, bring those too.

Remember, the more background work you do, the simpler and more efficient the process will be.

Understand your needs

Are you looking for a high level overview of your document to highlight some key contractual risks or are you looking for a thoroughly sanitised document reviewed from every possible angle?

I recently had to look over Jim's Sale of Business Agreement for the potential acquisition of his Technology Company. He came to me with limited areas of risk which he

had identified and wanted me to look at these clauses. I was able to advise him to push back on certain clauses he had already negotiated and the resulting document placed him in a stronger legal and financial position. It was easy to justify the costs associated with the review.

This is not always necessary though – where there is limited legal exposure, or you have no bargaining power, the role of the attorney can be restricted, but still worth the investment since you have assurance that your legal exposure is as restricted as possible.

Be guided by the relative value of the document and the ensuing legal responsibilities – is this a standard supply agreement with a strange payment clause or a multi-national acquisition of intellectual property? The type of expert you engage with will vary, as will the cost of the review.

Areas of concern

Directly related to knowing your business and understanding your needs, is your responsibility to communicate specific areas of concern to your attorney.

A recent client's business processed a lot of personal information, in accordance with the Protection of Personal Information Act, but, the contractor they were about to sign a service supply agreement sought to have access to some of this personal information. Had the client signed this agreement without a review of the potential legal consequences, it would have resulted in a clear breach of an essential provision of his own terms of use. Seen alone, there was little risk, but within the context of this business, we were able to avoid this.

A trusted and qualified expert will help you navigate the complex commercial world. **EM**