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Outsourcing Agreements Benefits and Risk Mitigation

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In the recent years, the legal outsourcing market has witnessed considerable growth due to the rising demand amongst internal legal departments in large corporations to improve profitability by saving time and resources.

As such, companies are resorting to outsourcing a variety of legal functions or processes to external, third-party firms, paraprofessionals, or local lawyers both on-shore and off-shore; which therefore results in quickly scaling up for a case or project, and offering maximum value to customers.

Today, the MENA market is witnessing a tremendous growth in acquiring the practice of external legal support services, which can be attributed to the massive advantages it holds in allowing businesses to expand capacity and leverage internal resources more productively.

While this new outsourcing trend covers a variety of legal services such as research, due diligence, intellectual property and litigation support; the highest demand remains for contract drafting, management and review services. This is especially true since a modern agreement outsourcing solution can make contractual processes more efficient by helping automate repetitive or manual tasks, prevent potential data breaches, ensure regulatory and compliance requirements and accelerate contract lifecycle completion rates.

According to recent studies, the global legal process outsourcing market size is expected to reach \$30.26 billion in 2026 at a compound annual growth rate of 26.59%¹. This exceptional growth is triggered by several factors, such as the integration of AI tools with legal outsourcing services, and the many advantages this process brings to businesses. Nevertheless, these benefits do not deny the critical impacts outsourcing could have on a corporation's reputation and resources, if poorly mitigated.

Accordingly, we will discuss in this article, the numerous advantages offered by outsourcing agreements in the first paragraph, followed by some practical tips on the performance of a successful outsourcing operation and risk mitigation in the second paragraph.

I. Outsourcing Agreements- Five Key Benefits

A. Cost-effectiveness

Legal Process Outsourcing is highly cost-effective, especially when it provides an exclusive opportunity for legal departments to practice high-level expertise from offshore teams, and reduce long-term expenses incurred by hiring permanent staff, such as recruitment, training and office space costs. By outsourcing, companies can additionally increase savings through labor arbitrage where there is a significant difference in wages between in-house legal personnel and external providers, resulting in tremendous cost benefits.

¹ Legal Process Outsourcing Global Market Report 2022: High Demand for Legal Assistance to Drive Sector Growth, Research and Markets, Published October 4th, 2022.

B. Access to latest technologies

Many corporate legal departments currently lack automation or integrated technology solutions in areas such as contract management, further draining costs and resources. Companies are therefore faced with the challenge of either developing such tools internally, or leveraging an external provider to provide an end-to-end or best in breed technology solution.

In-house lawyers can also enhance their existing technology with collaborative digital operations and infrastructure that outsourcing offers, such as the latest AI-based solutions and IT support for eDiscovery lifecycle, contract lifecycle management, and legal research services.

C. Access to Talent

Through outsourcing, organizations get the opportunity to work with experts from different parts of the world. These are highly skilled and knowledgeable professionals who can deal with unfamiliar circumstances, and prevent undesired outcomes from impacting the business. Working with outside talent can also minimize the in-house workload and allow businesses to fill internal competency gaps.

D. Improved focus on core operations

Delegating non-core legal operations to external providers frees up the time and internal resources necessary for building the core processes of an organization. As such, outsourcing high-volume, routine contracts to a specialized legal partner adds value and improves efficiency by standardizing the contracting process, from drafting and negotiations to final review and post-signature management.

E. Enhanced customer service

The ability to draw on a large pool of talented lawyers in a different time zone allows teams to respond dynamically, work around the clock and meet previously unattainable deadlines, as outsourcing provides large companies with high overheads with a competitive advantage in the market.

II. How to Perform a Successful Outsourcing Operation and mitigate risk

Despite the above-mentioned benefits, the results of outsourcing don't always align with expectations. This operation, if implemented incorrectly, might carry some inherent risks, including the potential for quality control issues, communication breakdowns, the loss of control over key business processes and confidentiality breaches.

Since Legal work is confidential by its very nature, many companies worry about transferring data to outside parties, especially if the data is being sent overseas. It should be noted in this regard that Personal Data Protection Laws differ greatly across jurisdictions. For example, in the United Arab Emirates, the

Federal Decree Law No. 45 of 2021 constitutes an integrated framework to ensure the confidentiality of information and protect the privacy of individuals in the UAE; whereas the applicable law in the Kingdom of Saudi Arabia, was issued pursuant to Royal Decree M/19 of 9/2/1443H, and published in the Official Gazette in September 2021. Therefore, and for the purpose of avoiding penalties, it is recommended that companies analyze a country's local and international laws before choosing an offshore service provider.

So, how can a company perform an effective contract outsourcing operation?

An in-house legal counsel may undertake a successful outsourcing operation and mitigate risk, if he considers the following:

1. **Define your goals and objectives:** Clearly identify the reasons why you are outsourcing and what you hope to achieve. This will help you select the right partner and ensure that your expectations are aligned.

2. **Conduct thorough due diligence:** Research potential partners carefully and gather as much information as possible about their track record, capabilities, and references. It is also important to review the terms of the contract and ensure that you have a clear understanding of the responsibilities and obligations of both parties.

This partnership should only begin once the company seeking to outsource its contracts is sure that the provider maintains a decent history of both experience and credibility to manage the organization's flow of contracts, however large or complex it may become.

Ideally, the provider should be able to integrate artificial intelligence and machine learning programs to automate the pre-signature phase of the contracting process, which includes the creation of the initial questionnaire, negotiation, approvals and signature. In addition, the provider must ensure effective contract management in the post-execution phase, especially through performance and compliance monitoring, risk tracking, renewal evaluation and reporting.

By having these resources, both the business and the provider managing the contracts begin to create contract intelligence, transforming large numbers of disorganized contracts into structured data offering insight into current operations and benchmarks for future negotiations.

3. **Communicate effectively:** Establish clear and open lines of communication with your outsourcing partner. Set up regular check-ins and progress reports to ensure that work is being completed to your satisfaction and that any issues can be addressed promptly.

4. **Manage cultural differences:** Outsourcing to a company in a different country may involve cultural differences that can impact communication and collaboration. Consider hiring a third-party mediator or cultural consultant to help bridge any cultural gaps and facilitate smooth working relationships.

5. **Establish performance metrics:** Identify key performance indicators (KPIs) that will be used to measure the success of the outsourcing arrangement. This could include factors such as cost savings, efficiency, and customer satisfaction. Regularly reviewing and monitoring these KPIs will help ensure that the partnership is meeting your business needs.

6. **Plan for contingencies:** No outsourcing arrangement is foolproof, and it is important to have a plan in place in case things go wrong. This could include establishing a backup service provider or having a plan in place to bring certain functions back in-house if necessary.

Finally, in today's global markets, and as companies are facing ever-increasing risks, the potential with contract outsourcing is immense. The expertise and strengths of skilled professionals allows organizations to ensure compliance, mitigate mistakes, reduce labor costs, and improve business relations.

By following the above-mentioned tips, in addition to adopting robust governance and reporting as a foundation of the collaboration, businesses can effectively outsource key tasks and services while minimizing risk and maximizing the benefits of the arrangement.

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