



LEGAL TECH, CONTRACT AUTOMATION AND SMART BOTS:

# Bringing You The Next Generation of Legal Solutions

# Overview

## An independent study by Gerrish Legal

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# Executive Summary

## GERRISH LEGAL: YOUR LEGAL BUSINESS PARTNER WORKING TO BRING YOU THE FUTURE OF LAW WITH OUR CONTRACT AUTOMATION PORTAL

Gerrish legal is a multi-national commercial law firm operating through entities in Sweden and France serving clients in Paris, London, Stockholm and further afield - across Europe, North America and Australia, with a key focus on commercial law, contract law, data protection (GDPR and privacy), and intellectual property. Gerrish Legal's client base ranges from multinational corporations through to scale-up and start-up firms, entrepreneurs, external consultants and freelancers, with many operating in the digital space. Given the nature of our clients that we work with on a daily basis, it is key for us to stay on top of the latest trends, embrace innovation, and provide flexible and tailored legal advice - all whilst taking each one of our clients' budgets and timeframes into account.

As part of our ongoing and continuous journey towards providing our client base with the best possible legal advice and solutions, we have developed a resolutely forward-looking bespoke contract automation tool, curated by our expert lawyers using their years of experience to carefully select customised clause options for your every need. Coupled with the skills and expertise of our human lawyers, we believe our Contract Portal is a game changer for the way in which businesses (both small and large) approach the issue of tailored legal protection.

Powered by the interactions between our very own Gerrish Legal Chatbot and the client sitting at the other end of the screen, our contract automation tool is able to craft tailor-made legal documents within minutes. The legal documents we offer include confidentiality agreements and service agreements, with more agreements and policies in the pipeline. These documents are uniquely drafted to each clients' specific needs, requirements and information and can be used 'as-is' the instant they are received in your email inbox. In addition, such documents can be further reviewed by our human lawyers if needed or desired, for example if the circumstances require an extra pair of human eyes or if that's just what you're more comfortable with.

This project has been long in the making and is the fruit of many conversations, observations and brainstorming sessions, conducted over the years, from within the heart of the legal industry and with an eye towards what the future could hold for both legal practitioners and customers alike.

This present White Paper embodies the first step of sorts in this journey towards bringing you the future of law. This report began as an empirical study of the most common pain points and obstacles faced by businesses in their interactions with their legal advisers and more generally, in their approach to legal protection. It ended with a clearer understanding of the type of pioneering innovation that is required to overcome these pain points and, ultimately, meet the needs of our customer base: namely, a fully bespoke, contract automation tool complemented by a fully digitally-native team of legal professionals. To celebrate the launch of our Contract Portal, we have created this updated White Paper to champion the age of legal tech and the next stage of legal innovation, as well as demonstrating the need for such technology.

## THE THINKING BEHIND OUR REPORT

The present report began with the following first-hand observation: the majority of businesses understand the importance of appropriate legal advice and fully adapted contracts, but many do not seek such legal assistance. Instead, many turn to what may seem like the next best option: copied-and-pasted legal terms from other companies and untailored contract templates, whether freely available online or obtained from industry peers.

Our working hypothesis was that this inability to seek professional legal assistance and reliance on non-bespoke legal documentation is most commonly due to the high cost of legal services and to the corresponding financial difficulties experienced by clients when seeking out such services – especially when it comes to legal matters which may seem less of a priority and involving lower stakes, such as ongoing corporate compliance or the drafting of contracts with a low annual contact value or as part of an already-established commercial relationship.

Another decisive factor may be that paying for legal services that preemptively protects your business, such as drafting contracts or policies, effectively involves paying to manage future problems that may not even arise, akin to the dilemma of paying for phone or laptop damage coverage. Businesses may be skeptical as to a lawyer's ability to create a document which may or may not protect them in the face of a problem - which they may, or may not, end up

facing. Research shows that 57% of consumers feel it would be fairer if they could receive free advice about their issues before deciding whether or not to proceed with legal services.<sup>1</sup>

Such reasoning is understandable, but fails to address the fact that prevention is better than cure.

At Gerrish Legal, we have experience working with businesses experiencing such conflicting considerations. From our experience and our lawyers' expertise, it is evident to us that the best way to reduce litigation risk is to ensure that the appropriate and adapted contracts are in place from the get-go. But, we also work closely with a number of early-stage companies and independent entrepreneurs, and therefore understand that many businesses have been tempted to overlook crucial legal necessities, such as website terms and conditions (more commonly referred to as "T&Cs"), privacy policies, and perhaps one of the most important yet overlooked documents, the sacred confidentiality agreement.<sup>2</sup>

We wanted to obtain data and insights into the precise reasons why businesses of all sizes, their founders and independent entrepreneurs alike are relying on unfit contractual documentation for their daily activities. We also wanted to obtain concrete data into the possible risks entailed by such practices, as well creating an answer to the problems encountered by such businesses.

To do this, we:

1. tested specific pain-points - such as budgets - as different explanatory variables,
2. investigated the long-term risks (both legal and commercial) associated with avoiding professional legal advice,
3. evaluated different alternatives to the copying and pasting of other businesses' contracts, and
4. created our very own solution combining technology and human expertise – our Contract Automation Portal.

For this, we relied on survey data we acquired through our daily legal practice, further research and case studies.

1 Legal Services Consumer Panel, 'Tracker Survey 2015 Briefing Note: how consumers choose legal services (Legal Services Consumer Panel, 2015) available at [https://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/Choosing\\_legal\\_services\\_000.pdf](https://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/Choosing_legal_services_000.pdf)> Accessed 22 September 2019

2 Also known as NDAs (Non-Disclosure Agreements): both terms may be used interchangeably in this report.

## MEET OUR FOUNDER



Our founder, Charlotte Gerrish, a Solicitor of England & Wales and Ireland, and Avocat at the Paris Bar, has over 10 years of experience in English, French, and European Law. Having worked at some of the world's best-known law firms, and in the in-house legal team of an LSE-listed company, Charlotte saw the problems with the traditional law firm hierarchy and structure from a cost and file management perspective – particularly with regards to routine legal issues or access to legal advice for early-stage businesses.

One of Charlotte's key goals with Gerrish Legal is, therefore, to closely work alongside clients and their individual businesses to fully

comprehend their commercial needs and the specific challenges of their individual environments, often acting as an external in-house lawyer and collaborating with the clients on their legal needs throughout the day-to-day operation of their businesses.

With this hands-on approach, Gerrish Legal gained a deep understanding into the different struggles that companies of all sizes face, and especially those within the SME and start-up phases. When it comes to legal services, one of the key pain-points of all clients – whether multi-national or otherwise – appears to be the issue of budget. This is where Gerrish Legal is disrupting the traditional law firm model and offering competitively priced, yet high quality legal advice and solutions.

# Our Methodology

As part of our methodology and in order to successfully bring you this report, we decided to first direct our attention to the demand-side of the issue: what are some of the biggest pain-points facing businesses of all stripes - and their respective founders - when deciding to seek (or not seek, for that matter) legal protection? What reasoning lies behind a business's decision to rely on tailored, professional advice? Or conversely, which logic motivates the decision to rely on copied and pasted contractual documents or templates?

In order to find answers to all of these questions, we defined the appropriate company sample – which we wanted to be as varied and representative (in terms of revenue, growth stage, and size) as possible. We then curated a survey comprising 6 questions, in view of gaining further insight into different companies' experiences with some of the most encountered legal documents (contracts, website T&Cs, confidentiality agreements, privacy policies and cookie policies).

The final survey was sent out to around 100 of Gerrish Legal's clients. The survey results were complemented by follow-up phone interviews with those respondents who were eager to provide further insight into their use of contracts in business, as well as by case studies related to client, partner and industry research.

To back up our own survey and understand legal services as a whole, we also relied on supply-side data collected in England and Wales - as this jurisdiction is generally considered to be a leading and neutral jurisdiction for commercial law matters, often chosen by companies both in the United Kingdom and abroad to govern their legal documents. We discussed attitudes towards contracts with fellow practitioners evolving in similar ecosystems as us - some of which are quoted in this paper. We also reviewed industry-wide surveys – notably by YouGov, the Legal Services Consumer Panel and the Solicitors Regulation Authority – which investigate access to legal services by both the general public and businesses.

Finally, we undertook three in-depth case studies which are featured in this paper and which expose some of the real-life risks (both commercial and legal) associated with the use of and reliance on non-bespoke legal documents.

contracts, with a specific focus afforded to:

- Key pain-points in the current legal landscape
- Potential quick-fix solutions as well as their pros and cons; and
- Long-term solutions which could help shape the future of law.



# Pain Points

## NAMING THE PROBLEM: A PERVASIVE RELUCTANCE TO USE PROFESSIONAL LEGAL SERVICES

The best way to protect any business is with tailored legal advice which is adapted to its unique operations.

This includes ensuring that appropriate legal documentation is in place - i.e., contracts which have been drafted in accordance with the business' goods and/or services, the nature of its clients, sector-specific risks and the jurisdiction in which it operates.

A tailored contract is also one which incorporates the commercial considerations at play, such as the founder's or the c-suite executives' appetite for risk, consumer and industry expectations, and the cost-benefit analysis of balancing legal risk against commercial value. A recent study found that 62% of all adults have enlisted legal services at some point in their lifetime.

67% of all turnover generated by law firms comes from commercial and corporate work, a huge part of which is drafting and reviewing contracts.<sup>3</sup> The market for commercial contracts is therefore significant.

When it comes to businesses seeking legal advice though, the statistics are far less stellar. According to a YouGov study, *"the UK has the largest legal market in Europe and research shows that while a third of businesses need advice for legal problems, only one in ten obtain advice from a solicitor"*.<sup>4</sup>

So, what are the different obstacles standing in the way of the nine in ten remaining businesses who are in need of professional legal advice, but do not obtain it?

## THE TEMPTATION TO RELY ON INDUSTRY PEERS

<sup>3</sup> YouGov, 'Legal Services Consumer Tracker 2016' (Legal Services Consumer Panel, 2016). Available at <[https://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/LegalServiceBoardReportbyYouGovV4.pdf](https://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/LegalServiceBoardReportbyYouGovV4.pdf)> Accessed 22 September 2019.

<sup>4</sup> YouGov, 'Price Transparency in the Legal Services Market: A Study of Small Businesses with Legal Issues'(SolicitorsRegulationAuthority,2017).Available at <<https://www.sra.org.uk/globalassets/documents/sra/research/price-transparency-small-firms.pdf>> Accessed 22 September 2019.

The first finding we derived from our survey is the pervasive temptation for businesses to jump on the bandwagon in terms of copying other industry actors and/or companies which are perceived as big players. Certain businesses prefer relying on industry trends and hearsay to form the basis of their legal security, rather than relying on the bespoke advice of a legal expert, such as a solicitor or lawyer.

One Gerrish Legal survey respondent admitted their belief that “if we have used terms from a bigger agency, we should be ok”. Another respondent, a director within a start-up, opined that if they simply relied on copied-and-pasted terms from an established company operating in the same industry as them, their business would likely be secure - since, according to the respondent, the terms of the established company were likely to have been drafted by a specialist lawyer, as well as tried and tested in court.

An additional respondent, hailing from the recruitment and staffing sector, relied on industry-specific templates which had been obtained from a recognised industry association which (with the provision of legal templates put aside) had a particular expertise in the provision of recruitment-related events, updates, competitive intelligence and networking opportunities. As a result, the respondent felt safe copying and pasting terms from this caliber of association, because of the perception that the templates produced must be “legally secure”. From a commercial perspective, these approaches appear to make sense. After all, businesses in the same line of work often share insights, knowledge, and customers. Moreover, many venture capital firms and start-up incubators actively encourage such pooling of resources. It is only normal, then, that some businesses might think “why not share business contracts and legal protection as well?”. The issue, though, is that what might hold true for sales, HR tips or funding-related advice, does not necessarily hold true for legal protection.

## COST AS A BARRIER

Wanting to follow the example set by competitors or successful and established/seasoned companies may be one reason seed-level businesses and start-ups copy and paste legal terms. However, at Gerrish Legal, we are also acutely aware of an another even more frequent reason for copy pasting legal terms, because we are aware of the many difficulties and challenges standing in the way of young businesses that are attempting to scale: access to funding is a problem which is especially acute in domestic and/or regional markets

where the VC scene remains largely underdeveloped. We understand that this issue of budget is one of the main, if not the most important, factor at play in the early years of a developing business.

**“START-UP COSTS MADE US COPY AND PASTE T&CS –  
ONCE WE HAD THE BUDGET, WE RECTIFIED THIS” –  
ANONYMOUS GERRISH LEGAL SURVEY RESPONDENT**

Our research confirmed that financial considerations do indeed weigh heavily in a start-up's decision to enlist (or not to enlist) legal help. Financial considerations also influence what kind of legal service the business will turn to.

In a recent YouGov survey, legal services consumers considered the cost of such services to be the most important deciding factor when enlisting the help of a lawyer.

**75% of those in need of legal advice see cost as being the biggest influence when choosing legal representation.**

Strikingly, this consideration outweighs others such as the speed at which services can be delivered, and the experience level or reputation of lawyers.<sup>5</sup> Studies show that legal consumers are becoming more and more likely to shop around for services rather than only rely on word-of-mouth referrals.<sup>6</sup>

Others have given up 'shopping around' altogether and are choosing to shun legal help entirely. Faced with exorbitant billable hours under the traditional law firm model, some companies are even deciding to take such legal matters into their own hands. In fact, and as previously mentioned, only one in ten businesses in need of legal advice end up obtaining it.<sup>7</sup>

5 YouGov, 'Legal Services Consumer Tracker 2016' (Legal Services Consumer Panel, 2016). Available at <[https://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/LegalServiceBoardReportbyYouGovV4.pdf](https://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/LegalServiceBoardReportbyYouGovV4.pdf)> Accessed 22 September 2019.

6 M Adediran, 'Usage of legal services remains unchanged' (YouGov, 2015) Available at <<https://yougov.co.uk/topics/politics/articles-reports/2015/04/15/usage-legal-services-remains-unchanged>> Accessed 22 September 2019.

7 YouGov, 'Price Transparency in the Legal ServicesMarket: A Study of Small Businesses with Legal Issues' (Solicitors Regulation Authority, 2017). Available at <<https://www.sra.org.uk/globalassets/documents/sra/research/price-transparency-small-firms.pdf>> Accessed 22 September 2019

## SHORTCUTS IN THE ENTERPRISE COMPANIES' SPHERE

We have mentioned the several costs-related concerns faced by start-ups and SMEs - and the central role that these concerns play in barring young companies from accessing tailored legal protection.

However, is it really true that the issue of template or copied-and-pasted contracts is only limited to start-ups?

Our survey results paint a more vivid picture in the face of such a black-and-white statement. Ease, flexibility and time management play a substantial role when it comes to mid-to-large businesses and their decisions to seek professional legal advice - equivalent to cost considerations for seed and early-stage startups.

One of our survey respondents - the CEO of an international consultancy founded in London more than 25 years ago, now grown to have offices across Asia and the US - confided that their company had been using free templates obtained from another consultancy in the same industry who was already established in the US.

Despite the company's passage from the seed/start-up stage to a large and established, it still relied on non-bespoke contractual terms for a strategic part of their business: expanding into another market. In legal terms, this also entails expanding into another jurisdiction where the laws, rights, obligations, norms and ultimately, the business's overall security, may look completely different. Not to mention the different financial consequences of sub-par legal provisions or non-compliance, with US-based companies processing personal data from the United Kingdom/European Economic Area but failing to have GDPR-required policies in place, being a prime example.

In the case of the consultancy company, the choice to rely on boilerplate clauses was not so much related to budgetary considerations as it was to the team's prioritizing of the operational side of the business' expansion over the legal aspects. Especially as the formality, complexity and cost of having recourse to a solicitor (especially considering the relative ease of the task to be completed, sometimes as simple as sending a contract template through an electronic signature provider) acts as an inhibitor to seeking specialist legal advice.

## WHAT THE NUMBERS SAY: GERRISH LEGAL SURVEY FINDINGS

**48% used free templates to start their business**

48% of the respondents surveyed by Gerrish Legal stated they have used free templates to start their business.

**Amongst the 48% who had recourse to free templates, only 27% still had the free template in place today**

Of the previously mentioned 48% who used a free template to jump-start their business, only 27% still had that free template in place at the time of responding - and stated they would not consider paying for a legal contract now or in the future.

**1/3 cited cost as a key barrier**

1/3 of all survey respondents cited the costs involved in having contracts drafted or reviewed by a solicitor as one of the key reasons for their reluctance to obtain professional legal advice.

**“Cost is the only reason why I am seeking downloadable templates rather than obtaining bespoke documents from a lawyer created especially for my business. After some time out of the freelancer market working for a corporation, I’m now starting up again and need to be as cautious with cost as possible. I will be working towards having customised documents as we build.” – Anonymous Gerrish Legal survey respondent (US-based freelancer and start-up founder)**

Zooming In on Confidentiality Agreements: Gerrish Legal survey findings in relation to the use of templated confidentiality agreements

- Compared with those who opted for custom Terms & Conditions, a larger proportion of respondents opted for custom Confidentiality Agreements from the outset.

- One respondent who relied on a template Confidentiality Agreement to jump-start their business - and still uses it today - affirmed their willingness to pay for a custom version now.

## KEY TAKE-AWAYS

1/ The cost of legal services is considered the most important factor by businesses when searching for a lawyer.

2/ When businesses handle problems without seeking the advice of a lawyer, they often do so because of an assumption that professional legal advice will be too expensive or that the advice would be poor value for money.

3/ Consumers of legal services are becoming more and more likely to shop around for different legal service providers when seeking out a lawyer.

4/ The use of online legal services is predicted to increase from 28% to 37% over the next five years<sup>8</sup>; and 40% of consumers of legal services are interested in the convenience and low cost of online legal services.<sup>9</sup>

8 Solicitors Regulation Authority, 'Research and Analysis: The changing legal services market' (Solicitors Regulation Authority, 2016) Available at <[www.sra.org.uk/risk/resources/changing-legal-services-market.page](http://www.sra.org.uk/risk/resources/changing-legal-services-market.page)> Accessed 22 September 2019

9 (11) Solicitors Regulation Authority, 'Research and Analysis: The changing legal services market' (Solicitors Regulation Authority, 2016) <[www.sra.org.uk/risk/resources/changing-legal-services-market.page](http://www.sra.org.uk/risk/resources/changing-legal-services-market.page)> Accessed 22 September 2019.

# The Many Risks Associated with Non- Bespoke Legal Protection

## CASE STUDIES

Template, non-bespoke contracts are riddled with problems and risks and in some cases, are worse than having no contract in place, offering a one-way ticket to doom town. We have compiled three, real-life case studies from our research which help illustrate some of the many risks associated with such practices.

These risks are very real indeed and exist for businesses of all stripes - irrespective of whether they are a start-up, established or multinational business.

### **1/ Losing a £14 million government contract and encountering a PR crisis:**

A well-established UK-based ferry company, Seaborne Freight, was awarded a government contract worth £13.8 million to provide ferry services. It was later uncovered that the company had in fact copied website T&Cs that were intended for a takeaway company.

The privacy policy on its website stated that customers should check goods before “agreeing to pay for any meal/order” and that “delivery charges are calculated per order”. The mistake rendered the company to much ridicule in online and printed news forums, and online searches still display results documenting this mistake.

If the mistake had remained unseen, this could have resulted in inadequate legal protection for Seaborne Freight in the event of a dispute. In this case though, the mistake was given much press and the whole incident resulted in the cancellation of the contract, loss of business and...damage to the Seaborne Freight’s reputation and prospects of any future business.

## **2/ Ctrl C+P to the wrong jurisdiction and a potential copyright infringement claim:**

One anonymous business responding to our survey admitted to copying T&Cs - and, in error, neglecting to change the name of the original business and their choice of legal jurisdiction.

This was damaging for a number of reasons. Neglecting to even change the name of the company appeared unprofessional, but more importantly, meant that the contract did not cover the company that copied the T&Cs, which is essential in the case of a dispute. Stating the wrong jurisdiction also meant that it could have been held to the terms of another applicable law regime it knew nothing of and/or been forced to travel to a jurisdiction it had never planned on being governed by had a dispute arisen.

Additionally, copying and pasting terms may constitute a breach of copyright laws. Copying a third party's work could qualify as copyright infringement and this may be true for all kinds of legal documents: contracts, confidentiality agreements and, especially, website T&Cs and privacy policies – because the latter are, by definition, easily accessible. As such, anyone visiting your website may easily identify that you have copied or have been heavily inspired by a competitor's terms.

In the case of our respondent, the errors contained in the copied terms and conditions prompted the regulator for that jurisdiction to declare that it would be paying particular attention to company contracts more generally, to ensure that individual companies are putting the right arrangements in place.



### **3/ A start-up risks it all, with no protection against developers and VCs**

An health tech start-up based in the Nordics, admitted to relying on little to no legal protection throughout key stages of its growth.

The company's business rested almost entirely on proprietary technology developments which were created by third-party developers. The founder revealed there were no agreements in place with the developers to cover potential issues of ownership of the deliverables and where agreements were used, these were copied and pasted terms which had been found through a simple internet search.

While seeking funding, the founder was meeting with VCs and investor panels, equipped with a confidentiality agreement that had been downloaded from a simple internet search. Of course, whilst some form of confidentiality agreement may be better than no agreement at all, the founder was unable to confirm if the definition of 'confidential information' was adapted to the information shared with the investors or to the business's unique operations and sector of operation (a specific aspect of the health tech sector). Additionally, the duration of the confidentiality obligations and the governing law were not adapted at all.

**“Ultimately choosing to copy and paste terms or download free templates is a decision about risk – some founders will not pay for bespoke terms until the benefit of doing so outweighs the cost – either we need a legal solution to be made more freely available for less money, or the founder needs to make a decision to accept the risks of things not working out, if they rely on non-bespoke terms.”**

In a nutshell?

There are three main types of risks associated with the copying and pasting of legal documents and use of freely downloadable, non-customised templates:

1. **Legal risk:** when you rely on template legal documents, you expose your business to pertinent legal risks, such as potential copyright infringement claims from the original author or the relevant regulators (depending on the environment in which your company operates) and incorrect provisions that will not protect you in the case of a dispute;
2. **Reputational risk:** if the terms that you use are clearly not adapted to your business model or even refer to a competitor, this could create issues of credibility and public perception. Ultimately, customer fidelity will be affected, regardless of whether you operate in a B2C or B2B sector – and this is definitely something you'll want to avoid as the founder of any business;
3. **Reputational Risk to the company's future:** that technology you spent months and probably even years designing? That business model you tweaked countless times before taking the plunge and unveiling it before your business angels? Relying on an ill-adapted confidentiality agreement or - worst – using none at all, could mean failing to protect your proprietary information and ultimately, risking your company's future altogether; relying on non-bespoke contracts could mean missing out on important clauses which are vital to your industry or being covered by a contract which is far more adapted to the trade of physical goods than to the licensing of software (if you are a SaaS business for example)

**Zooming In on External Consultants: what specific risks do businesses expose themselves to when they work with freelancers and/or external consultants without the corresponding legal documentation?**

Young businesses (and sometimes even more established scaleups too) will often rely on freelancers and/or external consultants to perform certain tasks. The commercial benefits of doing so are plentiful - hiring the services of a freelancer or consultant could allow you to complete that one-time task you have pending or fill that temporary gap in your permanent team's skill set, without going as far as increasing the headcount on your monthly payroll.

But relying on the services of freelancers and external consultants comes with its own set of legal risks – and these risks can become even more acute when the appropriate legal protection is lacking. Failure to have an agreement in respect of the creations or deliverables that are being generated by a freelancer could mean that it is very hard to enforce ownership of the work produced and could result in the business being unable to use and exploit deliverables that have been ordered and even potentially paid for. An additional layer of risk comes from the fact that developers or independent consultants may have even better infrastructure, connections and access to market than the businesses they are working for on a temporary, one-off basis – in the worst-case scenario, the external consultant could take the unwitting business' ideas or product and then push it to market for their own benefit, essentially leaving the originator of the business productless.

Whilst in some jurisdictions, it is possible to initiate proceedings against such actions (such as unfair competition in many civil law countries or 'passing off' in England and Wales), a founder or start-up may be hard pressed to gather sufficient evidence to support such claims – and, of course, budget in respect of high litigation costs remains an incompressible barrier to seeking justice.

**“In these scenarios, prevention (through having appropriate contractual documentation in place at the outset) is surely less painful than relying on a cure once you have lost your business idea or are unable to support the costs of litigation”**

### **Missed opportunities and lower company valuations**

Beyond the quantifiable risks that businesses expose themselves to when using non-bespoke legal documents, relying on such documents also represents a self-imposed limitation of sorts for businesses and their founders.

This factor may be harder to quantify, but downloading template contracts and shunning professional legal advice means that stones can be left unturned and users may be left unaware of their own legal rights.

For example, it has been found that those presented with a completed contract are more likely to accept any and all terms - without any sort of negotiation on the protections that they really need, when they do not seek legal advice.<sup>10</sup>

### **Lower return on investment**

It is also worth bearing in mind that the review of contractual documentation constitutes a major part of the due diligence process in the case of a merger or acquisition. For those reading this report, and for whom the sale of their business for capital gains is on the horizon, relying on ill-adapted, copied-and-pasted or template contracts could result in a significantly lower valuation (if not, an offer being withdrawn entirely) and, ultimately, a lower cash-out on your initial investment.

As such, relying on copied or templated contracts doesn't only translate into higher risks – it also translates into a slew of unquantifiable missed opportunities down the line.

<sup>10</sup> J Murray, 'The Dangers of Using Free Contract Forms' (The Balances MB, 2019) Available at <<https://www.thebalancesmb.com/dangers-using-free-contract-forms-397818>> Accessed 23 September 2019.

# Quick-Fix Alternatives and Long-Term Solutions

It emerges from the foregoing that sound, bespoke legal documents are an asset to any business.

A company is unique, and its contracts should be the same. Companies spend time developing their products, their service offerings, their business model, their missions and their raison d'être – a sound, tailor-made contract is an essential step to protect all of these, to distinguish a company from its competitors and to align commercial practices with a company's missions and values.

It is also clear from the preceding analysis that relying on templated or copied-and-pasted contracts entails a whole host of reputational and legal risks and a great deal of self-limitation/reduced future valuations.

Different contracts are: governed by different national laws; designed to accommodate different jurisdictions; contain different terms and clauses; and are drafted in different ways, in order to offer different types and levels of protection depending on the products and services that are being offered.

As discovered in the case studies, an agreement which has been poorly drafted or copied from another company could fail to cover the party relying on it in the event of an eventual dispute. It could constitute a self-imposed limitation and prevent a business from securing the best possible legal protection given the niche or highly competitive industry it evolves in and/or the service offering it has become the best at providing. In the worst case scenario, non-bespoke legal contracts can even lead to a domino effect of legal disputes which could not have been foreseen at the onset (think third-party copyright infringement claims or hefty fines from data protection authorities for privacy policies that do not accurately describe the data processing practices that are actually occurring). This is especially important considering that ambiguity in contracts will be read against the drafter of the agreement -

ignorance or lack of understanding is no defense. All of this, of course, results in a reduced appetite for potential investors and buyers down the line, ultimately resulting in reduced valuations or no offers on the table at all.

It is also distinctly clear from the preceding that the decision to rely on non-bespoke legal documents is often not an active choice – but rather one made by default. In a context where professional advice is too expensive, archaic or formal, many choose to forfeit this step.

Independent legal expertise, which may only take the shape of a relatively quick review, could, of course, help businesses to avoid many of the potential problems raised above and provide peace of mind. But for many, this is often an inaccessible or unattractive option. As a result, such businesses turn to quick fix solutions that are a step above copied-and-pasted or template legal documents, but fall one step short of engaging solicitors for professional legal advice. However – what are the advantages and disadvantages of these alternative solutions?

## INDUSTRY-SPECIFIC TEMPLATE CONTRACTS: ARE THEY ANY GOOD?

Could industry-specific template contracts represent an adequate alternative to fully bespoke legal advice?

Suites of documents drafted for individual sectors of the economy (such as for SaaS (software-as-a-service) providers, the HealthTech space or the Recruitment industry) could seem like the solution for businesses looking to bridge the gap between fully bespoke legal documents and copy-and-pasted, one-size-fits-all contracts – all whilst respecting costs concerns.

Indeed, industry-specific contracts could offer a seemingly cost-effective, hassle-free way to protect a business' interests. Such legal documents take heed of the specific intricacies of a given industry, whilst avoiding the lawyer's traditional hourly rate.

Industry-specific templates can even be reworked into more specific offerings, to match a business' structure (for example, freelancer, start-up, established or multinational business),

its phase of development and funding (self-funded, VC-backed, wholly-owned by PE firms or IPO) and its size and growth (number of employees, valuation, insurance for liability, etc.).

But industry-specific legal documents are not a fool-proof solution to avoid all the risks set out above: whilst in theory a large part of agreements can be standardized according to the industry in which they operate<sup>12</sup>, each and every business is different. Therefore, each contract will have to be unique, depending on a number of factors that cannot be captured by such industry-standardised contracts.

This includes customizing provisions on obligations for each individual business' needs, the nature, quality and evolution overtime of the commercial relation with the other party, allocating caps on risk and liability, and addressing specific legal rights and prohibitions on, for example, trade secrets specific to the business or IP that is unique to the business. In an American survey, qualified attorneys pointed out that lay-persons often fail to realise that one-size-fits-all contractual remedies are not prescribed - and that certain language is crucial to give such remedies effect.<sup>11</sup>

## TOWARDS AI-FUELED SOLUTIONS AND ONLINE LEGAL SERVICES

Following on from the above, and as ascertained by our research, consumers of legal services are interested in the flexibility, budgetary benefits and general ease of the online legal experience.

Surveys show that, beyond issues of cost and accessibility of legal services, businesses now expect services to be available online and outside of normal business hours. <sup>12</sup> business is now truly globalised, traditional law firms have responded to this requirement for ease and flexibility through the establishment of new offices around the globe, with expansive and very expensive professional networks of lawyers, physically based in all time-zones and offering one-to-one consultations. <sup>13</sup>

<sup>11</sup> J Murray, 'The Dangers of Using Free Contract Forms' (The Balances MB, 2019) Available at <<https://www.thebalancesmb.com/dangers-using-free-contract-forms-397818>> Accessed 23 September 2019.

<sup>12</sup> LexisNexis, 'Brave New World' (Bellweather Report, 2014) Available at <<http://businessoflaw.lexisnexis.co.uk/wp-content/uploads/sites/24/2014/05/Bellweth-18>>. Accessed 19 June 2019.

<sup>13</sup> Legal 500, 'Deep Blue Sky Thinking : The Cutting Edge of Legal AI' (Legal 500, 2019) Available at <<https://www.legal500.com/assets/pages/client-insight/deep-blue-sky.html>> Accessed 22 September 2019.

Within the more innovative circles of the legal industry, and in a select-few law firms operating with an eye on what is being done in other sectors of the digital economy, this has translated into the relinquishing of the traditional brick-and-mortar model. Prestigious office spaces are often located in the heart of the largest capitals' central business districts – and come with hefty rents and maintenance costs, which trickle down into the legal fees charged.

With the advent of the Covid-19 pandemic and government-mandated work from home orders, these innovative firms were well-adapted to remote working and continuing to offer their services in a digital-only sphere. Such firms were therefore not only able to survive the effects of lockdown, but rather they thrived alongside the rest of the tech and digital industry. This is evident from the statistics – there has been a seven-year increase in the first few months of lockdown, in the rate at which businesses are creating digital or digitally enhanced offerings.

14

As a full digitally-native law firm, with all of our systems and processes in place to seamlessly deliver our client work online, this is an evolution that Gerrish Legal was already prepared for. We have witnessed first-hand how adoption of more innovative working practices can not only make the difference between surviving and thriving, but also acts as a catalyst to attract like-minded, innovate businesses.

For the most disruptive players within this group of forward-looking legal practitioners, the requirement for ease and flexibility has translated into even more radical choices (at least by traditional legal industry standards): an increasing use of technology, such as AI tools and/or blockchain, to automate processes.

*Relying on automation can remove a lot of the routine work for lawyers, which in turn reduces the cost of seeking legal advice. However, the devil is in the detail – getting this automation correct AND up to the standards offered by an experienced human lawyer is the real battle.*

14 McKinsey, 'How COVID-19 has pushed companies over the technology tipping point – and transformed business forever', 5 October 2020, Available at <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/how-covid-19-has-pushed-companies-over-the-technology-tipping-point-and-transformed-business-forever> Accessed 10 August 2021



## THE NEW KID ON THE BLOCK: LAWYER-GENERATED BOTS TO AUTOMATE BESPOKE LEGAL DOCUMENTS: OUR LONG-TERM SOLUTION

Perhaps then, the answer lies in the marriage of automation or artificial intelligence and human intelligence – namely taking the idea behind low-cost template contracts but actually re-creating the concept based on the years of legal experience and training amassed by human lawyers.

This answer can therefore take the shape of contract automation bots, supplemented with human intervention.

Available 24/7, supported by industry-specific lines of code which have each been written and curated by experienced lawyers, and powered by the interactions between the bot and the end-user, we believe that bespoke **contract automation bots could become a landmark of the future legal landscape.**

As such, Gerrish Legal has created its very own contract automation service, with each bot and contract being exclusively curated by our expert lawyers.

As of 2021, our contract automation portal includes a Service Agreement and a Confidentiality Agreement generation tool (as these two contractual documents often go hand-in-hand). This tool has been designed to cater to the needs of our entire customer base, from start-ups looking for the legal arrangements which meet budget constraints, to the commercial or in-house legal teams within larger enterprises and established service providers, seeking ease and flexibility and looking to make efficiency gains on the suite of standardised agreements accumulating in their pipelines.

We genuinely believe that such contract automation bots will meet the ease and flexibility requirements of businesses and founders today when conducting their daily business operations, without the corresponding billable hours which usually serve as an obstacle to businesses seeking professional legal advice.

Bots that have been created by experienced lawyers, with human lawyer always on hand for additional advice and intervention, can help automate provisions which are the bread-and-butter of commercial legal work for lawyers, but nonetheless expert knowledge and essential

requirements from the point of view of a business – such as parties’ appetites for risk and reward, the baseline mutual expectations and timelines regarding the services to be provided, etc..

Such offerings can provide end-users with their final, ready-for-use and bespoke contract, straight in their email inbox. In certain situations – such as low-risk negotiations requiring only light-touch legal involvement, renewals of a long-term and established contractual relationship, or in the case of a freelancer with a limited budget, preparing to commit to a short-term service agreement – a contract automation bot (along with all the appropriately embedded information aids and human lawyers on hand) is enough to protect a business’ bases, or support a founder as they venture into their latest business deal.

Where such technology is not enough – for example where a high-stakes contractual negotiation requires the expert advice, or where a business’ line of work, operations or processes display unique features, or simply where an end-user prefers human commentary and explanations – our contract automation tool can be complemented by our professional, human lawyers – powered by the expertise of Gerrish Legal as a law firm.

As this journey towards the future of law is also a continuous and ongoing one, we remain open to our client’s suggestions, specific needs and requests with regards to the expansion of our contract automation service range beyond the two afore-mentioned Service and Confidentiality Agreements. We invite you to [get in touch with our team](#) for further details regarding our contract automation subscriptions or to visit our [Contract Portal](#) now and start exchanging with our Chatbot.

Join us as we work to shape a future of law which (in both senses of the term) speaks to you and your needs!