



# ✓ The Future of Contract and Commercial Management



**Commercial capability represents a growing source of competitive advantage**

A source of innovation and improved financial performance



**Contracts operate as instruments of communication and economic value**

Innovative design standards eliminate templates and transform the purpose of contracts



**Increasing interdependence between supply partners and networks**

Supported by inter-enterprise software and reporting



**Contracting process reshaped by emerging technologies**

Advanced analytics and artificial intelligence redefine roles and organization



**Trading relationships focus on outcomes and performance**

Contracting models introduce governance methods that reduce risk and reward value



**Contract data fuels business strategy and commercial capability**

Portfolio-based analysis unleashes a powerful new source of management information



**International Association for Contract & Commercial Management**

[www.iaccm.com](http://www.iaccm.com)

This report is based on input from more than 1,000 experts and senior practitioners.

It reflects a series of interviews, roundtable discussions, forums and web-based surveys conducted in the period November 2015 – February 2016.

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IACCM thanks SAP Ariba for its sponsorship of the Future of Contracting. This research project was independently developed by IACCM subject matter experts who created the survey methodology, interviewed global thought leaders for their insights, conducted the analysis and authored the report. SAP Ariba is the marketplace for modern business, creating simple, intelligent exchanges between millions of buyers and sellers.

# Introduction

**There are some who argue that contracting has no future. They believe that automation will largely eliminate the need for human activity in designing, preparing, negotiating and managing contracts. In large measure, they are right; key aspects of the contracting process will be undertaken through technology. But as this report reveals, technology will change – and enrich – human intervention in the contracting process, rather than replace it.**

In the future, contracting activity will focus far more on areas such as knowledge application, commercial innovation, business judgment, graphic design and behavioral economics. The growing wave of academic and executive interest in the discipline will turn to a surge, as contracts and the rich data sources they contain become steadily more visible. Over the next 5 years, contracts will not only be recognized as critical business assets, but will start to be treated accordingly.

*The biggest change I expect to see by 2020 is that the focus will be on the results of contracting as opposed to the process of contracting.*

*SVP, Global Strategy, Oil and Gas*

Shifts in risk allocation, new financial and financing models, sophisticated approaches to performance monitoring – these are examples of the areas which have driven change in contracting terms, processes and skills. Such trends are accelerating fast, propelled by digitization and intelligent systems. Contracts are in hot pursuit, with rapid movement towards performance and outcome-based agreements and payment for results. Designing and managing these new agreements requires fresh skills and reengineered processes, both within an organization and – more critically – between organizations.

Technology now enables unprecedented analysis of contract content and process, providing management insight to trends, barriers and sources of value. It is transforming contracting from an activity associated with specialist opinion to a more scientific discipline based on facts. This means that it is evolving into a sophisticated method of integrating disciplines across the business enterprise and beyond.

This report is an update to the 2011 edition of ‘The Future of Contracting’. It reveals the continued impact of global commercial and technical trends and confirms how the pace of change is increasing. Market expectations and competitive pressures demand fresh responses from suppliers and greater sophistication in buyers. As a result, ‘commercial competence’ and ‘contract management capability’ are gaining widespread recognition for their critical contribution to business results and outcomes – affordability, value, quality and flexibility. Contracting increasingly operates as a management tool for integration in business operations and for integrity in business practices.

*Business is struggling to adapt to a networked world in which digitization is fundamentally disrupting trading relationships, business capabilities and the terms of trade. Contract management sits at the nexus of these forces and is transforming from a largely administrative task to a dynamic role that orchestrates change and makes sense of market volatility.*

*Input to UK Public Accounts Committee, April 2016*

## *Definition of Contract vs. Commercial Management*

One of the things that remains confusing for many is the interchangeability of the job title; are you a Contract Manager or a Commercial Manager?

As the global association for contract and commercial management, we felt it important to clarify at the outset the definitions that we have attributed to these and which should be used in interpreting this report.

- **“Commercial Management”** is the activity which defines the overarching policies and practices that provide a framework for trading relationships
- **“Contract Management”** is the discipline through which those policies and practices are implemented and within which individual transactions are agreed and performed

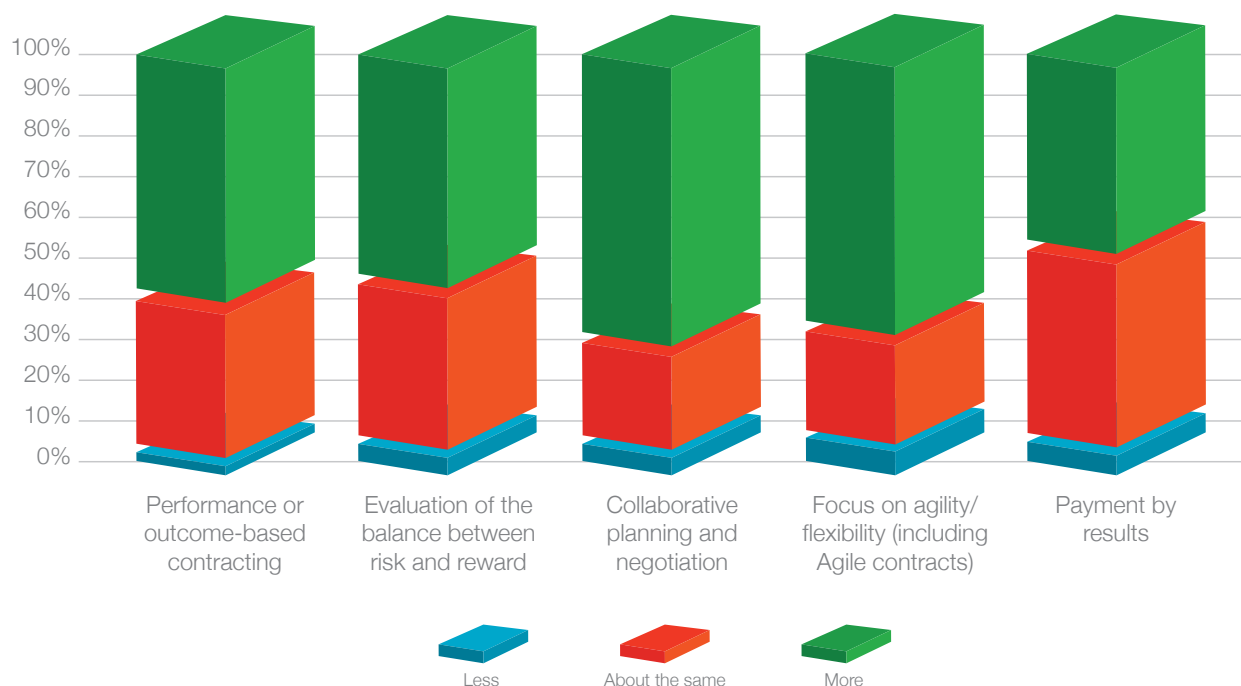
The experience and data from contract management are then used to inform commercial policies and practices – what works; what does not work; what needs to change.



# Expectations of change

Over the centuries, commercial and technical innovations have altered the form and content of contracts. The world went from parchment and quill pens to digital creation and e-signatures; from simple order forms to voluminous outsourcing agreements.

## How do you think approaches to contracting will change?



There is undoubtedly widespread expectation of continued and rapid change – and indeed, since our last survey in 2011, some of these changes have started to occur. However, the pace has been slow, as a result of limited support from the available technology, constraints imposed by historic skills and measurement systems and variable attention from senior management.

There is extensive belief from both buyers and suppliers that commercial arrangements will continue to shift away from the old world of ‘caveat emptor’ to an environment where suppliers will accept greater responsibility for results. Indeed, we see evidence of this already in the growth of legislation that promotes consumer rights and the steady, if somewhat grudging, acceptance by businesses that they must become increasingly adept at managing all aspects of their reputation. Asian attitudes are inclined to view risk as an opportunity and this will have increasing influence and impact on the competitive landscape. In addition, the chart reflects recognition that innovation and change create an

environment of greater uncertainty, driving the need for more agile or flexible contract models.

Overall, these developments require improved approaches to planning and negotiation and a different balance in risk and reward – factors that are explored in greater depth later in this report.

## Contracts and Relationships

*It isn't contracts that have problems it's relationships.*

**Japanese Law Professor**

Looking forward, contracts are increasingly described as a “framework for business operations”. More than just semantics this is a move towards a portfolio of agreements that

embed the relational components needed to achieve mutual objectives and the behaviors that contribute to success. This represents the evolution from a legal document focused on performance failure to an operational and communications guide which will increasingly be digital.

The quality of the contracting process will be gauged by its success in avoiding disputes and disagreements and delivering the successful outcomes envisaged at the outset.

*You're going in to a relationship that you know is going to need to change and grow together... the richness of the contracting commercial function is making it easier to do business with. I have someone who cares about the contract and the growth of that contract as much as I do and we're no longer adversaries, we're now in it together, trying to achieve whatever the agreed business outcome is.*

**Senior Executive, Global BPO**

**Do you believe that trading activity will become more transactional or more relationship based?**

“Relational contracting” is the term increasingly used to distinguish from a transactional approach and there is (as our chart shows) a belief that use of relational agreements will gain momentum and ensure a rebalancing of the approaches used in industry.

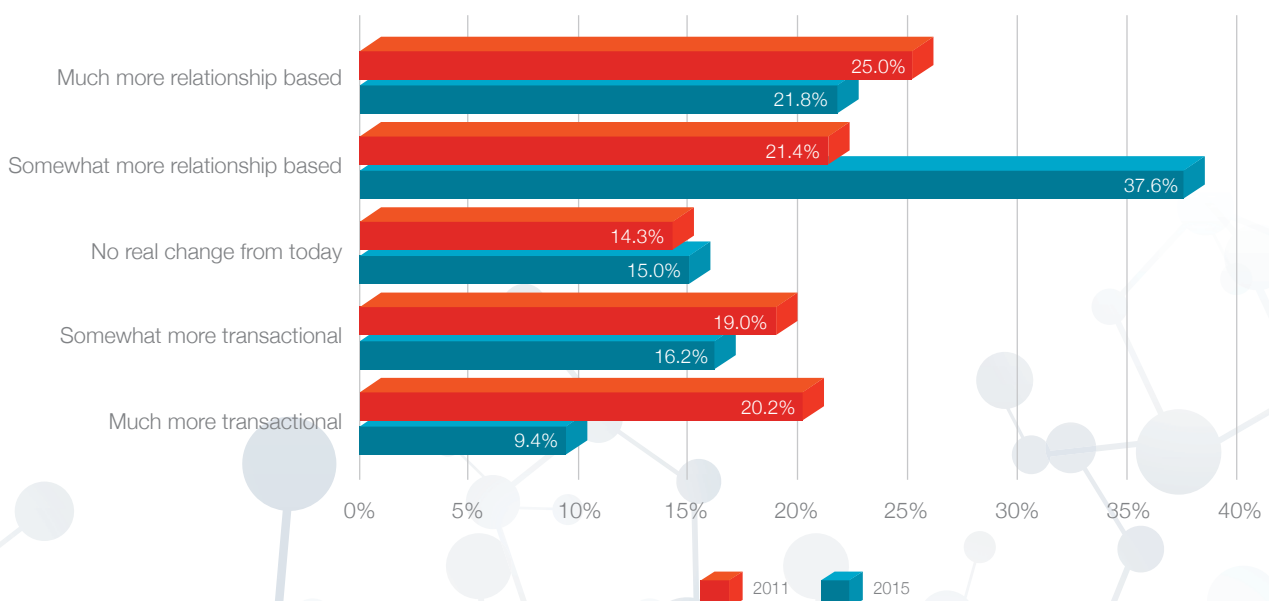
Whereas in the first decade of this century there was a strong shift towards transactional agreements and behaviors, these results show the swing back towards valuing relationships. Almost 60% expect trading activity to be somewhat or significantly more relationship based. What is notable and gives credibility to this prediction is the fact that over 70% of the respondents from procurement anticipate this more relational approach.

The survey results reveal some interesting contrasts:

- In general, governments outside the United States view contracts as becoming more relational based over the next five years. However, the US government, particularly at the individual contributor level, sees its contracts as becoming more transactional.
- Regional differences may contribute to more pronounced shifts as well. Overall, practitioners in the US have a stronger belief in the status quo and in other regions, there is greater polarization.

Our chart shows the extent of this anticipated change.

This shift provides a valuable context for other data in this report and highlights the expanded role of the contract as a definitional and management tool.



## Approach to negotiation

*I have always had a theory that one of the problems with commercial contracting today is that it is too dominated by the lawyers and the negotiations take too long and create sometimes more problems than they solve.*

**Senior Executive, Global BPO**

Many who responded to this study reflected on the frequency of adversarial contract negotiations and the ‘unreasonableness’ of the other side. Essentially their words illustrated a lack of trust and in some cases a lack of respect. Underlying these emotions were two consistent themes:

- Suppliers (and especially Sales) cannot be trusted;
- Procurement is only interested in discounts, savings and compliance with process, not in delivering real business benefit.

Others were quick to comment on the importance of ‘relationships’, though often bemoaning the fact that it can be hard to maintain strong relationships in today’s competitive environment (and that the attitudes identified above make such relationships hard to sustain).

*The substitution of transaction-oriented dealings for relationship contracting added to profitability in the short run; but in the long run it eroded relationships that had been the underlying source of much of that profitability.*

**John Kay, Economist, Author, Professor at London School of Economics**

Our interviews revealed a sense that things are starting to change – and this is reflected in the sidebar quote from John Kay. There can be little question that the ‘professionalization’ of Procurement led to a much more aggressive focus on pricing. In order to maintain its delivery of ‘savings’, Procurement was forced to adopt new techniques – moving towards more transactional purchasing, increased frequency of competitive bidding, implementation of software tools to support ‘auctions’, disaggregation of products and services to support commodity buying. Globalization gave these steps real momentum, since it led to a dramatic expansion of choice and competition. Loyalty and relationships were thrown out of the window in order to generate lower input costs.

It is clear that today we see some rebalancing of this position and a realization that cost does not equal value. Indeed, input cost and actual cost are also very different – and the absence of supplier loyalty, preference and collaboration represents a major loss to many businesses. Therefore, our survey shows movement to a more nuanced approach, where relationship value is being increasingly assessed as part of the contracting process. However, most acknowledge they have some way to go in segmenting their relationships based on value potential and in ensuring the contract terms then support this relationship.

Many also overlook the point that high value relationships increasingly depend on organizational alignment, not simply harmonious personal relationships. It is this need for sustained organizational alignment that contributes to the changing role and purpose of contracts, as they become relational instruments and as the process of contracting becomes a source of continuous oversight and review.



## *A change of appearance and construction*

What will the contract of the future look like? As they move from purely legal documents to instruments that are more supportive of the needs of users, there will be a greater focus on digital techniques – not only plain language, but also audio and visual alternatives.

*Rule number one: young people don't read anymore, so 50 pages of contract is useless. They're very much a visual generation....they don't need 50 pages. Only lawyers read 50 pages when you're in trouble.*

**Canadian Government Official**

Progress on visualization and plain language has, until recently, been slow, but without question there is a significant drive in these directions. As well as the momentum towards design initiatives that facilitate business understanding, there are also early adopters of technology for the machine reading of contracts and use of artificial intelligence.

On the question of design, some doubt that there will be widespread implementation and use of visual contracts until these have been more fully tested in the courts, yet others point out that courts are already accustomed to interpreting drawings and designs – for example in construction and engineering. In addition, social and political trends are demanding the streamlining of justice systems. Already there is discussion of on-line courts and web-based dispute resolution systems reflecting the need for justice to become more accessible, faster and more affordable.

*Read the Federal Acquisition Rules? Where's the video?*

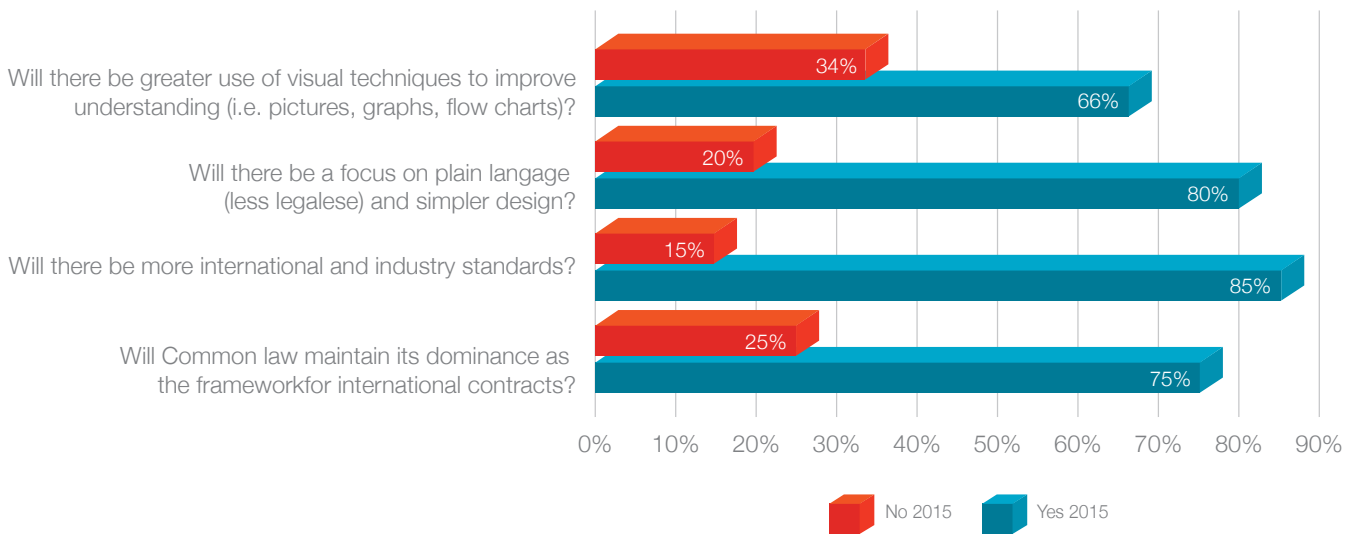
**US GSA Official**

The test of a good contract will increasingly be understandability, not solely its enforceability. In so far as these progressive techniques achieve their objective of simplifying contracts and embedding clarity, then we will be saving hours of painstaking interpretation by lawyers and judges of complex and ambiguous terms.

*We will continue to see further simplification and streamlining – people want things in smaller digestible bites. I do think there will be more use of graphic design.*

**VP, Global Technology Company**

## What aspects of contracting will change over the next few years?



*Can contracts be turned into virtual reality?*

*Leader, Business Information Modelling Initiative, UK*

Interest in industry standards is also increasing at a rapid pace, as we explore further later in this report. IACCM has several on-going initiatives in this area. In support of these standards, there is also broad consensus that common law will remain dominant in international contracting because it is felt to be more complete and more adaptive than alternative systems. However, several experts observed that this may reflect wide use of English as the contracting language rather than dominance of Common Law itself. Indeed, there is evidence of a growing convergence between legal codes, with 'intent' increasingly considered in making judgments.

# Drivers of change

## *Interdependency and the 'virtual enterprise'*

Perhaps the most fundamental issue that is driving change in the field of contracting is the steady erosion of the traditional enterprise. Forecasts by Nobel prize-winning economist Ronald Coase in his 1938 paper, 'The Nature of the Firm', are proving prescient. He argued then that the integrated enterprise was logical only in an environment where technology was limited. Since that time, we have seen a steady shift towards outsourced activity, leading to a world where many industries spend far more on external resources than on internal operations. On average, it seems likely that most organizations now spend 55 – 65% of their revenue on external supply.

As if that change were not enough, it has been accompanied by transformation in the sources of supply, with a move away from largely local suppliers to potentially global networks.

### *The virtual enterprise*

*An enterprise is the amalgam of organizations required to deliver an agreed outcome.*

*First Principles whitepaper, Australian Government*

These shifts are important because it has become increasingly accepted that each relationship established with an external supplier requires some form of structured agreement, specifying the purpose and obligations associated with that relationship. The constant pressure to reduce cost and prices has led to heavy investment in networked technologies, which in turn have enabled even business-critical activities to be contracted to external providers. Today, we have a situation where businesses have become dependent on their external suppliers and, increasingly, their performance is determined by the quality of operations across an 'interdependent network' – or virtual enterprise.

Such complex environments require a disciplined approach to their management. Within enterprises, that discipline has been achieved through the implementation of software products, especially ERP (Enterprise Resource Planning). There is no equivalent solution for managing the complexity of inter-enterprise relationships. This is the gap that the contracting process must urgently bridge through a combination of technology, advanced contract design and increasingly sophisticated negotiation techniques.

Contracts and the contracting process of the future will therefore provide the framework for shared understanding and the operational interactions of the parties. This means a move away from thinking about each contract as an individual relationship or transaction, to an appreciation that contracts themselves must be connected and interoperable.

*Organizations increasingly operate as a nucleus for supply and customer networks, held together through a portfolio of interdependent contracts and relationships.*

## *A new approach and a new attitude to risk and its management*

While progress remains slow, there is widespread recognition that current approaches to risk management within the contracting process remain immature – and indeed can often be a source of risk. Examples of this include the continued focus on risk allocation, without real consideration or validation of the respective abilities or methods required to manage those risks. The template-driven approach to contract terms and conditions often results in rigidity and means that alternative approaches are not considered and underlying causes of risk are ignored. The use of the template actually discourages risk evaluation and thus becomes its own risk.

Thought-leaders expect change and identify the issues of growing interdependence between organizations (described above) as a key driver in raising transparency, sharing data and working on joint problem solving. In order to safeguard performance, risks must be managed or eliminated, not simply transferred. These expectations point to increased use of shared risk registers, suppliers who differentiate through superior risk management capabilities and a wide belief that the next generation of software tools will be designed to operate across organizational boundaries, not within them.

Buyers and sellers have always engaged in negotiations over risk, but growing competition, regulation and complexity altered the severity of the risks faced and turned many negotiations into a battle over risk allocation. This sterile approach is increasingly being questioned and two clear approaches are emerging:

- Suppliers are devising new offerings in which they take greater responsibility for outputs or outcomes.
- There is growing interest (most evident in legal teams) in both buyer and seller organizations to develop agreed industry standards

Standards are not new and past approaches are problematic. They have tended to be inflexible and do not age well. The time and effort to make adjustments often leaves them outdated and increasingly irrelevant – in themselves, therefore, a source of risk. In a world of more sophisticated technology, fresh approaches are possible. The new standards may be more reflective of core principles, drawing on clause libraries that include term options or fallbacks to support alternative negotiated positions. Update of those standards can be far more dynamic and indeed, as a later section will highlight, may move towards models similar to those used in the development of Open Source software

and the creative commons. The benefit of such approaches would be a more intelligent discussion over actual risks, their likelihood and how to avoid them, rather than the template driven, compliance-focused approach which is centered on transfers of risk.

*Smart contract technology (based on blockchain) can circumvent regulatory infrastructures, which could reduce costs for financial transactions. An important feature of a smart contract is the ability to reduce risk through non-discriminatory execution. The lack of a central counterparty agent can enable such contracts to service markets with greater efficiency.*

*Elliot Maras, CryptoCoin News*

Such changes will be driven by a shift in the focus of management teams and further maturing of the technology sector, especially in areas such as artificial intelligence. It is interesting to note the relative speed of innovation and the enthusiasm being shown, especially by leaders in the legal profession and in “stressed” industries such as financial services.

## *Traditional risks won't disappear*

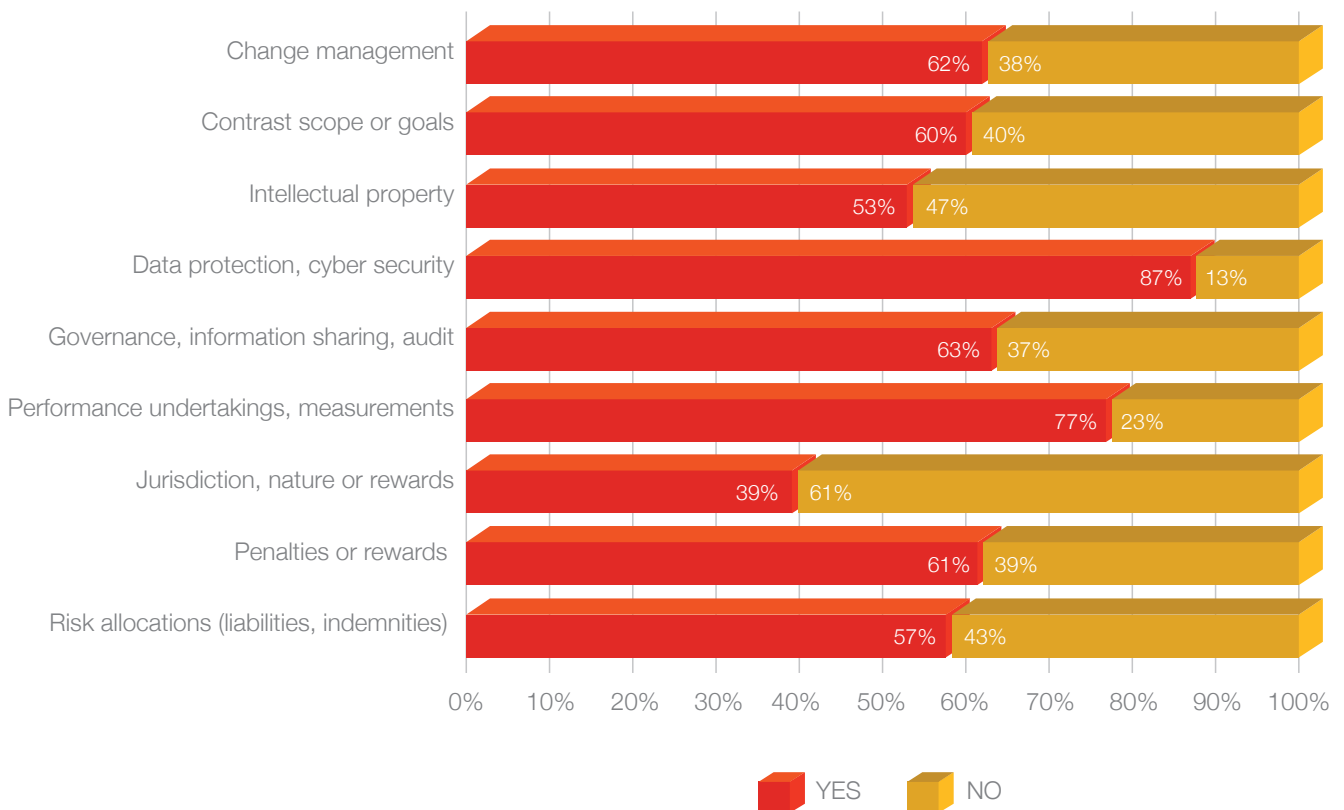
While some things have changed, others have remained the same. Each year IACCM conducts a survey of the most negotiated terms. The topics we spend the most time negotiating remain those focused on risk allocation, essentially unaltered from those we were negotiating 15 years ago. In many instances it appears that our dramatically altered business reality is on a collision course with our historic rules and practices.

Acknowledging the need for new thinking aside, the traditional role of contracts in risk allocation and negotiation will not go away. However, emerging approaches – such as relational or performance-based agreements – will result in greater focus on reducing risk likelihood. Those who adopt this approach will find it easier to establish a more balanced approach when negotiating

clauses related to risk consequence, but as the chart shows, the issues related to asset protection and regulatory compliance will continue to be an important element in contracting. “New

risks”, such as cybersecurity, are notable on this list and are also high on the corporate agenda as an area requiring industry-standard approaches.

### *Do you expect significant changes to terms and conditions and the approach to their negotiation?*



### *“Management doesn’t take contract management seriously”*

In 2014 the UK’s National Audit Office reported on the challenge facing government as it seeks to reform public services. Its observation that “management doesn’t take contract management seriously” does not only apply to the public sector. Contract management has long been viewed as a transactional and largely administrative activity within most organizations, in keeping with the old concept of a contract – a dry, dusty document that sits in a drawer until there is a dispute or someone realizes it should be renewed.

Today, contracts and the contract management role must enable dynamic shifts in market conditions and business needs through more agile models. This issue of agility is widely recognized by survey respondents, along with the need for new contract frameworks that focus on outcomes and performance.

Survey respondents know that contract management must improve, but in order to improve there must be greater clarity of purpose.

*I am told my commercial and contract staff are really busy... but I really don't know what they do.*

**CEO, Aerospace and Defense**

*What is contract management supposed to do? Is it about risk, compliance, business controls, revenue or margin improvement, cost reduction? Perhaps it is all of those things – but right now, in too many cases, it seems to be whatever the individual contract manager believes it to be.*

**CEO, Telecoms and Technology Consulting Group**

## Automation and technology

Technology continues to drive fundamental change in society and in what society can achieve. Yet technology is rather late in influencing the world of contracts, at least in terms of how they are formed, managed and communicated. Two major influences will be the need to design contracts and contracting processes with users in mind and the social and political demands for increased transparency.

Simplification is a major expectation that derives from automation. In future, those responsible for contracts will be expected to focus on simplifying the user experience, which is very different from merely writing shorter contracts or using simpler language. It is in this context that process design and digital technologies will steadily transform the appearance and use of contracts.

To date, the major breakthroughs on sell side contracting have been in the use of multi purpose tools - word processing, electronic document exchange and storage and retrieval, workflow and (the slow) adoption of electronic signatures. The procurement side has benefitted from tools designed specifically for procurement as well as integrating more logically and seamlessly into standard ERP systems. However, in general the software created to manage contracts has been unimaginative and has sought to automate existing processes, rather than transform them.

Governments in particular are at the forefront of change. A recent example comes from the US Department of Defense, where the Chairman of the Armed Services Committee observed that the length and complexity of the regulations governing procurement have “moved beyond the ability of humans to manage on their own”. Artificial Intelligence systems are now being deployed to support the acquisition process and speed decision-making.

While our survey respondents confirm that the adoption of technology in contracting is limited, many feel that this is already changing. Indeed, the example of the US military cited above is an indicator of such change. The advent of more powerful tools analyzing large sets of data is now supplemented by growing discussion about new technologies such as blockchain, which may operate in a back office environment and be transparent to a user ... and the even more exciting possibilities created by Artificial Intelligence.

*The technology cycle is faster than it's ever been, and is speeding up. If it takes 20 years to field the next airplane or ship, it's going to be out of date by the time it gets there.*

**Chairman, US Armed Services Committee**

*Law schools are equipping tomorrow's lawyers to be twentieth century not twenty-first century lawyers... Information technologies can and should streamline and sometimes even overhaul traditional methods of practicing law.*

**President of the Society for Computers and law, IT adviser to the UK's lord chief justice**

# Consequences of change

## Process, skills and Organization

Delivering distinctive commercial capabilities demands differentiated and innovative contract commitments and the capability to oversee their performance. In addition to the obvious pressure this places on skills, the future of contracting also requires new thinking on organization and measurements of success.

## Preparing for the future

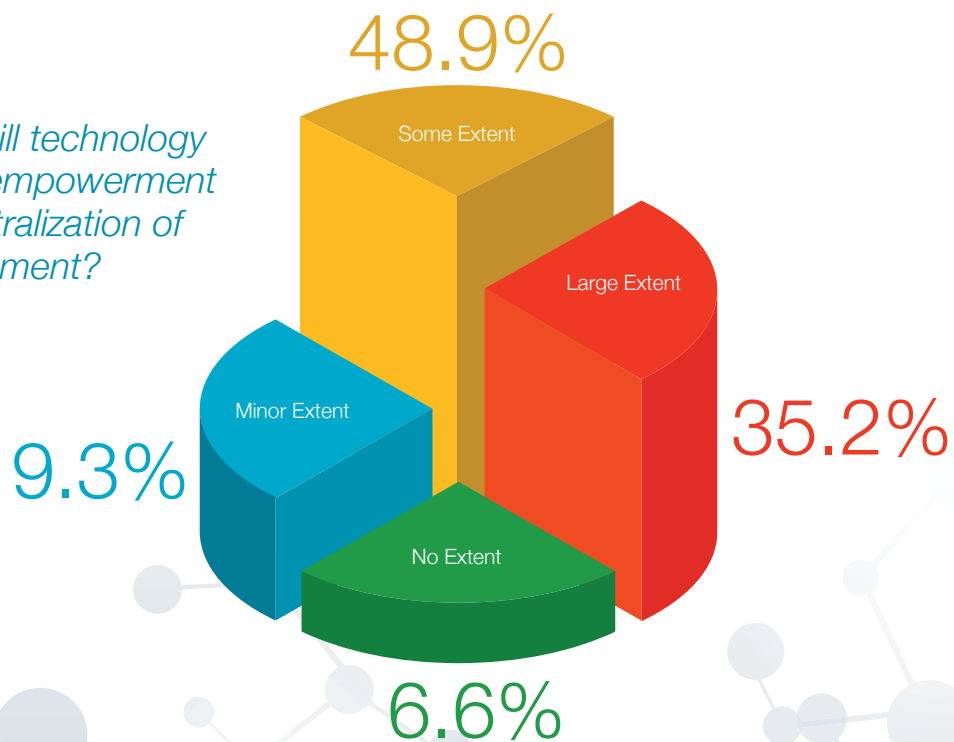
### Process

As highlighted elsewhere in the report, digitization demands simplification and processes that are designed for users. The chart below indicates broad acceptance and understanding of this need. However, rapid progress is being impeded by the absence of clear process ownership and the barriers created by multiple stakeholder interest groups.

As the chart shows, technology will underpin this shift since it provides the ability to release and then maintain operational guidance and standards, while enabling continued insight to decisions and actions. However, success in transforming existing processes depends upon leadership and more than 70% of those responding feel that this is currently absent or lacking in their organization.

Most organizations have clearly stated strategies and values to achieve their objectives. However, many of these same organizations do not have clear accountability and ownership for the mission-critical role of the contracting process. With no overall owner, there is little or no accountability or authority to ensure that contracts and contract management capability are fit for purpose and helping to achieve the business objectives.

*To what extent will technology allow increased empowerment or greater decentralization of contract management?*



### Skills

Effective contracting has always depended upon a holistic approach, gathering and reconciling the interests of multiple stakeholders to achieve the best solution. This requires balancing the needs for compliance and control with those for creativity and speed.

As the graphic below shows, the existing community largely believes it has the skills needed to adjust its role for the future. However, the experts we interviewed are more doubtful. Equally, while 50% are “very confident” that they personally are prepared for the demands of the future, that drops to only 33% when asked about the readiness of their colleagues.

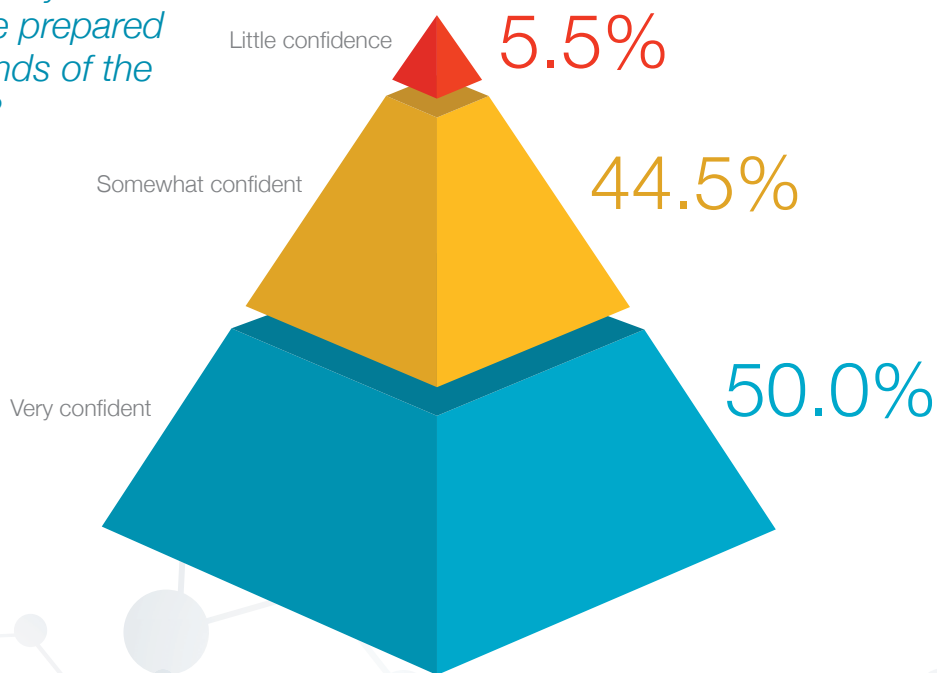
Survey responses also suggest that far too many of the incumbent community remain convinced that a control and compliance role remains valuable, failing to appreciate that this is one of the first areas that will be replaced by technology.

Certainly, if aspirations around reporting line are to be realized (see below), the function must become more creative. Rather than a focus on identifying risks and monitoring compliance, it will need to offer creative ideas and solutions that generate competitive advantage and raise financial performance. This requires ‘distinctive capabilities’ – which in many cases will be the ability to take on commitments and add value in ways that other organizations cannot do. This will be achieved through differentiated forms of contract and contract terms offered to customers and will be enabled through selection and partnering with innovative suppliers and supply networks. It is this latter need that is rapidly raising the importance of contracting and commercial skills for those in procurement.

When it comes to success, those charged with responsibility for contracts and commercial management will increasingly be measured on their effectiveness in empowering organizational performance and delivering required outcomes. This demands a move from a role of ‘review and approval’ to becoming ‘business enablers’.

As previously mentioned, leadership skills are also a major dependency. Alto Partners, executive search firm, suggest these depend upon “Learning Agility” at both an individual and functional level.

*Overall, how confident do you feel that you personally are prepared for the demands of the next 5 years?*





*I am looking for people with a digital mindset and the ability to carry out sophisticated financial and operational modeling.*

*Deputy General Counsel, Financial Services*

*My commercial team needs to understand our business objectives; I recognize that they need to manage risk but must do so with their eyes firmly set on desired outcomes.*

*CEO, Aerospace and Defense*

### Identifying and Developing Learning Agility

This chart shows the critical enablers and these have been reinforced by the views of experts who manage large organizations, teach and hire people today:

*Communication capabilities and effective relationship management are fundamental to the success of our business.*

*VP Supply Management, Oil and Gas*

*It's a multi-faceted role; it requires not only the understanding of the contracts themselves, but an understanding of the bigger picture, the strategy, the relationships that are established by the agreements and the metrics that we need to get the most out of our contract portfolio.*

*Commercial Director, Telecoms*



Alto Partners - 2016

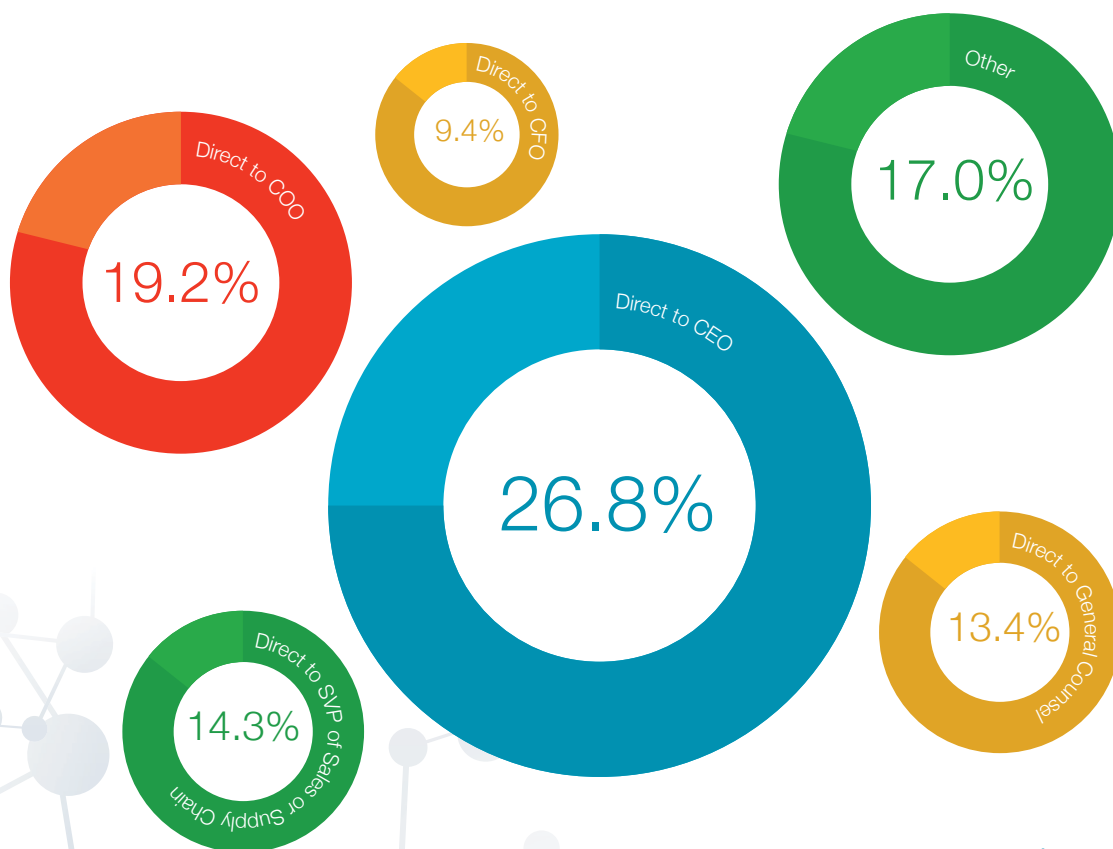
**Organization**

There are two fundamental shifts expected from an organizational perspective:

- Reporting Line – “Ownership” of contracting by the legal function is expected to decline
- Consolidation or Integration of buy-side and sell-side resources and activities to form a shared services center

As further described below, it is likely that future “best practice” organizations will see the integration of buy-side and sell-side resources to create a function charged with enabling high quality trading relationships. This approach provides clear accountability for the quality of the process, the relevance of commercial policies and practices, as well as the overall integrity of the trading relationships and supply networks.

As shown by this chart and observed earlier in our report, there is an increasing expectation that ‘commercial management’ will be elevated in its reporting line. An interesting aspect of this organizational expectation is that most contract and commercial management groups would no longer report to Legal – today’s most common reporting line (approximately 40% of functions). This view is shared even by those with a legal background and reflects a concern that Legal is a stakeholder in the contracting process, not a natural or fully objective owner. Given our definitions, there is a reasonable probability that many commercial groups will report to the CEO but, given its operational focus, alternative reporting lines remain more likely for contract management.



*Where will the contracts/  
commercial function report?*

Our survey respondents are also clear that measurements need to change, so that contracts staff focus far more on the contract as an enabler of the right results. As one vice president of engineering organization observed: “It’s the inputs that frequently lie at the heart of failure. If a contract has been put in place to reflect outdated or inappropriate policies, practices or capabilities, it is hardly surprising when it fails to deliver the desired outcome”. Far too often, our participants tell us, we are using the wrong contract models, the wrong templates – instruments that simply don’t reflect the required relationship and may even be contrary to the stated strategies or values of the business itself.

These problems are created by the fact that contracts are seen as transactional tools, not strategic business assets. They reflect the core issue of lack of ownership for the overall process. With no owner, there is no accountability or authority to ensure contracts and contract management capabilities are ‘fit for purpose’. Given the complicated, cross-business nature of the discipline, contract management will only improve if senior management starts to take it seriously.

A major question for those who work in the field of contracting is ‘What impact will new technologies have on me?’ Our interview candidates are clear that the impact will be substantial and that the nature of their work will alter. The combination of analytical tools and artificial intelligence systems will enable extraction of data across contract portfolios, offering not just efficiencies, but also far greater insight into the effectiveness of alternative contract types or terms, as well as management of ‘contractual networks’, rather than just individual agreements.

*I think for some of the more basic, automated tasks, you will not need humans. However, you are still going to need knowledge workers to help figure out the things that have never been done before. You are always going to need smart people to make that work and business leaders to manage and drive the change.*

**Senior Executive, Global BPO**

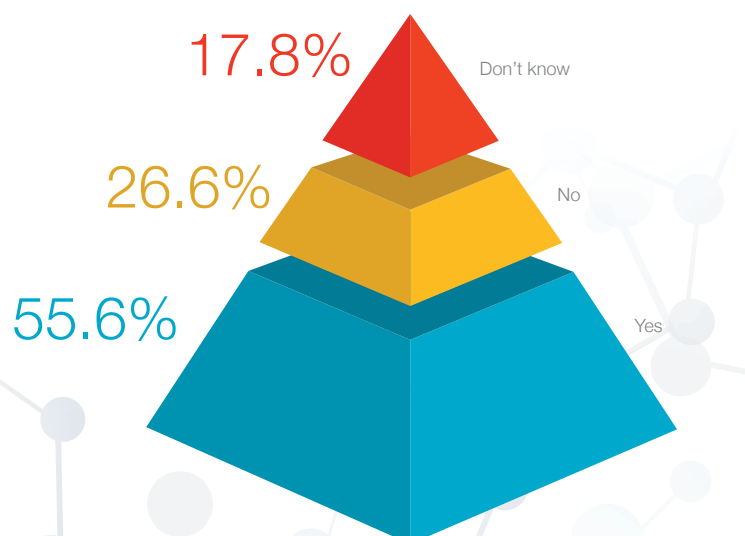
For those aspiring to a CEO reporting line it is clear that the move to an integrated trading relationships function offers much greater opportunity. Those who have succeeded in this transition have a strong focus on contribution to revenue growth and innovation.

## Integrators

To deliver these benefits, contracts and commercial groups will increasingly operate as ‘integrators’ across the organization – reflecting the nature of a contract itself. The need for service delivery commitments to be closely aligned with supplier selection criteria and management of supply network calls for consolidation (or integration) of buy-side and sell-side resources, to create a function charged with enabling high quality trading relationships.

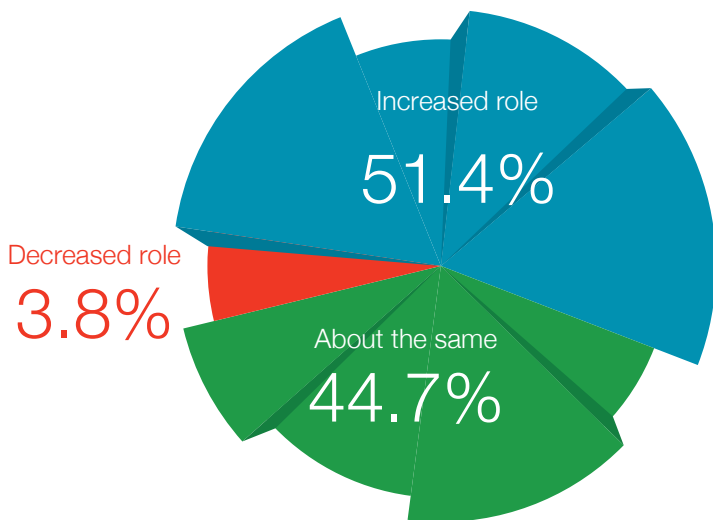
As the chart shows, a majority of practitioners believe that a consolidated function will deliver significant business benefit. Currently, many smaller organizations already have integrated buy-side / sell-side resources. This tends to change as organizations grow and there is increasing specialism, yet given overall market trends, such separation results in avoidable risks and less flexible deployment of skilled resource. As this study confirms, market performance frequently demands back-to-back integration from customer contracts into a range of supplier agreements. In addition, growing automation of the traditional procurement and contract management processes leads to a need – and opportunity – for a more strategic group that understands markets, drives commercial policy and supports its implementation and update.

## Would there be benefits in consolidating buy-side and sell-side contracting resources into a single function?



Political and social trends are raising the importance of reputation and, as the media increasingly reflects, contract performance and commercial integrity are key. In addition, the role of contracts in delivering improved financial results is widely understood and practitioners expect continued expansion of the linkage between contracts and cost / price data and authorities.

### *How do you believe your role in cost or pricing management will change?*



### *Hope on the horizon*

As previously highlighted, many governments are awakening to the need for commercial reform and in some respects are setting the pace for change. This means that the private sector is not always ahead of the public sector in overall compliance. It is struggling with similar problems of transformation in service delivery models and the management of continuous change. But there are areas of real progress. Companies such as Accenture, BT and Hewlett-Packard have made substantial headway in the field of outsourced services, investing in skills, systems and radical methods of empowerment and flexibility. In aerospace and defense, new commercial models are being introduced, along with significant focus on contracting skills. In industries such as these, old rule books are being challenged and, rather than fight over risk, they are (in some cases) starting to work on relationship structures that support the superior management of risk. There are encouraging signs that contracting will become a more collaborative discipline.

Yet collaboration will not apply across all contract types. Organizations are becoming more sophisticated in their segmentation of required relationship models. Future contracting will draw from greater understanding of the nature of the risks faced – for example, levels of interdependence, extent of choice in the market, relative impacts on reputation – and use these to determine relationship strategy. For those who remain in the non-strategic, low risk segment, contracting will generally remain transactional and strongly price-based, with maximum risk transfer to the supplier.

Particular industries may also take longer to reach a point of equilibrium. Typically, low margins or high regulatory risks are indicators of lower collaboration. This may lead to increased confrontation, it may lead to further supplier consolidation – or it could lead to suppliers working out how they can accept greater risk and introduce new contracting and commitment models. Arguably, this is what has occurred in the world of outsourcing; if the market pressure is to accept risk, some suppliers will find a way of doing it.

*Contracts today provide a framework for business operations.*

**Deputy General Counsel, Technology**

# Concluding thoughts

## So where next?

Contracts must change and the image and perceived purpose of contracting must adjust to an era of altered risk and shifting competition. It has been more than 20 years since former IBM Chairman and CEO Lou Gerstner observed: “Contracts are about brand image”. This prescient view connects well with today’s increasingly open, transparent business practices and the need for visible honesty and integrity.

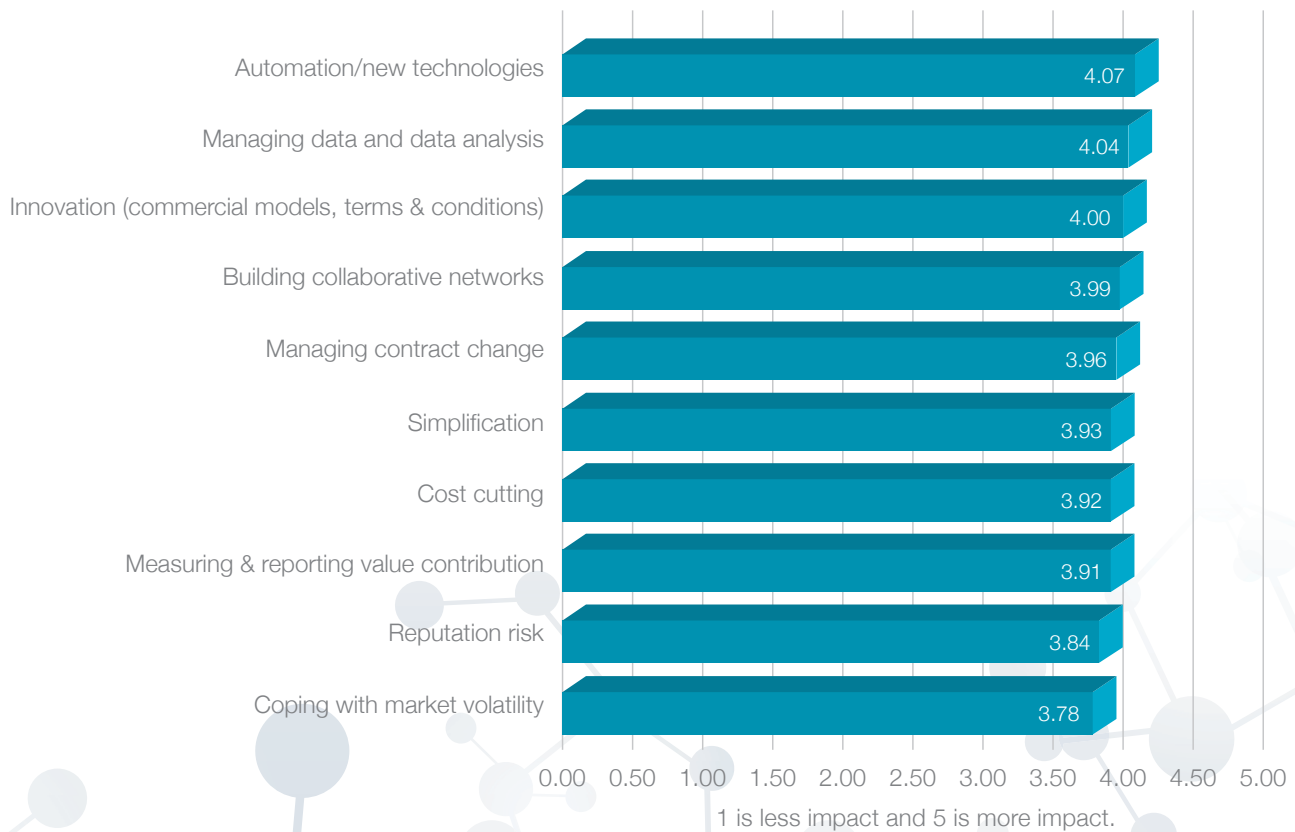
## The ten most important issues

As the chart illustrates, contracting will steadily operate with a new purpose, balancing the need for compliance and control with that for creativity and speed. It is not surprising to see that the most important issues for survey respondents are technology and the impact that it will have on contracts. Overall the top five give a picture of the changing landscape ahead and the diverse skills required. The entire list indicates the scale of competing demands on time and skills. It also shows that skills will be required in two distinct areas:

- Strategic enabling
- Operational performance

Different competencies will be required for leaders of strategic change and those performing transaction support.

### Relative to today, how important will these issues be? (1 less impact, 5 more impact)



## New technologies, new skills

As already indicated, the implications for skills are substantial and in no way limited to the field of contracts and commercial management. The quote from Richard Susskind, best-selling author on the future of lawyers, indicates the uncertainty facing most professions. This has implications not only in respect of the changes that individuals will face, but also the fact that they will face new competition. For example, IACCM is already observing the extent to which 'adjacent' groups are eyeing the opportunities for career progression and security that expertise in contract and commercial management may offer. Lawyers and project managers are among those who see the potential.

However, this steady move towards a strategic role will result in increased competition for its ownership. Incumbent contracts and commercial staff are in many cases not well positioned and (in the opinion of executive management) may lack needed skills. Preparing for this future is multi-dimensional, but at its heart is technology and leadership.

As we observed at the beginning of this report: "In the future, contracting activity will focus far more on areas such as knowledge application, commercial innovation, business judgment, graphic design and behavioral economics. The growing wave of academic and executive interest in the discipline will turn to a surge, as contracts and the rich data sources they contain become steadily more visible. Over the next 5 years, contracts will not only be recognized as critical business assets, but will start to be treated accordingly."

So for those who wish to move ahead in the race for contract and commercial competence, there are five key areas on which to focus:

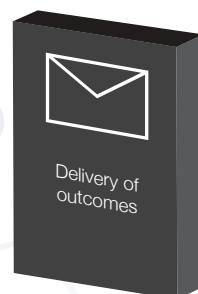
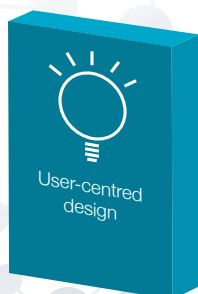
- The application of digital technology
- Process simplification
- User-centered design
- Integration of the contract and the relationship
- Improved definition of contract outcomes

*We are advancing into a postprofessional society.*

*Richard Susskind, The Future of the Professions: How Technology Will Transform the Work of Human Experts*



→ The Future of Contracting



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## Who we are

IACCM is a not for profit association active in over 160 countries. It is dedicated to raising individual, organizational and institutional capabilities in contracting and commercial management, providing research, benchmarking, learning, certification and advisory services to a worldwide, cross-industry audience of practitioners, executives and government.



## Contact Us

(US) + 1 (203) 431 8741

(UK) +44 (0) 20 7096 2862

[info@iaccm.com](mailto:info@iaccm.com)

[www.iaccm.com](http://www.iaccm.com)