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Contractual governance and risk management in growing companies in light of transaction cost economics, agency theory, and compliance.

Contract governance and risk management in growing firms in light of transaction cost economics, agency theory and compliance

Contractual governance and risk management in growing companies in light of the economy of transaction costs, the theory of agency and compliance

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SUMMARY

This article examines contract management as a dimension of governance and risk management in growing companies, with an emphasis on the financial risks arising from contracts that, once signed, cease to be monitored by the organization. It starts from the observation that automatic renewal periods, penalty clauses, adjustments, ancillary obligations, and dependence on single suppliers produce effects on cash flow that are rarely perceived at the time of signing. The research adopts a qualitative approach, of an exploratory and descriptive nature, conducted through a narrative literature review with elements of integrative review and document analysis of technical standards and Brazilian legislation applicable to business contracts.

This framework articulates transaction cost economics, incomplete contract theory, agency theory, resource dependence theory, literature on relational governance and contractual learning, and risk management and compliance models consolidated by ISO 31000, ISO 37301, and COSO. The results indicate that a contract should be understood as a governance mechanism whose value depends on monitoring throughout its entire lifecycle, and not just on the quality of the initial drafting. It concludes that preventive contract management, supported by risk-proportional due diligence, simple controls over deadlines and obligations, and periodic review of clauses, constitutes an accessible instrument of financial protection for small and medium-sized organizations.

Keywords: contract management; transaction costs; due diligence; compliance; risk management.

ABSTRACT

This article examines contract management as a dimension of governance and risk management in growing firms, with emphasis on the financial risks arising from contracts that, once signed, are no longer monitored by the organization. It starts from the observation that automatic renewal terms, penalty clauses, price adjustments, ancillary obligations and dependence on single suppliers produce effects on cash flow that are rarely perceived at the time of signing. The research adopts a qualitative, exploratory and descriptive approach, carried out through a narrative literature review with elements of integrative review and through documentary analysis of technical standards and Brazilian legislation applicable to business contracts. The theoretical framework combines transaction cost economics, incomplete contract theory, agency theory, resource dependence theory, the literature on relational governance and contractual learning, and the risk management and compliance models established by ISO 31000, ISO 37301 and COSO. The results indicate that a contract should be understood as a governance mechanism whose value depends on monitoring throughout its entire life cycle, and not only on the quality of its initial drafting. The study concludes that preventive contract management, supported by risk-based due diligence, simple controls over deadlines and obligations, and periodic review of clauses, is an accessible instrument of financial protection for small and medium-sized organizations.

Keywords: contract management; transaction costs; due diligence; compliance; risk management.

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1 INTRODUCTION

Growing companies are dealing with a proliferation of contractual relationships that are rarely...
accompanied, at the same pace, by the organization's ability to manage them. Location of
real estate, software licenses, supply of materials, outsourced services, representation
Commercial and financing obligations form a network whose effects extend throughout
months or years. Greiner (1972) described organizational growth as a succession of phases.
evolutionary processes interrupted by management crises, and Churchill and Lewis (1983) showed that the transition
The transition from the survival stage to the success and takeoff stages requires formal systems of
control that the company, as a rule, has not yet built. Contracts are among the points where this
The discrepancy becomes clearer as the organization continues to sign them with the
The informality of the initial phase, while their commitments have already taken on scale and complexity.
from a mature company.

The problem becomes more significant when one considers the financial impact of a poorly executed contract.
It almost never appears abruptly. Automatic renewals not reported in
deadline, adjustments applied by indices that are no longer monitored, fines for non-compliance
Service level discrepancies, expired warranties, and forgotten exclusivity clauses result in losses.
Gradual, often recorded as ordinary operating expenses. Churchill and Mullins
(2001) demonstrated that growth consumes cash and that the sustainable speed of expansion
It depends on the company's operating financing cycle, which makes any unplanned exit risky.
of resources, which is especially damaging at this stage. The risk management literature, in turn, argues
that managing a risk presupposes its identification and continuous monitoring.
(Brazilian Association of Technical Standards, 2018), and the filed contract without
Monitoring is, to a large extent, a risk that the organization has failed to consider.

Given this scenario, the objective of this article is to examine, in light of the management literature,
In the economics of organizations and business law, how does the management of the life cycle of...
Contracts can be understood as a mechanism for governance and control of financial risks.
in growing companies. The aim is to understand why regularly entered contracts...
What factors contribute to these losses, and what theoretical and regulatory instruments allow us to prevent them?
result. After this introduction, the methodological approach is presented. Then, six sections.
They discuss contractual incompleteness under the economics of transaction costs, the life cycle of
contract, information asymmetry and counterparty due diligence, supplier dependence,
the relationship between formal contracts and relational governance and, finally, the dialogue between compliance and management.
of risks and the Brazilian legal framework for business contracts. The final considerations summarize

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The contributions indicate avenues for future research.

2 METHODOLOGY

The research has a qualitative approach and a theoretical-conceptual nature, with exploratory objectives.
and descriptive. According to Gil (2017), exploratory research seeks to provide greater familiarity
with the problem, making it more explicit and allowing the construction of propositions, while the
Descriptive research focuses on characterizing phenomena and establishing relationships between variables. In this case
Currently, the phenomenon being studied is the conversion of business contracts into sources of financial risk.
when there is no systematic follow-up after its celebration, and the relationships examined are
those gaps between this phenomenon and the constructs offered by organizational theory and economics.
institutional and contract law.
Regarding the technical procedures, a narrative literature review was adopted, complemented by
Elements of integrative review. Snyder (2019) distinguishes systematic reviews, focused on synthesis.
from empirical evidence on delimited issues, from narrative and integrative reviews, more
suitable when the purpose is to map the development of a field, combining perspectives
distinct theoretical frameworks and propose conceptual frameworks. Torraco (2005) and Whittemore and Knafl (2005)
They add that the integrative review allows for the gathering of theoretical and empirical literature from different sources.
traditions with the aim of generating new ways of understanding a topic, which fits the character
Interdisciplinary approach to contract management, situated at the intersection of administration, economics, and law.
The selection of the corpus was based on seminal works widely recognized in their respective fields, such as
the works of Coase (1937), Williamson (1979; 1985), Jensen and Meckling (1976), Akerlof (1970),
Macaulay (1963) and Pfeffer and Salancik (1978), and advanced by tracing citations for studies
subsequent publications in high-impact journals, such as the Academy of Management Review,
Strategic Management Journal, Organization Science and Journal of Law and Economics. They were
The inclusion criteria adopted included a direct relationship with contract governance and risk management.
or interorganizational relationships, the recognized relevance in the literature and the possibility of
Full source verification. Promotional materials and unattributed reports were excluded.
Identifiable and texts without editorial review.

In addition, a documentary analysis of technical standards and normative sources was carried out.
This stage included ABNT NBR ISO 31000:2018, which establishes risk management guidelines.
ABNT NBR ISO 37301:2021, which deals with compliance management systems, the model of
Corporate risk management of the Committee of Sponsoring Organizations of the Treadway
Commission (COSO), the Institute's Code of Best Practices in Corporate Governance

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Brazilian Corporate Governance, the Brazilian Civil Code, especially after the amendments.
introduced by Law No. 13.874/2019, Law No. 12.846/2013 and Decree No. 11.129/2022, in addition to Law
General Data Protection Regulation.

The material was organized using thematic categorization, a procedure that allowed for grouping the...
contributions across six analytical axes corresponding to the development sections of the article. Each
The axis was examined in terms of theoretical assumptions, implications for contract management, and...
Its limitations. The absence of primary data collection is acknowledged as a limitation of the study.
so that the propositions formulated must be understood as theoretically hypothetical statements.
These findings are well-founded and will be tested by future empirical investigations.

3. The Incompleteness of Contracts and Cost Savings

TRANSACTION

The understanding of the contract as a management tool has its roots in the work of Coase (1937), who
He inquired why firms exist in an economy where the price mechanism...
He supposedly coordinated the entire production. His response was that resorting to the market has costs.
including discovering relevant prices and negotiating and concluding separate contracts.
for each transaction. The author also noted that long-term contracts reduce the number of
negotiations are necessary, but they fail to specify precisely everything that will be required of them.
parts over time, leaving room for later decisions. This observation,
seemingly marginal in the original text, it became the starting point for an entire tradition of
research on the incomplete nature of agreements and on the mechanisms that organizations
They use them to deal with this incompleteness.

Williamson (1979; 1985) developed these insights in the form of transaction cost economics.
supported by two behavioral assumptions. The first is bounded rationality, a concept
formulated by Simon (1955), according to which agents intend to act rationally, but have
of limited cognitive capacity and information. The second is opportunism, understood as the
The pursuit of self-interest, with the possibility of resorting to strategic behaviors, such as
omission of relevant information. Based on these assumptions, the author identified three attributes.
What differentiates transactions are the specific assets involved, the degree of uncertainty, and the...
frequency, and argued that each combination of these attributes demands a structure of
adequate governance, situated between the market, hybrid forms and hierarchy (WILLIAMSON,
1991).

The theory of incomplete contracts deepened the problem by demonstrating that the impossibility of

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Anticipating all contingencies is not merely a result of negligence on the part of the parties, but is inherent to the very nature of...
complex transactions. Grossman and Hart (1986) argue that, when it is costly to specify all
Regarding rights over an asset, the ownership of so-called residual rights becomes relevant.
control, that is, the power to decide on matters not regulated by the contract. Hart and Moore (1988)
They examined how subsequent renegotiation affects the parties' incentives and showed that...
The expectation of renegotiation influences investments made before contingencies materialize.
materialize. Hart (1995) consolidated these contributions by arguing that incomplete contracts do not materialize.
They are an anomaly, but the normal condition of long-term economic relations.
For business management, the most relevant consequence of these theories is that the contract never
It is completed at the time of signing. Williamson (1985) distinguished transaction costs ex
before, related to the drafting, negotiation and provision of safeguards, of ex post costs, which
These include adaptation mismatches, disputes, and the operating costs of the structures.
Governance and the costs of ensuring compliance with commitments. Growing companies.
They tend to underinvest in the ex-ante phase, either due to haste or resource constraints, and frequently
They accept standardized templates presented by the counterparty. The result is the transfer of costs.
for the ex post phase, in which they manifest themselves in a dispersed and less visible way, in the form of
Unforeseen adjustments, penalties, and renegotiations in an unfavorable position.
The tradition of transaction costs is not without its critics. Ghoshal and Moran (1996) argued
that the emphasis on opportunism can produce self-fulfilling effects, since control structures
Excessively rigid policies tend to erode trust and encourage precisely those behaviors.
which they sought to avoid. North (1990), on the other hand, recalled that institutions, both formal and informal,
They exist to reduce the uncertainty of exchanges, which gives the contract a role that transcends mere...
protection against bad faith. In Brazil, the reception of these ideas at the interface between law and economics was
systematized by Zylbersztajn and Sztajn (2005), who highlighted the importance of analyzing the contract.
as a governance structure embedded in a specific institutional environment. The synthesis of these
Perspectives suggest that the contract should be treated as a dynamic instrument, whose effectiveness depends
both its drafting and its follow-up.

4. The Contract Lifecycle and the Formation of Silent Losses

The distinction between ex ante and ex post costs allows us to view the contract as a complex process.
through successive phases, and not as an isolated event. In the first phase, the organization evaluates the
The counterparty and the object of the contract, a moment when asymmetry problems predominate.
Informational resources are described by Akerlof (1970). In the design and negotiation phase, the allocation is defined.

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of risks, safeguards and adaptation mechanisms. The implementation phase concentrates the costs of monitoring and agency issues, while the renewal, amendment or
Closure exposes the company to the risk of appropriation of near-rents, known in the literature as hold-up (KLEIN; CRAWFORD; ALCHIAN, 1978). Figure 1 summarizes this interpretation and highlights that The risk management process should encompass all phases, fostering a learning cycle.
which returns to the initial stage of subsequent hiring processes.

Figure 1 – Contract lifecycle, predominant theoretical problems and management process. risks



Source: prepared by the author based on Akerlof (1970), Klein, Crawford and Alchian (1978), Williamson (1985), Argyres and Mayer (2007) and the Brazilian Association of Technical Standards (2018).

Organizational practice, however, tends to focus attention on the signing phase and neglect... the subsequent stages. Argyres and Mayer (2007) demonstrated that the competence to draft contracts This knowledge is distributed among managers, engineers, and lawyers, and that knowledge is being lost. when it is not recorded and transmitted. In growing companies, it is common for the professional who negotiated a particular contract leaves the organization or takes on other roles, without anyone Take over responsibility for its monitoring. Ancillary obligations, such as periodic submissions. of reports, insurance maintenance, guarantee renewal, compliance with minimum levels The rules regarding service and the observance of confidentiality clauses remain in effect, but cease to exist. to have an identifiable person in charge within the internal structure.

The renovation phase deserves particular attention. Samuelson and Zeckhauser (1988) documented, in

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Experimental and field studies show the tendency of individuals to maintain the status quo.
a proportion higher than what would be justified by a rational evaluation of the alternatives, a phenomenon that
They termed it status quo bias. Automatic renewal clauses, combined with deadlines of
prior notice for termination operates precisely on this inertia, as it transforms the absence of
decision on continuity. In Brazilian law, article 473 of the Civil Code allows for...
unilateral termination by means of notice given to the other party, but its sole paragraph stipulates
that, when one of the parties has made considerable investments for the execution of the
In a contract, the termination will only take effect after a period compatible with the nature of the contract has elapsed.
and the magnitude of these investments (BRAZIL, 2002).
The effects on cash flow are also manifested through readjustment and penalty clauses.
Long-term contracts indexed to general price indices may diverge.
significantly alters market conditions when these indices diverge from inflation.
effectively borne by the company, a risk that intensifies during periods of strong price fluctuations.
In the wholesale market, when general indices tend to diverge from consumer price indices and the clause
The readjustment begins to produce effects that the parties did not anticipate when contracting. Regarding penalties,
The Civil Code establishes that the value of the penalty clause cannot exceed that of the principal obligation.
according to article 412, and determines its equitable reduction by the judge when the obligation has been
partially fulfilled or when the amount is manifestly excessive, pursuant to article 413.
(BRAZIL, 2002). These limits, however, depend on further discussion, usually in court, and
They do not replace the preventive management of obligations that give rise to penalties.
The expression "silent losses" aptly describes the aggregate effect of these phenomena.
If losses are distributed among different accounting categories and different areas of the organization,
Failures arising from poorly monitored contracts are rarely recognized as management failures.
contractual. Power (2007) observed that risk management largely consists of organizing
Uncertainty arises through records, categories, and responsibilities, and that which is not recorded...
tends to remain outside the reach of organizational control. It follows that simple instruments,
like a centralized contract repository, a due date calendar with alerts
Advance payments and the designation of a person responsible for each instrument have disproportionate value.
at its cost, especially in organizations that do not yet have an internal legal structure.

5. Informational Asymetry, Agency Problems, and Due Diligence COUNTERPARTIES

Akerlof's classic study (1970) on the used car market showed that, when

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Sellers know the quality of the goods, but buyers don't; prices tend to reflect quality.
expected average, which drives away higher quality suppliers and progressively degrades the
market. The phenomenon, known as adverse selection, far surpasses the example given to it.
This gave rise to the idea that, when contracting suppliers and service providers, the contracting company rarely...
It knows precisely the financial health of the counterparty, its operational capacity, its track record of
litigation and compliance with labor, tax, and regulatory obligations. The choice based
predominantly in price, it therefore tends to favor precisely the counterparties that transfer
Hidden risks for the client, turning apparent savings into future exposure.
Once the contract is concluded, the informational problem takes the form of an agency relationship.
Jensen and Meckling (1976) defined this relationship as one in which one party, the principal, delegates
the other, the agent, the execution of activities on their behalf, and they demonstrated that the divergence of
Interests between both parties generate agency costs comprised of monitoring expenses, expenses
of guarantees incurred by the agent and residual loss. Holmström (1979) added that efficiency
The success of contracts depends on the quality of the signals available about the agent's behavior, so
that every observable indicator capable of revealing information about the effort employed must, in
In principle, it should be incorporated into the contractual design.
Eisenhardt (1989), in a review that has become an essential reference on the subject, distinguished the
The text discusses the difference between behavior-oriented contracts and outcome-oriented contracts, arguing that the choice...
between them depends, among other factors, on the measurability of the results, the uncertainty involved and
the existence of information systems capable of observing the agent's conduct. The author highlighted
Investments in information systems reduce asymmetry and, consequently, agency costs.
For contract management, this conclusion supports the adoption of performance indicators and routines.
periodic verification and audit and accountability clauses, especially in
contracts in which the final outcome depends on conduct that the contracting party is unable to observe.
directly.

In this theoretical framework, counterparty due diligence can be understood as a mechanism for
Screening aimed at reducing adverse selection before hiring. In the Brazilian legal system, Law
Law No. 12,846/2013 established strict liability, in the administrative and civil spheres, for individuals.
legal actions for committing harmful acts against the national or foreign public administration,
practiced in their interest or benefit, whether exclusive or not (BRAZIL, 2013). Decree No.
Law 11.129/2022, in its article 57, included among the parameters for evaluating integrity programs...
conducting appropriate, risk-based due diligence for contracting and, as appropriate, the
supervision of third parties, such as suppliers and service providers (BRAZIL, 2022). The General Law
The Personal Data Protection Act, in turn, imposes on the controller the duty to verify compliance,

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by the operator, the instructions and standards applicable to data processing (BRAZIL, 2018).
Literature and standards converge, however, in indicating that due diligence should be proportionate to...
risk. Williamson (1985) already warned that safeguards have a cost and that their optimal level depends on
characteristics of the transaction, especially the specificity of the assets and the uncertainty. A company of
Small or medium-sized businesses do not need to subject all suppliers to the same level of scrutiny.
but it must classify its counterparts according to criticality, value involved, and access to sensitive data.
and regulatory exposure, applying more in-depth checks to higher-risk cases. The consultation
certificates, public registers of sanctions maintained by the Comptroller General of the Union, such as the
National Registry of Ineligible and Suspended Companies and the National Registry of Punished Companies,
as provided for in Law No. 12.846/2013 (BRAZIL, 2013), and the analysis of financial statements comprise
an accessible set of initial checks, which should be renewed periodically during the
execution.

6. Dependence on Suppliers, Asset Specificity, and Power in CONTRACTUAL RELATIONS

The resource dependence theory, formulated by Pfeffer and Salancik (1978), starts from the premise that
that no organization is self-sufficient and that the need to obtain external resources creates
Dependency relationships that confer power to the organizations that control them. According to the authors,
The degree of dependence results from the importance of the resource to the functioning of the organization, from
discretion on the part of those who control it and the concentration of that control in a few suppliers.
Hillman, Withers, and Collins (2009), in reviewing three decades of research based on this theory,
They confirmed its usefulness in explaining integration decisions, alliances, board composition, and...
Co-optation strategies were discussed, and it was highlighted that organizations actively seek to reduce uncertainty.
and dependency through interorganizational arrangements.
From a transaction cost perspective, dependency is associated with asset specificity. Klein,
Crawford and Alchian (1978) demonstrated that when a party makes investments whose value is
Since the income is substantially greater within the relationship than outside of it, a quasi-appropriable income emerges, and the
The other party then has an incentive to opportunistically renegotiate the terms after the agreement has been reached.
of investment. Williamson (1985) classified specificity into modalities such as locational,
The physical aspects, the human capital aspects, and the dedicated assets aspects. In technology contracts, for example, the
Data migration, integration with other systems, and team training constitute...
specific investments that increase the cost of switching and weaken the bargaining position of
contractor at the time of renewal.

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Kraljic (1983) proposed, in an article published in the Harvard Business Review, that companies
They classified their purchase items according to two dimensions: impact on the outcome and the...
complexity or risk of supply. The intersection of these dimensions generates four categories, items
Non-critical items, leverage items, bottleneck items, and strategic items, each requiring a
proprietary strategy for supplier relationships. Although designed for the management of
supplies, the matrix offers a useful tool for classifying the contract portfolio,
allowing us to distinguish between instruments that require intensive monitoring and those that can
to be managed through simplified procedures. Contracts relating to bottleneck and strategic items.
They concentrate the greatest risk of addiction and, consequently, justify greater safeguards.
elaborated.

The contractual design offers specific instruments to mitigate dependency. Exit clauses.
that allow for termination without disproportionate penalty, obligations of assistance in the transition to
a new provider, portability guarantees, and data return in a usable format.
periodic price review mechanisms with reference to market conditions and forecasts
Alternative sources of supply are examples of safeguards that reduce the potential for hold-
up. It should be considered, however, that the legal protection conferred by the sole paragraph of article 473 of
The Civil Code applies to those who have made considerable investments, which works in favor of both parties.
This means that the supplier who invested in the relationship may also object to immediate termination.
intended by the contractor (BRAZIL, 2002).

In growing companies, dependency often arises unintentionally. The supplier
chosen in the initial phase, when volumes were small and urgency was high, becomes
gradually becoming critical as the operation expands, without the original contract being revised.
to reflect this new importance. It is worth considering, however, that interdependence is not
necessarily harmful. Dyer and Singh (1998) argued that interorganizational relationships
They can generate relational income, resulting from specific investments and the sharing of...
knowledge and complementary resources, unattainable by each party in isolation.
The objective of contract management, therefore, is not to eliminate dependency, but to make one aware of it.
negotiated and accompanied by safeguards commensurate with the actual value of the relationship
It produces.

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7. Formal Contract, Relational Governance, and Learning

CONTRACTUAL

Macaulay's study (1963), based on interviews with businessmen and lawyers, mostly from the state of Wisconsin, it became a benchmark by demonstrating that, in many business relationships, the The parties rarely resort to formal contracts to plan their exchanges or resolve disputes, preferring instead... mechanisms based on reputation, relationship continuity, and shared norms of conduct. The author did not conclude that contracts would be irrelevant, but that their use depends on The assessment, by the parties, of the gains and costs of formal planning, and the use of sanctions. Legal issues can compromise valuable relationships. The research brought to the center of the debate the... the finding that actual contractual behavior differs significantly from that which was anticipated. according to formal rules.

Macneil (1980) developed, from similar concerns, the theory of relational contracts, according to which all exchange is embedded in social relations that give it meaning and stability. The author identified norms common to all contracts, such as reciprocity, flexibility, and... contractual solidarity and harmonization with the social matrix, and argued that its importance It grows as relationships become more lasting and complex. For long-term contracts Given the long-term nature of the relationships between companies and their critical suppliers, this perspective suggests The effectiveness of the agreement depends as much on the quality of the text as on the quality of the relationship. constructed between the parties during execution.

Subsequent literature has sought to clarify whether formal contracts and relational governance act as substitutes or as complements. Poppo and Zenger (2002), in an empirical study on services of Information technology, they concluded that both function as complements, since contracts More detailed information fosters cooperative relationships, and cooperative relationships foster refinement. of contracts over time. Lumineau and Malhotra (2011), when analyzing 102 disputes between Companies have shown that the level of detail in a contract influences the approach taken to... resolving the conflict and that different approaches imply different resolution costs. Based on In the same set of disputes, Malhotra and Lumineau (2011) found that control clauses They increase confidence in the counterpart's competence, but reduce confidence in their goodwill. decreasing the likelihood of continued collaboration, while coordination clauses They increase confidence in competence and encourage the continuation of the relationship.

Contract management also involves an organizational learning dimension. Mayer and Argyres (2004), when studying the sequence of contracts signed between two companies in the industry of Personal computers, they observed that the parties learned how to contract over time.

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incorporating new clauses in response to problems that arose in previous contracts. Argyres and Mayer (2007) expanded on this finding by proposing that contract design constitutes a Organizational capacity, developed through experience and dependent on mechanisms. Internal processes for recording and transmitting knowledge. For growing companies, the implication is... direct, because each dispute, renegotiation, or penalty suffered carries information that should be... incorporated into the minutes, internal procedures, and selection criteria for future counterparties. This concept is similar to the approach of preventive law applied to management. Siedel and Haapio (2011) argued that law can be used proactively as a source of advantage. competitive, and not merely as a reactive mechanism for dispute resolution, proposing that managers actively participate in the design and monitoring of contracts. Bagley (2008) introduced the The concept of legal astuteness, understood as the ability of leaders to communicate with legal professionals and the ability to use legal knowledge strategically to create value and controlling risks. Taken together, these contributions indicate that the value of a contract stems from a combination of a suitable text, a well-managed relationship, and an organization capable of Learning from one's own experience.

8. Compliance, Risk Management and the Legal Framework of Contracts BUSINESSES IN BRAZIL

Normative risk management models offer the process framework that previous theories... They do not provide details. ABNT NBR ISO 31000:2018 organizes risk management into principles, structure and process, the latter consisting of communication and consultation, definition of scope, context and criteria, identification, analysis, evaluation and treatment of risks, as well as monitoring, critical analysis, recording and reporting (Brazilian Association of Technical Standards, 2018). model from the Committee of Sponsoring Organizations of the Treadway Commission (2017) emphasizes the integrating risk management into strategy and performance, arguing that risks should They should be considered when formulating objectives, not just after those objectives have already been set. defined. Applied to contract management, both models indicate that each relevant contract must to be subject to risk identification, assignment of responsibilities, and periodic monitoring. ABNT NBR ISO 37301:2021, which establishes requirements for compliance management systems, contributes to the concept of compliance obligations, which encompasses both the requirements that... The organization is obligated to comply with those commitments it voluntarily chooses to comply with (Brazilian Association of Technical Standards, 2021). The commitments undertaken in Contracts can be incorporated into this concept, allowing them to be treated with the same tools.

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used for legal and regulatory obligations, such as liabilities inventories, internal controls and indicators. The Brazilian Institute of Corporate Governance (2023), in its code of best practices. Practices reinforce the principles of integrity, transparency, fairness, accountability and Sustainability, the application of which to contractual relationships requires that the organization's commitments... They should be known, registered, and monitored by identified responsible parties.

The Brazilian legal framework for business contracts emphasizes the importance of preventative management. Law No. 13.874/2019 included in the Civil Code the sole paragraph of article 421, which establishes that prevalence of the principle of minimum intervention and the exceptional nature of contractual review in private relations, and article 421-A, which presumes civil and commercial contracts to be equal and symmetrical, It determines that the allocation of risks defined by the parties must be respected and observed, and limits the review. contractual exceptions (BRAZIL, 2019). The same legislation added to article 113 the possibility for the parties to freely agree on rules of interpretation, to fill gaps. and the integration of legal transactions. Forgioni (2015) observes that business contracts They follow their own logic, driven by the pursuit of profit and the conscious allocation of risks. due to the need for security and predictability.

This system does not eliminate corrective mechanisms, but makes them exceptional. They remain. In the current context, the duty of objective good faith foreseen in article 422, allows for the possibility of termination due to excessive burden. excessive [cost] foreseen in article 478, conditioned upon the occurrence of extraordinary events and unforeseen circumstances, and the equitable reduction of the penalty clause provided for in article 413 (BRAZIL, 2002). A The use of these instruments, however, presupposes litigation, with its costs, delays, and its... uncertainty, in addition to the strain on the business relationship. For the growing company, the message that What can be inferred from the legislation is clear, since what has been signed tends to prevail, and the expectation of Seeking legal redress for a bad deal is not a reasonable risk management strategy.

Integrating the perspectives examined throughout this article allows us to relate the main risks. contractual challenges faced by growing companies and the theoretical foundations that explain them. to management tools capable of mitigating them. Table 1 presents this summary, which is not intended to exhaust all treatment possibilities, but offer a starting point for structuring Contract management routines proportionate to the size and complexity of the organization. It should be noted that Most of the instruments mentioned have low implementation costs and depend more on Organizational discipline and clarity of responsibilities are more important than investments in technology. or within internal legal structures, which reinforces its viability for small and medium-sized enterprises.

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Table 1 – Contractual risks in growing companies, theoretical foundations and management tools

Contractual risk	Theoretical foundation	Management tool
Unwanted automatic renewal and missed termination deadline.	Status quo bias and ex post transaction costs	Payment schedule with advance alerts and designated account holder per contract.
Inadequate counterpart selection	Informational asymmetry and adverse selection	Due diligence proportionate to the risk, renewed periodically during execution.
Single supplier dependency	Resource dependence, asset specificity, and hold-up	Contract portfolio classification, exit and transition clauses, data portability, and alternative sources.
Gaps and ambiguous clauses	Bounded rationality and incomplete contracts	Standardized templates revised and rules of interpretation agreed upon, pursuant to Article 113 of the Civil Code.
Failure to comply with ancillary obligations and the resulting penalties.	Agency issues and monitoring costs	Matrix of obligations, performance indicators and periodic verification routines.
Loss of knowledge about contracts	Contractual learning and contractual drafting skills	Centralized repository and record of lessons learned in disputes and renegotiations.

Source: prepared by the author based on Samuelson and Zeckhauser (1988), Akerlof (1970), Pfeffer and Salancik (1978), Klein, Crawford and Alchian (1978), Kraljic (1983), Hart (1995), Jensen and Meckling (1976) and Argyres and Mayer (2007).

FINAL CONSIDERATIONS

This article started from the observation that growing companies enter into contracts in greater numbers and Increasing complexity without developing, at the same pace, the capacity to keep up with it. A A review of the literature has shown that this mismatch is not just a matter of administrative organization, but a governance problem, whose causes and consequences are explained by established theories of administration, organizational economics, and law. business, and whose effects fall directly on the cash flow.

Transaction cost economics and incomplete contract theory have shown that no A contract is capable of anticipating all contingencies and what a significant portion of the costs of a relationship it represents. The contractual aspect becomes apparent after the signing. This conclusion shifts the focus of contract management away from drafting for follow-up, without diminishing the importance of the initial stage, which remains crucial.

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for risk allocation, for defining safeguards, and for building mechanisms for adaptation.

The contract lifecycle analysis revealed that the financial losses associated with contracts Poorly accompanied individuals tend to be silent, as they are distributed across different categories and areas of... Organization. Automatic renewals, misaligned adjustments, penalties, and ancillary obligations. Failures to meet targets affect cash flow gradually and are rarely identified as management failures. which makes it difficult to correct and encourages its repetition throughout successive hiring cycles.

Agency theory and studies on information asymmetry have provided a foundation for understanding... Due diligence as a screening mechanism prior to hiring and monitoring during the process. execution. Brazilian legislation on integrity, data protection and accountability of legal entities reinforce this requirement, while the literature recommends that the The depth of the checks should be proportional to the risk of each relationship, thus avoiding both negligence and thoroughness. as for excessive controls.

Resource dependence theory and the concept of asset specificity have made it possible to understand how suppliers chosen in the early stages can become critical without the contracts Correspondents should be reviewed. The classification of the contract portfolio according to impact criteria. and risk, inspired by Kraljic's matrix, and the adoption of exit, transition and portability clauses. They present themselves as viable solutions to this problem, provided they are revised as importance increases. It varies from supplier to supplier.

The literature on relational governance and contractual learning has demonstrated that formal contracts Trust and relationships act in a complementary way, and the ability to hire well is... built on experience. Organizations that record lessons learned from disputes, Renegotiations and penalties tend to improve your contracts over time, converting Negative episodes in organizational knowledge that become incorporated into minutes and procedures. and to the selection criteria.

An examination of the Brazilian legal system, especially after Law No. 13.874/2019, indicated that the Judicial intervention in business contracts is exceptional, and the allocation of risks agreed upon... This characteristic, combined with the benchmarks of ISO 31000, ISO 37301 and... tends to prevail. COSO reinforces the conclusion that prevention is the most effective means of financial protection. Available to companies, especially those that do not have their own legal department.

As a contribution, the study proposes that contract management be treated as a component of the system. governance and risk management, supported by simple instruments such as a centralized repository, payment schedule, designated responsible parties, obligations matrix, and periodic review of clauses. As this is theoretical research, it is recommended that future studies empirically test this.

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These proposals, measuring the financial impact of contract management on Brazilian companies...

small and medium-sized.

REFERENCES

AKERLOF, GA The market for "lemons": quality uncertainty and the market mechanism. **The Quarterly Journal of Economics,** vol. 84, no. 3, p. 488-500, 1970.

ARGYRES, N.; MAYER, KJ Contract design as a firm capability perspective: an integration of learning and transaction cost. **Academy of Management Review,** vol. 32, no. 4, p. 1060-1077, 2007.

Brazilian Association of Technical Standards. **ABNT NBR ISO 31000:** Risk management: guidelines. Rio de Janeiro: ABNT, 2018.

Brazilian Association of Technical Standards. **ABNT NBR ISO 37301:** Compliance management systems: requirements with guidance for use. Rio de Janeiro: ABNT, 2021.

BAGLEY, CE Winning legally: the value of legal astuteness. **Academy of Management Review,** vol. 33, no. 2, p. 378-390, 2008.

BRAZIL. Law No. 10,406, of January 10, 2002. Establishes the Civil Code. **Official Gazette of the Union,** Brasília, DF, January 11, 2002.

BRAZIL. Law No. 12,846, of August 1, 2013. Provides for the administrative and civil liability of legal entities for acts against the national or foreign public administration, and provides other measures. **Official Gazette of the Union,** Brasília, DF, August 2, 2013.

BRAZIL. Law No. 13.709, of August 14, 2018. General Law on the Protection of Personal Data (LGPD). **Official Gazette of the Union,** Brasília, DF, August 15, 2018.

BRAZIL. Law No. 13,874, of September 20, 2019. Establishes the Declaration of Economic Freedom Rights. **Official Gazette of the Union,** Brasília, DF, September 20, 2019.

BRAZIL. Decree No. 11,129, of July 11, 2022. Regulates Law No. 12,846, of August 1, 2013, which provides for the administrative and civil liability of legal entities for acts against the national or foreign public administration. **Official Gazette of the Union,** Brasília, DF, July 12, 2022.

CHURCHILL, NC; LEWIS, VL The five stages of small business growth. **Harvard Business Review,** vol. 61, no. 3, p. 30-50, 1983.

CHURCHILL, NC; MULLINS, JW How fast can your company afford to grow? **Harvard Business Review,** vol. 79, no. 5, p. 135-143, 2001.

COASE, RH The nature of the firm. **Economica,** vol. 4, no. 16, p. 386-405, 1937.

COMMITTEE OF SPONSORING ORGANIZATIONS OF THE TREADWAY COMMISSION.
Enterprise risk management: integrating with strategy and performance. [S. l.]: COSO, 2017.

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Machine Translated by Google

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DYER, JH; SINGH, H. The relational view: cooperative strategy and sources of interorganizational competitive advantage. **Academy of Management Review,** vol. 23, no. 4, p. 660-679, 1998.

EISENHARDT, KM Agency theory: an assessment and review. **Academy of Management Review,** vol. 14, no. 1, p. 57-74, 1989.

FORGIONI, PA. **Business contracts:** general theory and application. São Paulo: Revista dos Tribunais, 2015.

GHOSHAL, S.; MORAN, P. Bad for practice: a critique of the transaction cost theory. **Academy of Management Review,** vol. 21, no. 1, p. 13-47, 1996.

GIL, AC **How to prepare research projects.** 6th ed. São Paulo: Atlas, 2017.

GREINER, LE Evolution and revolution as organizations grow. **Harvard Business Review,** vol. 50, no. 4, p. 37-46, 1972.

GROSSMAN, S.J.; HART, OD The costs and benefits of ownership: a theory of vertical and lateral integration. **Journal of Political Economy,** vol. 94, no. 4, p. 691-719, 1986.

HART, O. **Firms, contracts, and financial structures.** Oxford: Clarendon Press, 1995.

HART, O.; MOORE, J. Incomplete contracts and renegotiation. **Econometrica,** vol. 56, n. 4, p. 755-785, 1988.

HILLMAN, A.J.; WITHERS, MC; COLLINS, BJ Resource dependence theory: a review. **Journal of Management,** vol. 35, no. 6, p. 1404-1427, 2009.

HOLMSTRÖM, B. Moral hazard and observability. **The Bell Journal of Economics,** vol. 10, no. 1, p. 74-91, 1979.

Brazilian Institute of Corporate Governance. **Code of best practices in corporate governance.** 6th ed. São Paulo: IBGC, 2023.

JENSEN, MC; MECKLING, WH Theory of the firm: managerial behavior, agency costs and ownership structure. **Journal of Financial Economics,** vol. 3, no. 4, p. 305-360, 1976.

KLEIN, B.; CRAWFORD, RG; ALCHIAN, AA Vertical integration, appropriable rents, and the competitive contracting process. **The Journal of Law and Economics,** vol. 21, no. 2, p. 297-326, 1978.

KRALJIC, P. Purchasing must become supply management. **Harvard Business Review,** vol. 61, no. 5, p. 109-117, 1983.

LUMINEAU, F.; MALHOTRA, D. Shadow of the contract: how contract structure shapes interfirm dispute resolution. **Strategic Management Journal,** vol. 32, no. 5, p. 532-555, 2011.

MACAULAY, S. Non-contractual relations in business: a preliminary study. **American Sociological Review,** vol. 28, no. 1, p. 55-67, 1963.

MACNEIL, IR **The new social contract:** an inquiry into modern contractual relations. New Haven:

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Machine Translated by Google

Year VII, v.2 2026 | Submission: 05/17/2026 | Accepted: 06/18/2026 | Publication: 07/23/2026

Yale University Press, 1980.

MALHOTRA, D.; LUMINEAU, F. Trust and collaboration in the aftermath of conflict: the effects of contract structure. **Academy of Management Journal,** vol. 54, no. 5, p. 981-998, 2011.

MAYER, KJ; ARGYRES, NS Learning to contract: evidence from the personal computer industry. **Organization Science,** vol. 15, no. 4, p. 394-410, 2004.

NORTH, DC **Institutions, institutional change and economic performance.** Cambridge: Cambridge University Press, 1990.

PFEFFER, J.; SALANCIK, GR **The external control of organizations:** a resource dependence perspective. New York: Harper & Row, 1978.

POPPO, L.; ZENGER, T. Do formal contracts and relational governance function as substitutes or complements? **Strategic Management Journal,** vol. 23, no. 8, p. 707-725, 2002.

POWER, M. **Organized uncertainty:** designing a world of risk management. Oxford: Oxford University Press, 2007.

SAMUELSON, W.; ZECKHAUSER, R. Status quo bias in decision making. **Journal of Risk and Uncertainty,** vol. 1, no. 1, p. 7-59, 1988.

SIEDEL, GJ; HAAPIO, H. **Proactive law for managers:** a hidden source of competitive advantage. Farnham: Gower, 2011.

SIMON, HA A behavioral model of rational choice. **The Quarterly Journal of Economics,** vol. 69, no. 1, p. 99-118, 1955.

SNYDER, H. Literature review as a research methodology: an overview and guidelines. **Journal of Business Research,** vol. 104, p. 333-339, 2019.

TORRACO, RJ Writing integrative literature reviews: guidelines and examples. **Human Resource Development Review,** vol. 4, no. 3, p. 356-367, 2005.

WHITTEMORE, R.; KNAFL, K. The integrative review: updated methodology. **Journal of Advanced Nursing,** vol. 52, no. 5, p. 546-553, 2005.

WILLIAMSON, OE Transaction-cost economics: the governance of contractual relations. **The Journal of Law and Economics,** vol. 22, no. 2, p. 233-261, 1979.

WILLIAMSON, OE **The economic institutions of capitalism:** firms, markets, relational contracting. New York: Free Press, 1985.

WILLIAMSON, OE Comparative economic organization: the analysis of discrete structural alternatives. **Administrative Science Quarterly,** vol. 36, no. 2, p. 269-296, 1991.

ZYLBERSZTAJN, D.; SZTAJN, R. (eds.). **Law and economics:** economic analysis of law and organizations. Rio de Janeiro: Elsevier, 2005.

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