

# Contract risk



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Running Head: Contract risks between Span Systems and Citizen-Schwarz

Contract Risk between Span Systems and Citizen-Schwarz Law 531 Kyle

Overton December 21, 2009 Memo Contracts present risks and opportunities for both the offeror and offeree. I have identified potential risks and potential opportunities with our Citizen-Schwartz AG (Citizen-Schwarz). The identified risks and opportunities will assist us in our planning and our future planning with other clients.

I have outlined measures that we can use to minimize or eliminate our risks. With respect to our Citizen-Schwarz contract I have evaluated each alternative and identified an appropriate approach we should take here at Span Systems. These steps will ensure we are prepared for the negotiations and assist in securing the contract for the e-CRM project we have been looking to land.

Contract Risks and Opportunities A breach of contract assumed under the substantial performance clause. Substantial performance is for practical purposes the same as full performance. Delivering the product to Citizen-Schwarz unfinished and not on schedule is the basis for this breach.

Knowingly representing the software as finished product constitutes fraud and scienter. A breach of contract in regards to internal escalation procedures of disputes.

This clause is part of our Alternative Dispute Resolution procedures and we should take full legal advantage of this opportunity. This breach is by Citizen-Schwarz and is an opportunity for us and a Risk for them. In negotiating with Citizen-Schwarz we will need to use this to our advantage. Risk Reduction

Measures In reviewing or situation I suggest we follow the below measures in reducing our risks. Increase number of programmers working on this project in order to meet time performance schedules. Invite a Citizen-Schwarz representative to serve in a Quality Control position here at Span Systems. Post daily progress reports on extranet site for project managers at Span and Citizen-Schwarz to review.

Alternatives In final preparation for negotiations I feel that there are three alternatives to discuss and present to Ther at Citizen Schwarz. Breach under internal escalation procedures Breach under communications and reporting Breach under requirement changes Appropriate Approach Listed below are the recommendations for the negotiations with Citizen-Schwarz. Span Systems has to take the necessary steps to minimize the impact on the relationship with the client and to do so, we should take the following steps. Performance: ??? Citizen-Schwarz shall be entitled to receive all work products in progress or completed as of the date of termination or cancellation, subject to clearance of all payments due to Span Systems.??? This will protect the interests of Span Systems and will ensure payment of all work completed should Citizen-Schwarz decide to back out of the remainder of the contract. Change Control: ??? any changes to the user and system requirements originally agreed to will be monitored by a Change Control Board (CCB) comprised of the project manager and the lead software engineer from Span Systems and Citizen-Schwarz??? With the CCB in place, the change management request will be closely monitored as well as allowing for both companies to make a collaborative decision on the impact

of change to the scope of the project. No change request will move forward without the express consent and sign off from the CCB.

Communications and reporting: ??? a project manager from Citizen-Schwarz will be stationed in Span Systems offices in California. The person will participate in project meetings and act as the direct interface between Citizen-Schwarz and Span Systems. The cost of placing the project manager will be paid entirely by Citizen-Schwarz.??? With a Citizen-Schwarz project manager on site, the collaborative efforts between the companies will grow stronger and provide Citizen-Schwarz with a sense of security that their interests are being seen to.

Project Structure: ??? in order to meet the project schedule originally agreed to, Span Systems will scale up the team size by at least ten additional programmers.??? In addition to increasing the size of the team working on this project, we will also collaborate with Citizen-Schwarz by providing the resumes of the new programmers on the team. This will provide Citizen-Schwarz the reassurance they will need to move forward with the contract and increase their confidence in Span Systems. By taking the appropriate risk reduction measures and following through with the amended clauses we at Span Systems will save business reputation and be a forerunner for the e-CRM contract as planned. References Jennings, MarianneMoody.

2006. Business: Its Legal, Ethical, and Global Environment. Mason, OH: Thomson Custom Solutions.