

Software as a Service and Cloud Contracts: Avoiding the Risks

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Speakers

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Cloud Computing Trends

- Forrester Research estimates the cloud market will reach \$191 billion by 2020 with cloud applications leading the growth ahead of cloud platforms and cloud services.¹
- Cloud adoption not only reduces costs but increases workforce flexibility, improves customer service and enhances data analytics.²
- Gartner Says Worldwide Cloud Infrastructure-as-a-Service Spending to Grow 32.8 Percent in 2015³

¹The Public Cloud Market Is Now In Hypergrowth: Sizing The Public Cloud Market, 2014 To 2020 (Forrester Research, April 24, 2014)

² 2014 KPMG Cloud Survey Report

³ Gartner Press Release May 2015

Key Provisions in Cloud Contracts

- Intellectual property ownership
- Insurance and indemnity requirements—especially for intellectual property infringement
- Regulatory compliance
- Subcontractor liability for third party services or software
- Effect of termination—return of customer data
- Service failure corrective action plan

RISKS

Business Continuity Risks

- Service Interruption
- Post-termination Data Rights

Regulatory Compliance Risks

- Data Privacy and Security Statutes

Intellectual Property Risks

- Use and Disclosure of Information
- Ownership of Software
- IP Ownership at Termination

Liability Risks

- Risk Balancing

Business Continuity Risks

Service Interruption

- Define service levels, metrics, and remedies in the SLA

Termination of the Agreement

- Ensure data is owned by and returned to customer in a usable format upon termination

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