

# **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.<sup>1</sup>
- Cloud adoption not only reduces costs but increases workforce flexibility, improves customer service and enhances data analytics.<sup>2</sup>
- Gartner Says Worldwide Cloud Infrastructure-as-a-Service Spending to Grow 32.8 Percent in 2015<sup>3</sup>

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

<sup>2</sup> 2014 KPMG Cloud Survey Report

<sup>3</sup> 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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First appeared as part of the conference materials for the  
38<sup>th</sup> Annual Corporate Counsel Institute session  
"Software as a Service and Cloud Contracts: Avoiding the Risks"