

# 2017 GUIDE TO LEGAL & BUSINESS RISK MANAGEMENT IN CLOUD AND SAAS BASED ENVIRONMENTS

## Can you confidently manage and mitigate Cloud and SaaS risks?

In one information-packed day, get current and practical advice on managing the key risks and challenges when operating in Cloud and SaaS environments. You will learn:

- Cloud Computing Agreements: critical drafting and risk management considerations
- Legal vs. practical aspects of IP and data ownership
- The customer checklist — what you need to think through when choosing your cloud provider
- Privacy and security: what constitutes a reasonable compromise on behalf of the vendors and customers?
- When the cloud goes dark: what to do if your cloud company goes bankrupt or fails to perform
- Questions you *must ask* before signing a cloud computing agreement

Register today at:

[osgoodepd.ca/cloudandsaas](http://osgoodepd.ca/cloudandsaas)

## Program Chair

P. Bradley Limpert  
Limpert & Associates

## Program Details

### DATE AND TIME

September 15, 2017

9:00 a.m. – 5:00 p.m. EST

### LOCATION

Osgoode Professional  
Development

1 Dundas St. West, 26th Floor  
Toronto, ON

### ONLINE REPLAY

October 20, 2017



# 2017 Guide to Legal & Business Risk Management in Cloud and SaaS Based Environments

Outsourcing IT services, software and storage has become a core aspect of modern business, which has created new and often unforeseen sources of potential liability. Risks can include costly business interruptions, embarrassing security breaches and permanent data loss. As a lawyer, in-house counsel or IT professional, you need to know how to effectively and safely navigate through Cloud and SaaS based environments.

In one intensive day, you will learn how to manage the legal and business risks that come with utilizing the Cloud and SaaS. You will leave this program with practical risk management solutions that can be put to immediate use. Topics include:

- Effectively allocating risk between the licensee and licensor
- The role of cyber insurance in managing privacy risk
- How to conduct effective due diligence on the SaaS provider
- Understanding cloud sourcing: Cloud computing, SaaS, IaaS, PaaS and various shared service arrangements
- When are services and software combined?
- Supercloud Provider Agreements – what you need to know
- How to ensure back-up and business continuity in a SaaS environment

## Who Should Attend?

- Lawyers who advise on Cloud or IT outsourcing agreements
- In-house counsel and executives managing software and IT services outsourcing
- IT managers and developers
- IT procurement professionals
- Advisors to technology start-ups and entrepreneurs

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## Agenda

9:00

### Introduction from the Chair

9:15

### What is the Cloud? And Other Technical Questions You're Afraid to Ask

**John Sibley**, Senior Manager, Deloitte Canada

- Understanding the many forms of cloud sourcing: Cloud computing, SaaS, IaaS, PaaS and various shared service arrangements
- Dedicated clouds, semi-dedicated clouds and public clouds – what are the differences?
- Deployment models – how does the vendor provide the cloud?
- Services vs. software – when is it combined?
- Economic Models for SaaS
  - Why do vendors/customers prefer this model? Pros and cons

10:00

### Critical IP Considerations

**Donald B. Johnston**, Aird & Berlis LLP

- Who owns the IP?
- Data ownership issues
- Legal vs. practical aspects of IP and data ownership
- Background vs. foreground IP – where is the line?
- IP in relation to customization, user interfaces, and white label cloud services – who owns what?

10:45

### Refreshment Break

11:00

## Privacy & Information Security Issues in the Cloud

**Timothy M. Banks**, Dentons Canada LLP

**Karl Schober**, Dentons Canada LLP

- What is the legal framework for understanding privacy and information security in the cloud?
- What is the difference between privacy and security?
- Whose owns the data stored in the cloud?
- Who owns data relating to the usage of the services?
- What privacy and security terms are common for different types of providers?
- What breach provisions are important?
- Do I need an audit?
- Where can I compromise?

11:45

## The Role of Cyber Insurance in Managing Privacy Risk

**Jennifer Drake**, Vice President - Legal Consultant, Financial Services Group, Aon Reed Stenhouse Inc.

- Cyber insurance coverages available
- Differences and similarities to traditional insurance
- What don't the policies cover? What risks aren't insurable?
- How do I qualify?
- Connecting cyber insurance and D&O liability

12:15

## Networking Luncheon

1:00

## Conducting Effective Due Diligence on the SaaS Provider

**Timothy M. Banks**, Dentons Canada LLP

- Managing expectations – what can you really cover?
- Mapping out your due diligence plan
- Benefits and traps in relying on self-certifications and third-party certifications
- Addressing objections from your SaaS provider during due diligence
- Allocating risk
- Handling unresolved issues

1:45

## When the Cloud Goes Dark: What to Do if Your Cloud Company Goes Bankrupt or Fails to Perform

**P. Bradley Limpert**, Limpert & Associates

- Risk management – pre-emptive steps to take before the cloud goes bankrupt
  - How to ensure back-up and business continuity in a SaaS environment
  - Creating a paper trail to protect your legal rights
- Remedies – how do you get your data back?
- Dispute resolution considerations
- What you can expect from the bankruptcy process

2:45

## Refreshment Break

3:00

## Cloud Computing Agreements: Tips, Tricks and Pitfalls

**Stephen Spracklin**, Vice President, General Counsel and Corporate Secretary, Sandvine Inc.

**Richard Austin**, Deeth Williams Wall LLP

**Jessica Lumiere**, Senior Legal Counsel, TD

For each of the main types of Cloud Agreements, the panel will consider the key drafting and risk management elements, including:

- Pricing structure
- Service descriptions and service levels

- Termination rights
- Audit rights
- Remedies
- Indemnities and limitations of liability
- Benchmark clauses
- Incident management
- Regulatory requirements
- Exit strategy
- Operational controls
- Use of subcontractors

## Special considerations will be discussed for:

- Processing as a Service
- Storage as a Service
- Database as a Service

## The panel will also examine standard Supercloud Provider Agreements:

- Amazon Web Services
- Microsoft
- Google

## The following strategic considerations will be woven through the session

- Questions you must ask before signing a cloud computing agreement
- Specifying service levels in the agreement
- Remedies for service provider non-performance including non-financial remedies
- Return/destruction of data in the normal course
- How to effectively allocate risk between the licensee and licensor
- Methods for avoiding technical obsolescence
- Corporate governance issues when outsourcing – obligations of executives and Boards to satisfy regulatory compliance and fiduciary duties
- Procurement – what you need to know
- Best practices for managing the outsourcing relationship

5:00

## Program Concludes

## Chair

**P. Bradley Limpert**  
Limpert & Associates

## Faculty Includes

**Richard Austin**  
Deeth Williams Wall LLP

**Timothy M. Banks**  
Dentons Canada LLP

**Jennifer Drake**  
Vice President - Legal Consultant, Financial Services Group, Aon Reed Stenhouse Inc.

**Donald B. Johnston**  
Aird & Berlis LLP

**Jessica Lumiere**  
Senior Legal Counsel, TD

**Karl Schober**  
Dentons Canada LLP

**John Sibley**  
Senior Manager, Deloitte Canada

**Stephen Spracklin**  
Vice President, General Counsel and Corporate Secretary, Sandvine Inc.

## Registration Details

### Fee per Delegate

**Early Bird Price (until June 30, 2017): \$675 plus HST**

**Regular Price: \$795 plus HST**

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca/groupdiscounts](http://www.osgoodepd.ca/groupdiscounts) for details. Please inquire about financial assistance.

### Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

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Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



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