2018 GUIDE TO

LEGAL & BUSINESS RISK MANAGEMENT IN CLOUD AND SAAS BASED ENVIRONMENTS

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

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

- Critical drafting and risk management considerations in Cloud Computing Agreements
- Legal vs. practical aspects of IP and data ownership
- How to use and create a customer checklist: what you need to think through when choosing your Cloud provider
- What constitutes a reasonable compromise on behalf of vendors and customers with respect to privacy and security
- 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

Program Chair

P. Bradley Limpert
Limpert & Associates

Date and Time

**September 28, 2018
9:00 a.m. – 5:00 p.m. EDT
(In Person or Webcast)**

**Online Replay
November 9, 2018
9:00 a.m. – 5:00 p.m. EST**

Location

Osgoode Professional Development
1 Dundas St. West, 26th Floor
Toronto, ON

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2018 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 – creating 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 complex Cloud and SaaS based environments.

Referencing real-life examples, over the course of one intensive day you will learn how to manage the legal and business risks inherent in utilizing the Cloud and SaaS. You will leave this program with practical risk management solutions that can be put to immediate use.

Topics Include:

- Comprehensive understanding of Cloud sourcing: Cloud computing, SaaS, IaaS, PaaS and various shared service arrangements
- Effectively allocating risk between the licensee and licensor
- How to conduct effective due diligence on the SaaS provider
- The role of cyber insurance in managing privacy risk
- 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 and how to get your data back

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

What attendees said about previous offerings of this program:

> *This type of information is invaluable! The cyber insurance session was particularly helpful as it gave the "insiders" perspective.*

Sharan Dosanjh, Manager, Health Information, Privacy and Security, Durham Region Health Department

> *Excellent online experience. Everything presented was brand new to me and the real-life examples made it hit home.*

Randy Sylvester, Senior Finance System Advisor, Strathcona County

Agenda

8:30 a.m.

Registration and Continental Breakfast

9:00 a.m.

Introduction and Welcome from the Program Chair

9:15 a.m.

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 (also includes: When to use the cloud)
- 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 each prefer this model? Pros and cons

10:00 a.m.

Critical IP Considerations

Donald 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 a.m.

Refreshment Break

11:00 a.m.

Privacy & Information Security Issues in the Cloud

Timothy Banks, nNovation 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?
- Who 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 a.m.

The Role of Cyber Insurance in Managing Privacy Risk

Patrick Bourk, Principal, HUB International Canada

Jessica Foster, Legal Consultant, Aon Reed Stenhouse Inc.

- Common cyber exposures and the cost of loss – how much will a data/privacy breach cost your organization?
- Risk transfer of network security and privacy liability: Discussion of contractual protections, incident response planning and insurance as forms of cyber risk transfer
- Why "traditional" insurance isn't enough – cyber risk coverage gaps in CGL, property, crime, D&O and professional liability insurance policies
- The Cyber Insurance Policy: Common coverage provisions and exclusions to look for in your cyber insurance policy
- How in the world?! The underwriting mindset and what insurers look for when assessing cyber risk

12:45 p.m.

Networking Luncheon

1:30 p.m.

Conducting Effective Due Diligence on the SaaS Provider

Timothy Banks, nNovation 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

2:15 p.m.

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 – preemptive 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

3:15 p.m.
Refreshment Break

3:30 p.m.

Cloud Computing Agreements: Tips, Tricks and Pitfalls

Richard Austin, Deeth Williams Wall LLP

Jessica Lumiere, Osler, Hoskin & Harcourt LLP

Stephen Spracklin, Legal Counsel, Information Technology and Intellectual Property, City of Mississauga

For 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

- Security, privacy and confidentiality
- Audit rights, Standards and Certifications
- Remedies
- Indemnities and limitation of liability
- Benchmark clauses
- Termination rights
- 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 including:

- Amazon Web Services
- Microsoft
- Oracle
- Google

The following strategic considerations will be woven through the session:

- Questions you must ask before signing a cloud computing agreement
- Obtaining meaningful commitments for security and privacy compliance
- Specifying service levels in the agreement; multi-sourcing and sub-contractors
- 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 tips, tricks and traps
- Best practices for managing the cloud outsourcing relationship

5:00 p.m.
Program Concludes

Chair

P. Bradley Limpert, Limpert & Associates

Faculty Includes

Richard Austin
Deeth Williams Wall LLP

Timothy Banks
nNovation LLP

Patrick Bourk
Principal, HUB International
Canada

Jessica Foster
Legal Consultant, Aon Reed
Stenhouse Inc.

Donald Johnston
Aird & Berlis LLP

P. Bradley Limpert

Limpert & Associates

Jessica Lumiere
Osler, Hoskin & Harcourt LLP

Karl Schober
Dentons Canada LLP

John Sibley
Senior Manager, Deloitte
Canada

Stephen Spracklin
Legal Counsel, Information
Technology and Intellectual
Property, City of Mississauga

> "*Very good program overall. Two most valuable things learned: security and due diligence considerations with Cloud and SaaS agreements.*"
>
> **Cherise White,** Legal Counsel, Ivari

Registration Details

OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO. Eligible CPD Hours:

LSO (ON): 7h 15m CPD (6h 15m Substantive, 1h Professionalism).

AB: this program is eligible for CPD credit with the Law Society of Alberta.

BC: the program is eligible for 6.25 hours CPD credit with the Law Society of British Columbia.

NS: this program is eligible for CPD activity/hours with the Law Society of Nova Scotia.

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