Cloud Service Provider Contracts: A Checklist for Records Professionals

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Research team

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• Independent Researcher
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Access

Security

Social Issues

Policy

Infra-structure

Resources

Terminology

Control

Education

Legal
Purpose & Research question

• To explore the contract – specifically the contract between a client and a cloud service provider – as a tool for building trust

• How effectively do cloud service contracts meet the needs of records managers, archivists, and information governance professionals?
First step: Review the Literature

- Current research (2011-2014)
  Findings:
  - Several legal documents exist
    - Terms of Service
    - Service Level Agreements
    - Privacy Policies
    - Acceptable Use Policies
  - Little standardization of terms
  - “Often incomprehensible to majority of users”
  - Wide-ranging exclusions of liability favor the providers
  - Terms may change
First step: Review the Literature

• Case Law and Related Articles

Findings:
– Relatively few cases, but several legal tenets
– Complexity results from jurisdictional and industry differences
  • Contract law
  • Privacy and access
  • Confidentiality and security of data
  • Data jurisdiction and conflict of laws
First step: Review the Literature

- Recordkeeping Standards, Cloud Computing Contract Standards, and related articles
  - ISO 15489 (2001)
  - ISO 14721 (2012)
  - ARMA GARP (2013)
  - MoReq (2009)
First step: Review the Literature

• Recordkeeping Standards, Cloud Computing Contract Standards, and related articles
  – Cloud Service Level Agreement Standardization Guidelines (2014)
Comparative Analysis

• Regardless of jurisdiction, sector, or profession, common risks exist:
  – Unauthorized access
  – Privacy breach
  – Loss of access, control
  – Lack of transparency of service
  – Lack of ability to negotiate service
  – Location ambiguity
  – Contract ambiguity
Specific Considerations

- Data ownership
- Availability, retrieval and use
- Data storage and preservation
- Data retention and disposition
- Security, confidentiality, privacy
- Data location and cross-border data flow
- End of service; contract termination
Selected contracts

• No marketing material
• Boilerplate contracts & documents
  – Terms of Service (ToS)
  – Service Level Agreements (SLA)
  – Privacy policies, Acceptable Use policies, Security terms,
• Jurisdiction
  – Canada, United States, Europe
Contracts considered

- Amazon.com (USA)
- Bluelock (USA)
- Dropbox (USA)
- Egnyte (USA)
- GoGrid (USA)
- Google (USA)
- ProfitBricks (USA)
- Rackspace (USA)
- CityNetwork (Sweden)
- SAP (Belgium)
- Pathway Communications (Canada)
# The Checklist

## Checklist for Cloud Service Contracts

**Intended Audience:** Records Managers and Archivists

<table>
<thead>
<tr>
<th>Question</th>
<th>Y</th>
<th>N</th>
<th>?²</th>
<th>Notes</th>
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<tbody>
<tr>
<td><strong>1. Agreement</strong></td>
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<tr>
<td>• Is the effective start date of the agreement clearly stated?</td>
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<td>• Is there an explanation of circumstances in which the services could be suspended?</td>
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<tr>
<td>• Is there an explanation of circumstances in which the services could be terminated? (See also Section 8)</td>
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<td>• Is there an explanation of notification, or an option to subscribe to a notification service, in the event of changes made to the terms governing the service?³</td>
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</tbody>
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The Checklist - sections

- Agreement
- Data Ownership and Use
- Availability, Retrieval, and Use
- Data Storage and Preservation
- Data Retention and Disposition
- Security, Confidentiality, and Privacy
- Data Localization and Cross-border Data Flows
- End of Service; Contract Termination
Integration & Review

• Integrated with NA03: Standards of Practice
• Integrated with NA06: Retention & Disposition checklist
• Released for feedback in fall 2015
• Tested in International Federation of Red Cross and Red Crescent Societies
• Presented at ICA in Rekjavik, Iceland – vetted in an international space – poster on ICA website
Resources

• Cloud Service Contracts: An Issue of Trust, Canadian Journal of Library and Information Science (CJLIS): Special Issue on Data, Records and Archives in the Cloud, June 2015

• https://interparestrust.org /Dissemination
  – Annotated bibliography
  – Checklist
  – Final Report
Continuing activities

- Checklist being translated into Spanish
- Report being finalized
Thank you!

www.interparestrust.org