

InterPARES Trust

North American Team: Project 10 Contract Terms for Cloud-Based Services

Corinne Rogers
First International Symposium
Stockholm, Sweden
May 14, 2014



Project Team

- NA 10 was led by Yvette Hackett, Visual Media Archival Consultant (Ottawa, Ont.)
- Robert McLelland, Grant Hurley, Daniel Collins GRAs
- Courtney Mumma, Artefactual Systems, review and consultation
- October, 2013 – May, 2014
- Draft final report presented at the International Plenary in Vancouver, Canada February 2014



Background – RiC survey

- Web-based survey of cloud users conducted by the *Records in the Cloud Project* ran from April 11, 2013 for one month
- Sampling through professional listservs and social media, seeking respondents from the records professions, IT, executive management



RiC survey findings

- 57% of respondents are currently using cloud services
- 38% of those not currently using cloud services are considering moving to the cloud
- Approximately 1/3 of all users have experienced problems, related to a range of issues
- Only 1/3 of users negotiated SLAs, and responses clearly link this fact with problems experienced



NA 10 - Introduction

- Infrastructure Domain
- Need to understand the role of contracts between service providers and clients with respect to records and information management (RIM) in cloud environments
 - Degree of consideration of recordkeeping issues
 - Risks
 - Degree of trust



Goals

- Categorize:
 - Terms relating to RIM in standard SLAs
 - Services
 - Cloud infrastructures from a recordkeeping perspective
- Determine whose primary interest is protected by service contracts
- Identify gaps in existing service contracts with respect to RIM



Methodology

- Literature review:
 - Focus on IT and recordkeeping issues
 - How cloud services were organized and offered
- Review legal issues
- Review contracts typical of public bodies
- Review and textual analysis of standard contracts of major service providers
- Theoretical perspective of archival science and records management theory



“The Cloud”

- Deployment models:
 - Public, Private, Hybrid, Community
- Service models:
 - IaaS, SaaS, PaaS, DaaS
- Essential characteristics:
 - On-demand service, broad network access, resource pooling, rapid elasticity (multi-tenancy), measured service



What does “contract” mean?

- Terms and Conditions – Terms of Service
 - General clauses re termination, legal protection for the provider, copyright terms
 - Protection for the service provider
- Service Level Agreement
 - More specific terms and guarantees to the client
 - Tiered model
- Lack of uniformity, lack of transparency hinders meaningful comparison & analysis



Literature review

- IT and RIM literature shared concerns:
 - Storage specifications (hardware)
 - Infrastructure security (physical & technical)
 - Access authority
 - Data segregation (physical)
 - Accessibility of material



Proposed categories

- Destruction
- Availability
- Reliability
- Control



Legal issues

- Privacy
 - Third party issues: not what you might think!
- Custody & control
- Copyright
- Jurisdiction



Public Sector

- Shared Services Canada: tender process for storage & email
- Private cloud, outsourced to 3rd party
 - Multiple, layered sets of security, including PKI support
 - Data sovereignty/territory of storage
 - Security clearance process for all 3rd parties
 - Interface support for integration with an Electronic Document and Records Management Systems (EDRMS) solution



Public Sector

- FedRAMP: certification process for 3rd party cloud service providers
 - IT security assessment against NIST baseline requirements (NIST 8053)
 - Information security documentation and plans
 - 3rd party assessment of provider's security readiness
 - Testing & final approval
- Restricted to IT security measures



Public sector – Cdn Universities

- Exploring cloud solutions for email hosting, data centres for storage, server space
- Restricted by legislation such as FOI, “territory of storage”
- University of British Columbia – EduCloud
- University of Alberta & Google - email
- Nova Scotia, Ontario Consortia – storage & access



Cloud Service Providers

Destruction

- General Guarantee
- Specific Method
- Contract Termination

Availability

- Service Continuity
- Outages
- Disaster Recovery Plan

Reliability

- General Security Provisions
- Physical Security Specs
- Technological Security Specs
- Tiered Security Provisions

Control

- Territory of Storage
- Copyright/Ownership
- General Privacy
- Privacy Policy
- Privacy Legislation



11.3 Europe

Summary of Contract and Service Terms Offered by Cloud Service Providers -Europe				
	City Network	CloudSigma	GreenQloud	T-Systems
Country	Europe (Sweden)	Europe (Switzerland)	Europe (Iceland)	Europe (Germany)
Destruction: General Guarantee	not addressed	not addressed	not addressed	not addressed
Destruction: Specific Method	not addressed	not addressed	not addressed	not addressed
Destruction: Contract Termination	not addressed	not addressed	End User License Agreement - Definitions section under "Termination"	not addressed
Availability: Service Continuity	General Conditions - 5	Service Level Agreement	Service Level Agreement	T-systems Vcloud Terms of Service
Availability: Outages	General Conditions - 5	Terms of Service - 7	Service Level Agreement	not addressed
Availability: Disaster Recovery Plan	General Conditions - 5	Terms of Service - 3.11	not addressed	not addressed
Reliability: General Security Provisions	not addressed	Terms of Service - 10.6 and Service Level Agreement	Service Level Agreement	
Reliability: Physical Security Specifications	not addressed	not addressed	not addressed	not addressed
Reliability: Technological Security Specifications	Service Level Agreement	Terms of Service - 10.6 and Service Level Agreement	End User License Agreement - "Other Security and Backup."	not addressed
Reliability: Tiered Security Provisions	not addressed	Terms of Service - 10.6	not addressed	not addressed
Control: Territory of Storage	not addressed	Company Privacy Policy	not addressed	not addressed
Control: Copyright/Ownership	not addressed	Copyright Notice	"Applicable rules means Icelandic rules, courts, laws and regulations" i.e. territory, only in the legal sense	not addressed
Control: General Privacy	General Conditions - 9	Terms of Service	GreenQloud Privacy Policy	T-systems Vcloud Terms of Service Privacy and Data Protection
Control: Privacy Policy	not addressed	Company Privacy Policy	GreenQloud Privacy Policy	T-systems Vcloud Terms of Service Privacy and Data Protection
Control: Privacy Legislation	Personal Data Protection Act	Swiss Law, differing from EU. No link provided	Act on the Protection of Privacy as regards the Processing of Personal Data, No. 77/2000	German Federal Data Protection Act (BDSG) and German Tele-communications Act (TKG)

What's next?

- This report is a starting point
- It will form the groundwork for NA 14 – requirements and guidelines for negotiating service contracts
- Technology is not standing still – new issues include ownership, availability, interoperability of metadata; increasing variety of services; brokering of services and cloud exchange



Thank you!

www.interparestrust.org

Yvette Hackett, Robert McLelland, Grant Hurley (2014) Contract
Terms for Cloud Based Services, Final Report (Draft 1),
InterPARES Trust, North American Team

Project 10

