

InterPARES Trust

Cloud Service Provider Contracts: A Checklist for Records Professionals

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Research team

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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)
 - Public Records Office of Victoria (2012)



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 Archivists¹

Question	Y	N	? ²	Notes
1. Agreement				
<ul style="list-style-type: none"> Is the effective start date of the agreement clearly stated? 				
<ul style="list-style-type: none"> Is there an explanation of circumstances in which the services could be suspended? 				
<ul style="list-style-type: none"> Is there an explanation of circumstances in which the services could be terminated? (See also Section 8) 				
<ul style="list-style-type: none"> 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 				

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 Reykjavik, 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!

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