

# IT Procurement Summit

## Cloud Contracting

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# Cloud Computing Trends

- Forrester estimates the cloud market will top \$241 billion by 2020<sup>1</sup>
- IBM CTO estimates 50% reduction in labor costs and 75% improvement in capital utilization<sup>2</sup>
- Bundling professional services with cloud offerings
- Growing concern over how to meet regulatory privacy and security requirements

1”Sizing the Cloud: Understanding and Quantifying the Future of Cloud Computing” – Forrester Research, 2011

2 “Keeping Cloud Costs Grounded” - Forbes.com, 2010

# Key Provisions on Cloud Contracts

- Intellectual property ownership
- Insurance and indemnity requirements—especially for intellectual property infringement
- Regulatory compliance
- Subcontractor liability for third party services or software
- Effect of termination—return of customer data
- Service failure corrective action plan

# Risk Overview

## Business Continuity Risks

- Service Interruption
- Post-termination Data Rights

## Regulatory Compliance Risks

- Data Privacy and Security Statutes

## Intellectual Property Risks

- Use and Disclosure of Information
- Ownership of Software
- IP Ownership at Termination

## Liability Risks

- Risk Balancing

# Industry Specific Regulations

## HIPAA & HITECH

- Health care service providers and business associates

## Gramm-Leach-Bliley Act (GLBA)

- Financial institutions

## FTC Red Flags Rule

- Financial institutions and creditors

## Payment Card Industry Data Security Standard (PCI)

- Organizations processing credit cards

# Common Regulatory Requirements

## Privacy and Security Policies

- Regular risk assessment
- Access and audit controls
- Enforcement of policies

## Encryption

- Data in transmission and in storage
- Does not address every regulatory requirement

## Breach Notification

# Regulatory Compliance in Cloud Contracts

## Free or low-cost services

- Click-wrap contracts
- No opportunity to negotiate
- Cloud service providers attempt to offload regulatory and liability risk

## Large-scale, integrated services

- Negotiated contracts
- Storage of specific data types defined
- Regulatory requirements addressed
- Risks balanced with indemnity and insurance



# Mitigating Risks in the Cloud

## Cloud Service Providers

- Understand industry/region regulatory requirements
- Use indemnity provisions
- Obtain cyber risk insurance
- Encrypt data in motion and in storage

## Cloud Customers

- Ensure providers meet and take some responsibility for your regulatory requirements
- Require cyber risk insurance
- Implement employee Acceptable Use policy to limit exposure on free or low-cost cloud services





**Questions?**