

How To Lower Your Legal Risks in Managed Services

First – Know What the Risks Are

- Internal Risks
 - Human Resources
 - Physical Security
 - Training

First – Know What the Risks Are

- External Risks
 - Solicitation of Employees
 - Threat Actors
 - Liability for Errors
 - Third-party Services Providers
 - Software Licensing and Audits
 - Privacy and Security Regulations
 - Changes in Laws
 - Client Refusal to Accept Recommendations
 - Intellectual Property

Internal Risks – Human Resources

- Trade Secrets/Confidentiality
- Non-Competition
- Employee Negligence while on Client's Property

- Mitigation –
 - Appropriate employment agreement
 - Insurance

Internal Risks – Physical Security

- Server Rooms
- Credit Card Information (paper copies)

- Mitigation –
 - Locks
 - Training
 - Processes

Internal Risks - Training

- Sales Process
- Quality of Services
- Security

- Mitigation –
 - Insurance Coverage for Employee Actions
 - Increased Training
 - Contract provisions

External Risks – Solicitation

- Clients solicit your employees for full-time employment
- Employees solicit one or more clients directly
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- Mitigation –
 - No hiring provision in customer contracts
 - Non-solicitation provision in employee agreements

External Risks – Threat Actors

- Huge issue right now
- Business E-mail compromise
- Phishing, ransomware, etc.

- Mitigation –
 - Disclaim liability for criminal acts of third parties
 - Insurance
 - Verbal Confirmation of Electronic Payments

External Risks – Liability for Errors and Omissions

- Failed Backups
- Data Incidents

- Mitigation –
 - Errors and Omissions Insurance Coverage
 - Increased Training

External Risks – Third-Party Service Providers

- Who is liable for service failures
- Do your clients know you use third-party services
- Have your clients accepted third-party service terms

- Mitigation –
 - List showing all third-party service providers and their terms
 - Limitation of liability for third-party services
 - Agreements with third-party service providers accepting liability

External Risks – Software Licensing and Audits

- Who is responsible for software licensing
- Accurate recordkeeping of resold software
- Audit preparation

- Mitigation –
 - Client indemnification for damages resulting from audits
 - Periodic internal audit readiness assessments

External Risks – Changes to Laws

- Taxes
- State, Federal, and International Privacy and Security Laws
- Mitigation –
 - Regular review of data privacy and security provisions
 - Insurance coverage, where possible
 - Know if your tax authority begins to tax managed services

External Risks – Client Refusal to Accept Recommendations

- Multi-factor authentication
- Security Training
- Other recommended protections

- Mitigation –
 - If offered discounts by insurance carrier, have clients sign a waiver
 - Otherwise, include contractual provision disclaiming liability when clients fail to follow MSP recommendations

External Risks – Intellectual Property

- Trademarks
- Copyrights
- Confidential Information

- Mitigation –
 - Any licenses granted to clients expire automatically upon termination of agreement
 - Register any copyrights or trademarks with the appropriate agency

Questions?

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