TODAY'S FORECAST: Lots of Clouds
(Could a Storm be in the Offing?)

*It sounds surreal and spacey. Even air-headed. But it's a real term…
Cloud Computing. And you might already be doing it without even knowing.*

Named for the cloud symbol that is often used to represent the Internet in flowcharts, cloud computing is a new model for delivering hosted online services. Using shared resources on virtual servers, it can provide infrastructure, platform, software, data storage, and information on demand—quickly and invisibly to the consumer.

Cloud computing differs from traditional hosting in that it's fully managed by the provider. A company needs only a computer and Internet access to hop on a cloud. Still foggy? Think Google Mail, or Salesforce.com —two well-known examples of cloud computing applications.

The benefits of this new phenomenon are readily identifiable. Because it uses a virtual, shared infrastructure, there's less need for hardware and software—resulting in substantial cost savings and efficiency on many levels. Given that an increasing number of respected companies are utilizing cloud computing applications, there's a good chance your organization will—or already is—on a cloud too.

But like real clouds, cloud computing takes many shapes and is comprised of many layers. Providers and subcontractors may share a cloud infrastructure, using it for several functions. And that means a risk of storms.

SECURITY AND PRIVACY
The lack of traditional security set up at a physical location is a big concern. As cloud computing is used for more and more purposes—including the storage of sensitive data and personal information—safety and privacy become more urgent. Increased diligence is needed to identify each provider and ensure they are in compliance with data protection laws.

WARRANTIES
What warranties, if any, come with cloud computing? Providers will try to limit them; users will expect them. While not unique to cloud computing, given the imprecise nature of the model, some level of protection is needed.

CONTROL AND RETRIEVAL
It's unclear who actually controls data in the cloud. Yet, your organization must maintain the ability to switch providers and move data without undue burden. If you should receive a document request or subpoena, you may need to retrieve information from the cloud, or face possible sanction.

JURISDICTION
In case of litigation, what court will have jurisdiction to hear and decide a dispute with a cloud provider? The traditional notion of physical presence that guides jurisdiction and venue become… well, cloudy.

LEGAL PROTECTION
Grab your umbrella before you venture out. If your organization is thinking of cloud computing, you can minimize the risks by including appropriate language, tailored to your specific applications and functions, in your agreements with providers. Key contractual terms should include: responsibility for subcontractors; compliance with applicable laws and regulations; warranties and service levels, with specified remedies; indemnifications; and governing law and jurisdiction.

The cloud is a cool, breezy, ever-changing technology. In light of the forecast, however, seeking legal protection is advised. Call us if you'd like help.

Information Technology
Kathryn L. Ossian 313.496.7644