



# TAG'S New Approach to Customer Contracting: How to Protect your MSP from Liability

Presented by Robert J. Scott

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# Sources of Risk

- Competitors
- Customers
- Vendors and Channel Partners
- Employees
- Criminals
- Other

# Risk Management

- Effective risk management relies on an integrated approach to identifying and addressing the various sources of risk and on implementing consistent, intuitive, and easily repeatable processes to manage and mitigate the risk
- Four primary tools to manage risk:
  - Contracts
  - Policies and procedures
  - Insurance
  - Regulatory Risks

# Contracts

- Streamlining contract process
- Consider using web-based terms
- Use agreements specific to your business
- Limitations of Liability, Indemnity and Insurance
- Comprehensive Packages for TAG Members

# TAG-Specific Contracts

- Quotes or Proposals to be used with leading RMM tools
- Master Services Agreement
- Managed Services Agreement (Services Mapped to TAG offering)
- Back-up and Disaster Recovery Agreement
- Managed Security Services Agreement
- Cloud and Hosting (Data & Voice)
- Statement of Work for Hourly and Project Fees
- Service Level Objectives (Mapped to TAG offering)

# Industry-Specific Provisions

- Incorporation by reference
- Local backups
- Ransomware
- Early termination/liquidated damages
- Transition services not provided unless all fees, including early termination fees paid in full
- No liability for third-party goods or services
- Client indemnification for third-party costs associated with use or deployment

# Policies and Procedures

- Information Security Policy
- Breach Incident Response Plan
- Acceptable Use Policy



# Insurance

- Errors & Omissions
- Cyber liability
- First-party coverage for customers

# Regulatory Response (DPAs)

- Healthcare (HIPAA)
- Financial Services (GLBA)
- European Union (GDPR)
- California (CCPA)
- New York (Shield)

# An Integrated Approach

- Ensuring consistency across all risk management responses is as important as the details pertaining to each risk source
  - Example: Strong protections for trade secrets in relationships with customers and vendors may be worthless if the secrets are not adequately protected internally, both in terms of policies for access and use as well as physical and technological safeguards
  - Another example: Insurance is always a good idea, but its value is diminished if customers receive no benefit

# Questions?

# Contact Information

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