



Locking IT Down: How to Protect Your Business in Technology Contracting

Essential Strategies for IT Service Providers

3 December 2024



Meet our presenters



Nick Martin
Special Counsel (Sydney)
Wotton Kearney
+61 2 9064 1807
Nick.Martin
@wottonkearney.com



Stephen Morrissey
Partner (Sydney)
Wotton Kearney
+61 2 8273 9817
Stephen.Morrissey
@wottonkearney.com



Christy Mellifont
Special Counsel (Melbourne)
Wotton Kearney
+61 3 9604 7921
Christy.Mellifont
@wottonkearney.com



Tim Stephinson
Chief Operating Officer (Sydney)
SherpaTech
+61 404 832 147
Tim.Stephinson
@sherpatech.com.au



Andrew Bremner
Managing Director (Sydney)
SherpaTech
+61 401 719 168
Andrew.Bremner
@sherpatech.com.au

Resources



We welcome any feedback you have on the presentation materials, format, or what could be done to improve our sessions in the future.

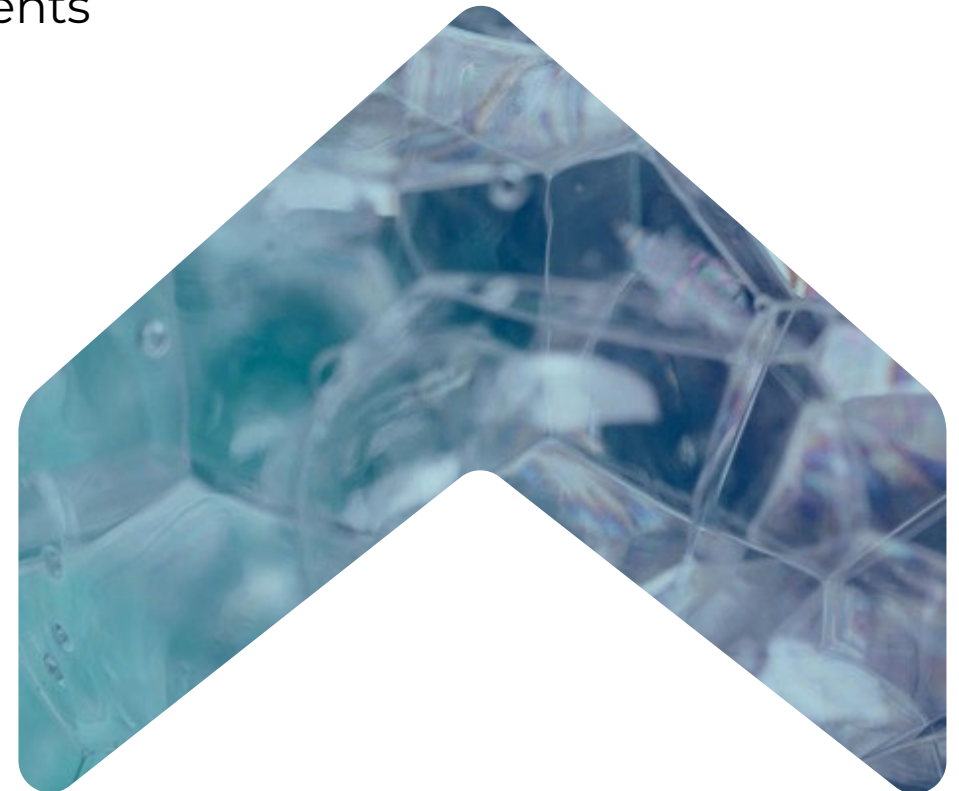
Likewise, if you have any further questions, please don't hesitate to email one of our presenters directly or our events team below.

[Contact us](#)

[View recording](#)

[View slides](#)

[View article](#)



Q&A



Q: How do we help the customer push back on their insurance providers with the "Yes but this" for the check box forms and brokers not wanting that additional information/ not understanding the Technology themselves.

A: Regarding the proposal, based on the concept of mutual honesty, it's best to be succinct and straightforward with the response to any question. So, in the case of a claim, you're removing an opportunity for the insurer to say "you did not tell us this...". If there's a need to provide further information, include this information in you the submission to the insurer(s) – via your insurance broker. There may be an opportunity to seek an insurance broker that better understands the technology space.

Q: Should there be a signed contract/ Agreement for each individual product if you are servicing for a non MSA customers. or is a general letter engagement fine for those ad-hoc customers?

A: If you are providing multiple products at different times to a non-MSA customer, as long as there is a single, overarching agreement in place, it is fine for the various products to be provided under it. however, it should be made clear that the terms of the agreement apply to each separate order made under it. It is relatively straightforward to put in place a streamlined contractual mechanism to achieve this. That way, the administrative burden is reduced as there is no need for a separate signed letter engagement for each order.

Q: Any practical tips on balancing flexibility with certainty in defining the scope in a major IT project contract? If the drafting is too prescriptive, you end up with 95 change requests (because needs change over time, needs are better understood when the work commences or alternative methods of achieving the desired result are uncovered) which becomes an administrative burden, but on the flipside, if it is too flexible or ambiguous then the agreement may lack certainty and it is harder to hold the parties to account.

A: Flexibility and certainty do not need to be, and should not be, mutually exclusive. To the extent that the customer's requirements for a project are not fully known at the outset, it may be preferable for the contract to provide for an agile approach and to break the project down into smaller parts, each one comprising various through which requirements are defined, scope is agreed and delivery is performed. This may be preferable to a more traditional 'waterfall' approach, which works better when the customer's requirements are precise and it is unlikely there will be significant changes in scope or technology during the project. It is also possible to put in place a streamlined change management process allowing for 'fast track' changes allowing for an iterative approach to delivery.

Q: What best way to handle negotiating amendments with international component to the requested obligations (compliance with international other countries laws)

A: The starting point should be that a contracting party should not be required to comply with the laws of another jurisdiction. For example, a supplier based in Australia should not have to comply with overseas privacy laws such as GDPR that are not otherwise applicable to it or its business. To the extent that a customer needs to comply with such foreign laws, and needs the supplier's help to achieve this, the customer should include in the contract clear supplier obligations which will enable the customer to meet its own regulatory requirements. The supplier can then evaluate these obligations and can determine whether it can comply with them in the delivery of the products or services, and whether there is any additional cost.

Australia

Adelaide

Lvl 1, 25 Grenfell St
Adelaide, SA 5000
+61 8 8473 8000

Brisbane

Lvl 23, 111 Eagle St
Brisbane, QLD 4000
T: +61 7 3236 8700

Canberra

Ste 4.01, 17 Moore St
Canberra, ACT 2601
+61 2 5114 2300

Melbourne

Lvl 30, 500 Bourke St
Melbourne, VIC 3000
+61 3 9604 7900

Perth

Lvl 49, 108 St Georges Tce
Perth, WA 6000
T: +61 8 9222 6900

Sydney

Lvl 9, Grosvenor Plc,
225 George St
Sydney, NSW 2000
+61 2 8273 9900

New Zealand

Auckland

Lvl 8, 21 Queen St
Auckland 1010
+64 9 377 1854

Christchurch

202/235 High St
Christchurch 8011
T: +64 3 667 4003

Wellington

Lvl 12, 342 Lambton Qy
Wellington 6011
+64 4 499 5589

Asia

Singapore

138 Market St,
05-01, CapitaGreen
Singapore, 048956
+65 6967 6460

