

Index

Index references are to numbered commentary sections.

A

Acceptance Testing, 5.6
Accuracy of Information,
4.3.9.1
Activity Restrictions, 5.73
Adding Parties, 7.10.1
Administrative Documents,
2.2.3.8
Advisors, 2.1.1, 4.7.3
Affiliated Company, 3.2.1.3
Agile Software Projects, 3.1.5
**Alternative Dispute Resolution
(ADR)**, 3.5.7.2, 7.9.2
Alternative Products/Services,
7.8.6
Alternative Solutions, 3.4.8
Amendments, 5.16.4
Arbitration, 7.9.2.3
Assessment, Business Case,
2.1.2
Asset Encumbrance, 5.14.3.5
Asset Management, 3.3.1
Asset Protection, 3.3.2.5

Asset Valuation, 3.3.2
Assignment, 5.12.5, 5.16.9
Assistance, 5.2.8, 5.11.4,
5.12.11
Assurances, 2.2.3.5, 5.16.1
Attornment, 5.16.6
Audits, 1.4.8, 5.4.4, 5.9.9.7,
5.10.2, 7.8.10.9
**Australian IT Governance
Standard (AS 8015)**, 8.2.5
Authority to Transact, 5.14.1
Automatic Termination,
5.11.3.5

B

Background Technology,
5.12.1
Balancing Rewards and Risks,
4.9.6, 8
Benchmarking, 5.2.10, 5.9.12,
6.5
**Benefit Participation
Remuneration**, 5.9.15
Bonuses, 5.9.5
Brand Association, 5.13

Information Technology Transactions

- Breach**, 4.5.1, 5.11.3.1, 7.3.2, 7.3.4.3
- Build Distinguished from Design**, 3.1.4, 6.3
- Business Case**, 2.1, 6.3
- Business Case Relevance**, 3.4.9
- Business Continuity Planning**, 5.2.22
- Business Decision**, 4.7.1
- Business Environment Demonstrations**, 3.5.5.4
- Business Interruption**, 1.3
- Business Operations**, 6.2.6
- Business Requirements**, 3.4.4
- Business Risk Mitigation**, 6.2.4
- Business Strategy**, 6.2.5
- Business Vision**, 2.1.3
- C**
- Calculation of Days**, 5.1.11
- Capital Market Regulations**, 3.5.4.2
- Chain of Title**, 3.3.2.4
- Change Management**, 6.2.5, 6.9
- Change of Control**, 5.16.10
- Choice of Law**, 4.5.5
- City of Toronto Leasing Enquiry**, 4.9.1
- Claims**, 3.5.7.3
- Cloud Computing, Commercial and Contracting Issues**, 9.2.3
- Cloud Computing, History and Overview**, 9.2.1
- Cloud Computing, Risk Management Preparation**, 9.2.2
- Cloud Computing Transactions**, 9.2
- Collateral Agreements**, 2.2.3.3
- Collateral Services**, 5.2.17
- Commercial Arrangements**, 3.5.2.3
- Commercial Intelligence**, 4.1.4
- Commercial Interest**, 4.9.2
- Commercial Regulation**, 3.5.4.3
- Commercial Rights**, 3.5.3.5
- Communications**, 4.8, 5.3.6
- Comparative Evaluation**, 2.1.4
- Compass, Ship's**, 2.1.5
- Compensation**, 6.10
- Competitive Advantage**, 6.3.2
- Competitive Analysis**, 3.4.7
- Competitors**, 3.5.6.5, 7.12.4
- Compliance/Non-Compliance**, 1.1, 3.5.5.5, 5.6.5, 5.6.6, 5.6.8, 5.16.12
- Confidential Information**, 4.3.8.4, 4.4.1, 4.4.4

Index

- Confidentiality**, 3.5.2.4, 4.4, 5.3.2, 5.8.6, 6.11
- Configuration**, 5.5.5
- Consultative service obligations**, 5.2.2
- Consulting — Advisory**, 5.2.2
- Consulting — Deliverable**, 5.2.2
- Contingency Planning**, 6.14.4, 7.8.10
- Continuous Improvement Measures**, 5.2.7, 6.3.3
- Contract Anatomy**, 2.2.3
- Contract Provisions**, 7.8.10.4
- Contract Stipulations**, 2.2.1, 6.15
- Convenience, Termination for**, 5.11.3.4, 5.15.2
- Cooperation**, 4.5.2, 5.2.8, 5.6.3
- Copying**, 5.4.5
- Core Competencies**, 6.2.2
- Corporate Approval**, 3.5.1.3, 5.14.1.3
- Corporate Authority**, 3.5.1.2, 5.14.1.2
- Corporate Existence**, 5.14.1.1
- Corporate Governance Context**, 1
- Corporate Information**, 3.4.1.2
- Creation Reporting**, 5.12.9
- Cross Culture Awareness**, 4.2.2
- Currency**, 5.1.8, 5.9.8
- Customer Obligations**, 5.2.12
- Customer References**, 3.5.6.3
- Customer Relations**, 3.4.1.4
- Customs**, 1.4.3, 3.5.5.6, 5.5.2
- Cyber Risk Management, Contractual Management**, 9.3.5
- Cyber Risk Management, External**, 9.3.4
- Cyber Risk Management, Internal**, 9.3.3
- Cybersecurity and Transactional Risks**, 9.3, 9.3.2
- D**
- Damages**, 7.5.1, 7.5.3, 7.5.4, 7.8.5
- Data Protection**, 6.11
- Decision-Making Authority**, 4.7
- Definitional Sources**, 3.1.6
- Definitions**, 3.1.1, 3.1.2, 4.4.1, 5.1.2, 6.14.2
- Delays**, 5.2.14
- Deliverable, Defining**, 3.1
- Deliverable Service Obligations**, 5.2.2

Information Technology Transactions

- Delivery**, 5.5
- Demands**, 3.5.7.3
- Derivative Works**, 5.12.8
- Description**, 5.2.1
- Design Distinguished from Build**, 3.1.4, 6.4
- Destruction of Information**, 4.5.4
- Disaster Recovery**, 7.8.10.2
- Disclaimer**, 4.4.2, 7.6
- Disclosure Obligations and Reporting Requirements**, 1.4.10, 4.4.3, 4.4.5.1, 4.4.5.2, 4.4.7, 4.5.1, 5.9.9.4, 5.14.4.1
- Discretionary Termination**, 5.11.3.5
- Discursive Process**, 4.8.5
- Dispute, Cause of**, 3.1.3
- Dispute History**, 3.5.7
- Dispute Resolution**, 4.3.7, 7.9
- Dispute Resolution Participation**, 5.3.4
- Divisions**, 5.1.6
- Documents**, 2.2.2, 2.2.3.8, 5.10, 5.14.3.4, 7.12.1
- Dovetail Obligations**, 5.3.4
- Drafting**, 4.6.5
- Duty to Disclose**, 4.4.5.2, 4.5.1
- Electronic Commerce**, 1.4.6
- Electronic Records**, 1.4.7
- Emergency Response Plan**, 7.8.10.1
- Employees**, 3.2.1.2, 4.3.4, 5.12.6, 5.14.4.5
- Enforceability**, 7.8.5.1, 7.8.9
- Enterprise Transformation (Modernization) Projects**, 9.5
- Environmental Issues**, 5.14.4.6
- Equitable relief**, 7.8.7
- ERP Transactions**, 4.9.1, 6.3
- Escrow**, 7.8.10.6, 7.11.2
- Exclusions of Liability**, 7.4
- Exclusivity**, 4.3.3, 5.7.1
- Execution**, 5.16.13
- Executives**, 3.2.1.1
- Exemplary Damages**, 7.5.1
- Exhibits**, 2.2.3.2
- Export Controls**, 1.4.4
- Export Restrictions**, 5.7.9
- Extrication**, 7.12
- F**
- Failure Rates, IT Transaction**, 7.1.1
- Failure of Project, Cause of**, 3.1.3
- E**
- Economic Expectations**, 7.5.2

Index

- Fair Market Value Benchmarking**, 5.9.12
- Fairness, Transactional Impact**, 4.9.9
- “Favoured Nation” Pricing**, 5.9.11
- Fees**, 5.9.2
- Financial Arrangements**, 5.9, 7.11
- Financial Benefit of Warranty**, 5.2.21.4
- Financial Business Case**, 6.3.1
- Financial Consultants**, 3.2.2.2
- Financial Documents**, 3.5.2.2
- Financial Impact**, 3.4.5
- Financial Information**, 3.4.1.1
- Financial Management**, 1.4.8
- Financial Metrics Review**, 5.9.17
- Financial References**, 3.5.6.2
- Flexible Business Strategy**, 6.2.5
- Force Majeure**, 5.11.3.6
- Freedom of Information Requirements**, 5.15.4
- Future Goods or Services**, 5.2.18
- G**
- Gain Sharing**, 6.10
- Gender**, 5.1.3
- Generally Accepted Accounting Principles (GAAP)**, 5.10.1.5
- Gifts**, 5.16.8
- Good cop — Bad cop**, 4.2.3
- Good faith**, 4.3.8, 5.2.9
- Goods and Services Tax (GST)**, 5.9.9.2
- Governance**, 1, 3.4.1.7, 3.5.1, 4.9.1, 5.2.5
- Governance Standard, IT, Australia (AS 8015)**, 8.2.5
- Governing Law**, 5.16.5
- Government Agencies**, 7.8.10.7
- Gratuities**, 5.16.8
- Guarantees**, 4.5.6
- H**
- Human Resources**, 3.4.1.3, 3.4.6, 5.8
- I**
- Implementation**, 5.2.4
- Incorporation**, 5.1.13, 5.15.1
- Incumbent Information Technology Providers**, 3.2.2.4
- Indemnification**, 7.7
- Independent Third Party**, 5.6.4
- Industry Norms**, 3.4.7
- Industry Regulation**, 3.5.4.1

Information Technology Transactions

- Information Technology Comparative Evaluation,** 2.1.4
- Information Technology Consultants,** 3.2.2.1
- Information Technology Project Failure,** 8
- Information Technology Project Failure, Causes,** 8.2
- Information Technology Project Failure, Europe,** 8.2.4
- Information Technology Project Failure, Risks,** 8.1
- Information Technology Transaction Failure Rates,** 7.1.1
- Information Technology Transaction Mistakes,** 7.13
- Information Technology Transaction Risk Deconstruction,** 7.1.2
- Infrastructure Governance Assessment,** 1.6
- Injunction,** 4.5.3
- Inspection,** 5.5.3
- Installation,** 5.5.4
- Insurance,** 7.10.3
- Integrated Justice Report,** 8.2.2
- Intellectual Property,** 3.5.3, 5.8.6, 5.12
- Intellectual Property Ownership,** 3.5.3.3, 3.5.3.4, 5.14.3.1, 5.15.3
- Intellectual Property Rights,** 3.5.3
- Intellectual Property Transfer,** 5.3.3
- Internal Escalation,** 7.9.1
- Internal Resources,** 3.2.1
- Internal Team,** 3.2.1.4
- Interpretation,** 5.1
- Invoice Disclosure,** 5.9.9.4
- J**
- Joint Management Committee,** 7.12.6
- Joint Ownership,** 5.12.4
- Joint Tenants,** 5.12.4.2
- Joint Transaction,** 4.9.4
- Judgments,** 3.5.7.5
- Judicial Interference,** 5.14.3.6
- K**
- Key Persons,** 5.8.1, 5.14.4.5
- Knowledge Assets,** 3.3
- L**
- Labour Disputes,** 3.5.7.1
- Language,** 5.1.7
- Legal Compliance,** 5.14.2.2
- Legal Services,** 3.2.2.3

Index

Length of Term, *5.11.1*

Letter of Credit, *7.10.4*

Letter of Intent, *4.6.3*

Liability, *7.4, 7.5, 7.7*

License-back Provisions,
5.12.7

Licensing, *5.4, 5.13.3*

Litigation, *3.5.7.4, 7.9.3*

“Loaded” Relationship Terms,
5.1.12

M

Main Body of Contract,
2.2.3.1

Maintenance of Records, *1.4.1,*
1.4.7

Management, *3.2.1.1, 3.4.1.7,*
3.5.1.4, 5.2.20

Market Intelligence, *3.4.1.8*

Market Valuation, *3.3.2.1*

Mediation, *7.9.2.2*

Meetings, *4.1.2, 4.8*

Memorandum of Understanding, *4.6.4*

Mistakes, IT Transaction, *7.13*

Modifying, *5.4.6*

Morale, *7.2.5*

Multi-channel Communications, *5.3.6*

Multi-source Selection, *3.4.2.1*

N

Negotiation, Rules of Engagement, *4.3.2*

Negotiation Conditions, *4.3*

Negotiation Tips, *4.3.9*

Notice, *5.16.14*

O

Offshore Outsourcing, *6.16*

Offshore IT Transactions, *9.4*

Open Source Software, *3.5.3.3*

Operational Requirements,
3.4.4

Operational Specifications,
3.5.5.1

Operations, *3.4.1.6*

Orders, *2.2.3.6, 3.5.7.5*

OSFI — Disclosure Obligations and Reporting Requirements, *1.4.10.1*

OSFI — Outsourcing, *3.1.6,*
6.4

Outsourcing, *6*

Outsourcing Transactions, *6.2*

P

P3 Outsourcing, *6.14*

Pay Administration, *8.2.7*

Payment Adjustments, *7.11.1*

Payment Advances, *7.11.1.1*

Payment Holdback, *7.11.1.2*

Information Technology Transactions

- Payment in Escrow**, 7.11.2
- Payment Milestones**, 5.9.7, 7.11.1.3
- Payment Security**, 5.9.16
- Payment Terms**, 5.9.6
- Payments Including/Excluding Tax**, 5.9.9.6
- Penalties**, 5.9.4, 7.8.5.2
- Performance Adjustment**, 7.8.2
- Performance Assistance**, 5.2.8
- Performance Audits**, 5.2.15, 5.9.9.9, 7.3.4.1
- Performance Benchmarking**, 5.2.10
- Performance Bond**, 7.10.5
- Performance Disclaimers**, 7.6
- Performance Information Reporting**, 7.2.2
- Performance Milestones**, 5.2.11
- Performance Monitoring**, 7.3.4
- Performance Obligations**, 5.2
- Performance Record**, 3.5.5.3
- Performance Requirements**, 5.14.4, 7.3.1
- Performance Standards**, 5.2.6
- Performance Statement**, 4.6.2
- Performance Verification**, 6.7, 6.14.3
- Performance Warranty**, 5.2.21
- Plurality**, 5.1.4
- Political Context**, 4.9.3
- Preliminary Promises**, 4.1
- Press Release**, 4.3.9.3
- Price Adjustments**, 7.8.4
- Price Credits**, 7.8.3
- Price Discrimination**, 5.9.1
- Price Escalation**, 5.9.3
- Price Including/Excluding Tax**, 5.9.9.3
- Price Premiums**, 5.9.5
- Price Rebates**, 5.9.4
- Pricing**, 5.9.2, 5.9.11
- Privacy**, 1.4.5
- Privacy and Data Protection**, 1.4.5
- Pro Forma Contracts**, 4.9.5
- Proactive Risk Management**, 7.3
- Problem Solving**, 3.3.2.2
- Professional Associations, Governance**, 1.4.9
- Professional Opinions**, 7.10.6
- Project Management Committee**, 7.2.1
- Project Plan**, 2.1.3.3
- Proposal, Participant**, 4.6.1

Index

- Provincial Sales Tax (PST),** 5.9.9.2
- Public Interest,** 4.9.2
- Public Partnership**
 Outsourcing, 6.14
- Public Relations,** 3.2.2.5
- Public Sector,** 4.9, 5.15, 6.14, 7.8.10.8
- Publicly Traded Companies — Disclosure Obligations and Reporting Requirements,** 1.4.10.2
- Publicity,** 5.16.7
- Purchase Orders,** 2.2.3.6
- Q**
- Qualifications,** 5.8.4, 5.14.4.2
- Quality Control,** 5.2.7
- Quantum,** 7.8.5.3
- R**
- Recitals,** 5.1.1
- Records,** 1.4.1, 1.4.2, 1.4.3, 1.4.7, 5.9.9.8, 5.10, 7.3.3, 7.3.4.2
- Redundancy,** 7.8.10.3
- Regulatory Compliance,** 5.14.2.1
- Regulatory Context,** 4.9.3
- Regulatory Obligations,** 1.4
- Regulatory Requirements,** 5.15.5, 6.5
- Relationship Investment,** 4.2.1.3
- Relationship Management,** 4.2, 6.8, 7.2
- Relationship of Participants,** 5.16.2
- Relationship Strategies,** 4.2.1
- Reliance,** 4.5.7, 7.12.1
- Remedial Considerations,** 4.5
- Remedial Period,** 5.11.3.2
- Remedial Rights,** 5.2.21.3
- Remedies,** 4.3.6, 7.8
- Remuneration,** 5.9.15, 7.11.1.4
- Renewal of Term,** 5.11.2
- Repair,** 7.8.1
- Replacement,** 5.3.5, 7.8.1
- Representations,** 5.14
- Request-for-Information (RFI),** 4.1.3
- Request-for-Proposal (RFP),** 4.1.3
- Residual Knowledge,** 5.12.10
- Restriction / No-Restriction,** 5.4.2, 5.7.3, 5.7.8, 5.7.9
- Restrictive Covenants,** 4.3.4, 5.7
- Return of Information,** 4.3.9.2, 4.5.4
- Revision,** 4.6.5.3
- Risk, Transfer of,** 5.5.6

Information Technology Transactions

- Risk Allocation**, 5.2.21.1
- Risk Assessment**, 1.2
- Risk Assumption**, 7.10.2
- Risk Deconstruction**, 7.1
- Risk Deferral Strategies**, 7.10
- Risk Management**, 1.1, 4.9.7, 5.15.6, 6.15, 7, 8
- Risk Mitigation**, 6.2.4
- Rules of Conduct**, 5.8.7
- S**
- Sales Materials**, 4.1.1
- Satisfaction Reporting**, 5.2.16
- Schedules, Incorporation of**, 5.1.13
- Schedules to Contract**, 2.2.3.2
- Security Breach, Personal Information**, 1.4.10.3
- Security Clearance**, 5.8.5
- Security Interests**, 7.11.3
- Security Obligations**, 5.2.19
- Self-Reporting Breaches**, 7.3.4.3
- Seminars**, 4.2.1.2
- Service Levels**, 5.2.3.1, 5.2.3.2, 6.5
- Services Defined**, 6.14.2
- Set-off**, 5.9.14
- Severability**, 5.1.10
- Shared Services**, 6
- Shareholder Agreements**, 3.5.2.1
- Shipping**, 5.5.1
- Sole-source Selection**, 3.4.2.2
- Solicitation/Non-solicitation**, 4.3.5, 5.7.5
- Sophistication**, 5.1.9
- Source Code Escrow**, 7.8.10.6
- Special Task Force Report on the Management of Large-Scale Information & Information Technology Projects**, 3.1.4, 4.9.1, 8.2.3
- Specified Events**, 5.11.3.3
- Standard Form Agreement**, 4.6.5.1
- Standard of Care**, 4.4.3
- Standards**, 3.5.5, 5.10.1
- Standstill Arrangements**, 4.3.1
- Statement of Objective**, 5.1.1
- Statements of Work**, 2.2.3.6
- Statutory References**, 5.1.5
- Step Approach**, 4.6
- Strategic Alliance References**, 3.5.6.4
- Structure of Agreement**, 5.1.14
- Subcontractors**, 5.3, 5.7.6
- Succession Planning**, 7.8.10.8
- Successors**, 5.16.11

Index

- Supplier Arrangements,** 7.8.10.5
- Supplier Information,** 3.4.1.5
- Supplier References,** 3.5.6.1
- Survival,** 5.16.15
- T**
- Tax,** 1.4.2, 3.5.5.6, 5.9.9, 5.10.1.3
- Team Composition,** 3.2, 5.8.2
- Teaming,** 4.2.1.1
- Technical Specifications,** 3.5.5.1
- Technology Disclosure,** 5.14.4.1
- Technology, New or Proven,** 3.5.5.2, 5.12.2
- Technology Operations,** 5.14.4.4
- Technology Ownership,** 5.12.1, 5.12.2, 5.12.4
- Technology Performance,** 3.5.5
- Technology Standards,** 3.5.5
- Technology Requirements,** 3.4.3
- Tenants in Common,** 5.12.4.1
- Term,** 5.11
- Terms and Conditions, incorporation by Digital Reference,** 2.2.3.7
- Termination,** 2.2.3.4, 5.11.3, 7.12
- Termination Assistance Agreements,** 2.2.3.2, 2.2.3.4, 5.11.3.4, 5.11.4, 6.15, 7.1.2, 7.12
- Test Protocol,** 5.6.1
- Third Party Risk Deferral Strategies,** 7.10
- Third Party, Independent,** 5.6.4
- Third Party Benefit,** 5.7.7
- Third Party Damages,** 7.5.4
- Third Party Guarantees,** 4.5.6
- Third Party Harm,** 1.5
- Third Party Intellectual Property,** 5.12.3
- Third Party Obligations,** 3.5.2, 5.14.3.3, 6.12
- Time,** 5.2.13, 5.4.3, 5.6.7, 7.8.8
- Title, Transfer of,** 5.5.6
- Trade Associations,** 3.5.4.4
- Trade Treaty Compliance,** 5.5.7
- Transaction Due Diligence,** 3.5
- Transaction Governance,** 4.9.1
- Transaction Participant, Selection of,** 3.4
- Transaction Structure,** 2.2
- Transforming Business Operations,** 6.2.6

Information Technology Transactions

Transition, Assistance with,
5.11.4, 7.12.4

Transition Plan, *6.6, 7.12.2*

Transition Services, *2.2.3.4,*
7.12.3

Trusted Third Party (TTP),
7.10.7

Turnover Controls, *5.8.3, 7.2.4*

U

**U.K. Cabinet Office: Report
of the Comptroller and
Auditor General —
Investigation into Verify
(Verify Report),** *8.2.6*

V

Venue, *4.5.5, 5.16.6*

**Verify Report, Report of the
Comptroller and Auditor
General — Investigation
into Verify, U.K. Cabinet
Office,** *8.2.6*

Video Conference, *4.8.2*

Volume Discounts, *5.9.13*

W

Waiver, *5.16.3*

Warranty, *4.4.2, 5.2.21, 5.14*

Work in Progress, *3.3.2.3*