Incentivizing Performance in Cloud and Outsourcing Contracts: Key Points

Defining and incentivizing high-quality performance is often key to the structure of complex service or technology-oriented agreements, writes Steve Gold, a McGuireWoods LLP partner in a legal alert from the firm.

“In this class of agreements, merely having a performance warranty that answers a yes or no question – in breach or not in breach – just doesn’t do the job. To augment those performance warranties, a common approach is to use a ‘service level agreement’ (SLA). The SLA is a familiar and essential feature in information technology-oriented agreements, such as outsourcing, cloud computing, software-as-a-service and the like,” the alert says.

Gold writes that SLAs, when properly structured and negotiated, can be an effective tool for more nuanced vendor management than a performance warranty alone could afford.

His article catalogs some of the best practices for structuring a service level agreement and discusses elements enterprise corporate counsel can put to use in the IT and service contracts that come across their desk.

Read the article.