



2017

**CLOUD AND DIGITAL
DISRUPTIONS
SURVEY RESULTS**

**Baker
McKenzie.**

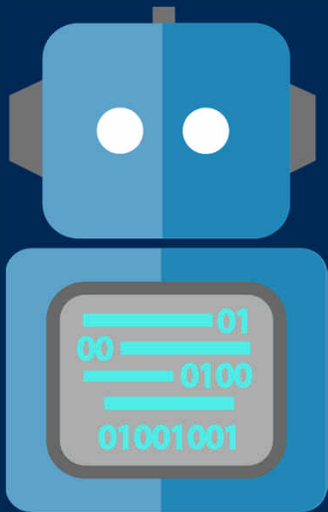
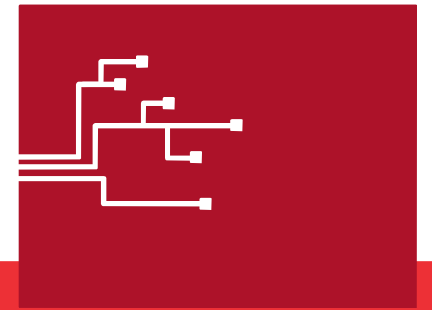
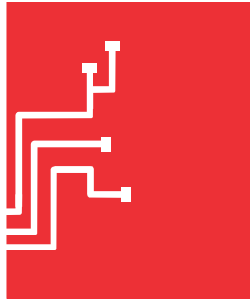


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Survey Background



Key Trends Observed

This is our fourth year in a row surveying the cloud marketplace and our first time surveying digitization. The following are just a few of the trends we have observed:



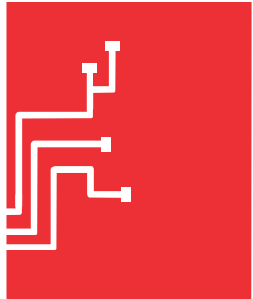
- **Increasing Regulatory Environment**: Data regulations were the biggest concern (with almost half of our respondents specifically focused on data localization updates), followed by financial regulations, and regulations on sourcing generally.



- **Continued Convergence**: Cloud deals continue to be completed on provider paper with a mix of customer terms. Limitations on liability and indemnification provisions for non-customized solutions continue to converge.

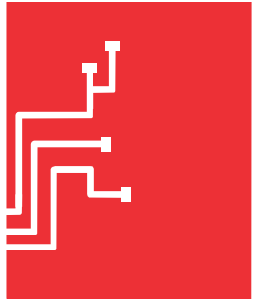


- **Complexity**: Our respondents use a mix of public and private cloud with multiple vendors. When combined with the increasing regulatory environment, the cloud marketplace is becoming increasingly complex.



Top Respondents

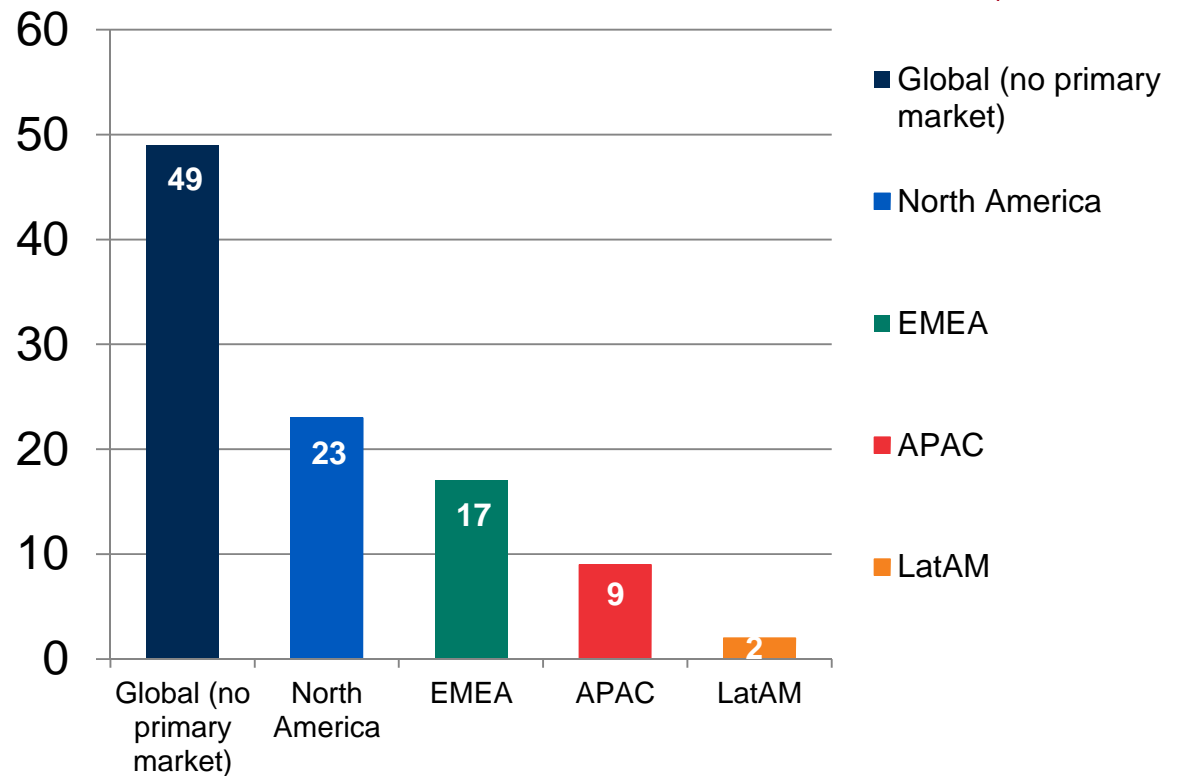


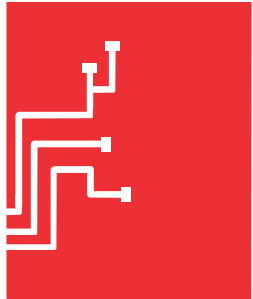


Respondents by Geography

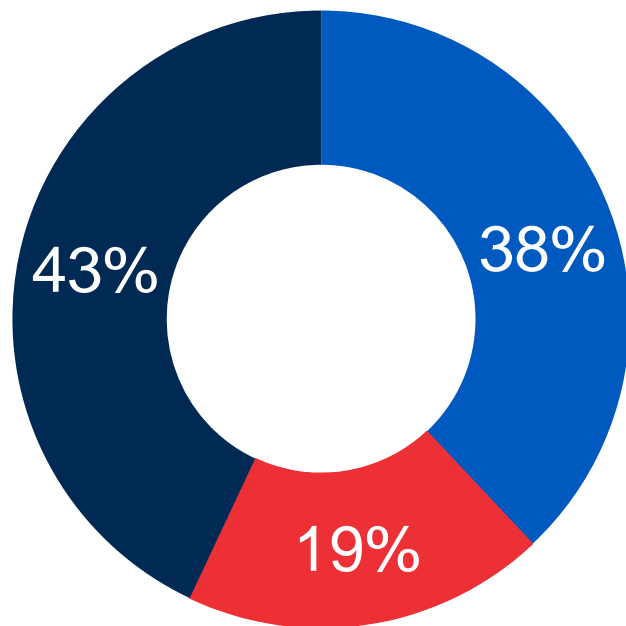
Percentage

Consistent with our past surveys, our respondents represent a broad geographic distribution with half of our respondents doing business globally





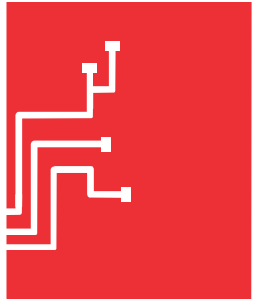
Respondents by Role



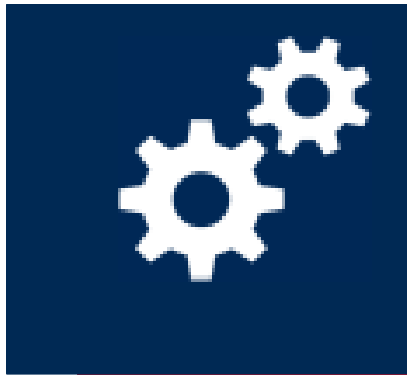
- Customer
- Provider
- Both

If you buy or sell cloud services, do you act primarily as a customer, provider or both?





Respondents by Role



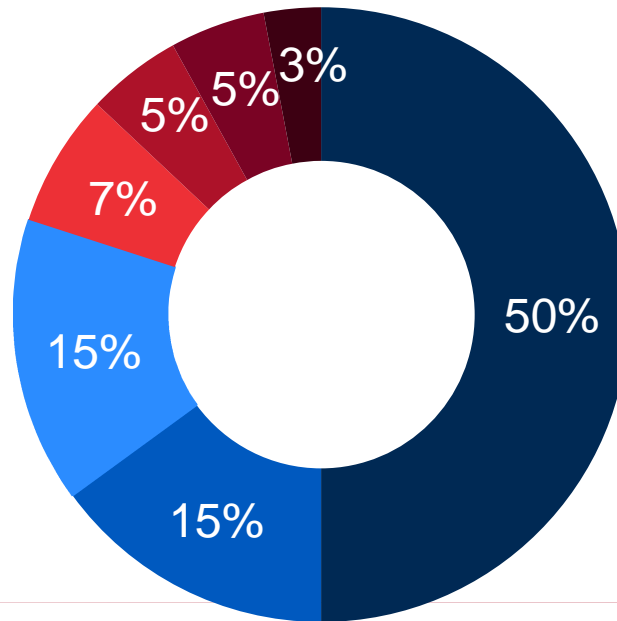
Please Identify Your Role



Half of respondents from legal

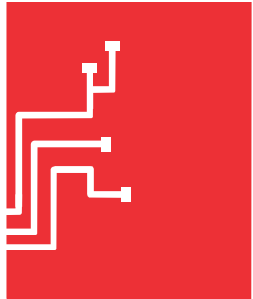


C-Suite next highest response rate



- Legal
- C-Level
- Other
- Marketing
- Procurement
- Sales
- IT



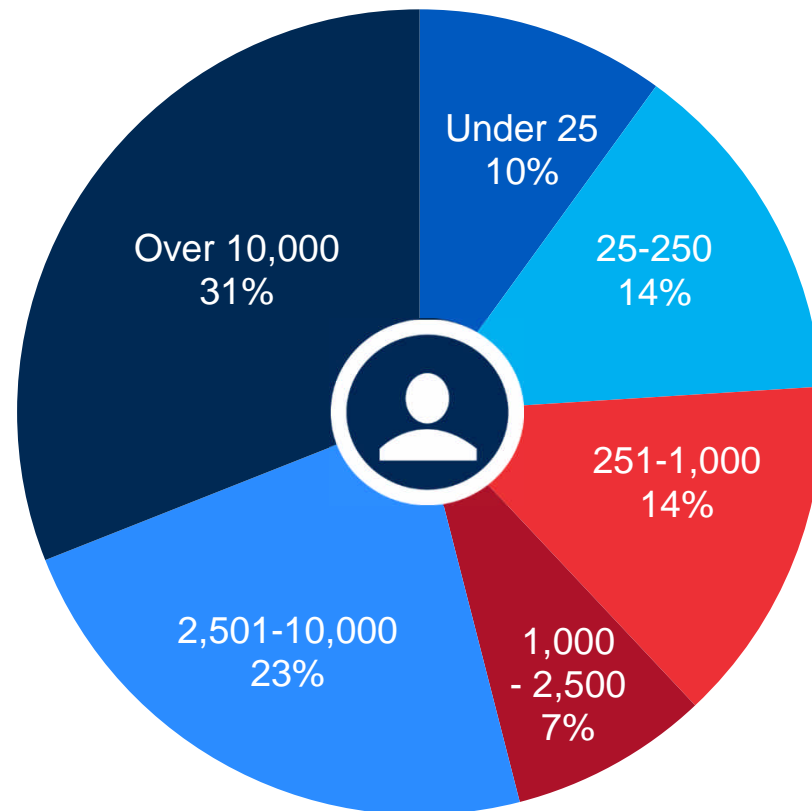


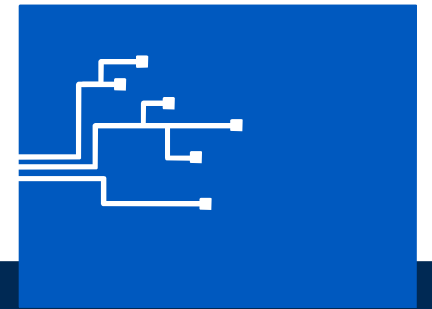
Respondents By Size



Respondents from larger organizations are slightly more represented, but the overall responses are fairly balanced.

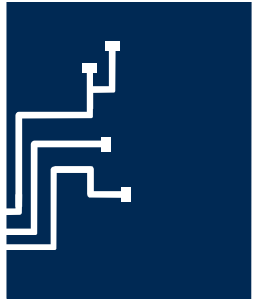
Number of Employees





2

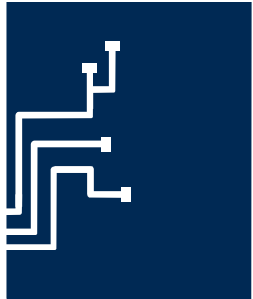
Cloud Update



Cloud Update

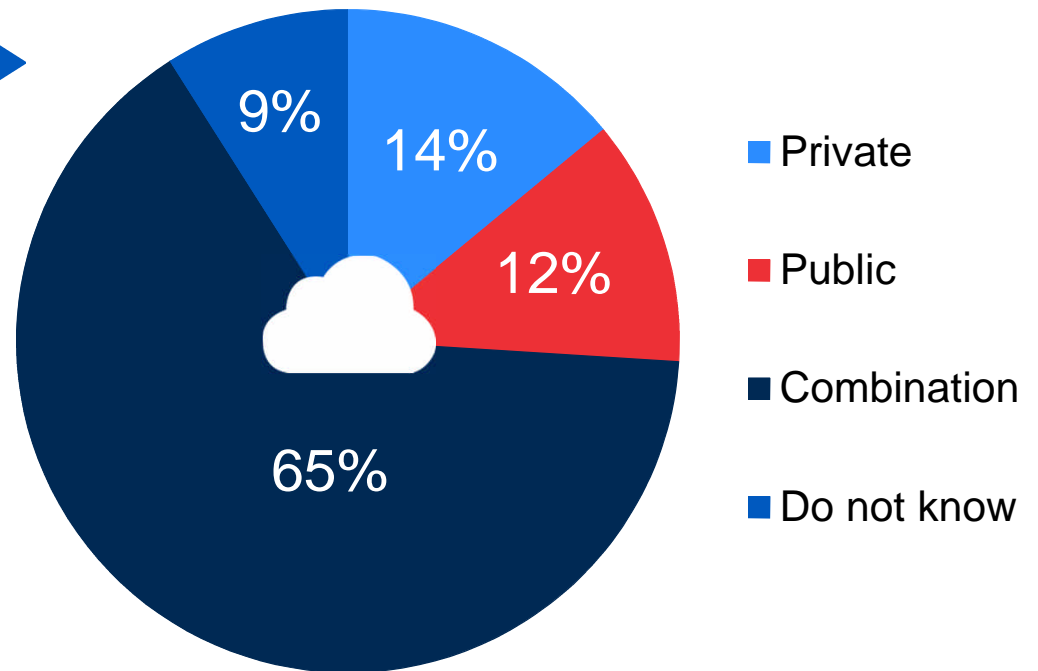


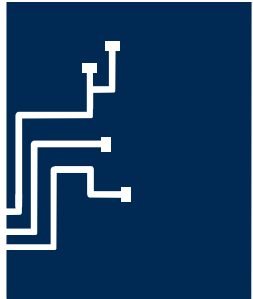
Fourth survey, updating cloud and looking at what comes next.



Public vs. Private Cloud

Does your company use public cloud, private cloud, or a combination?

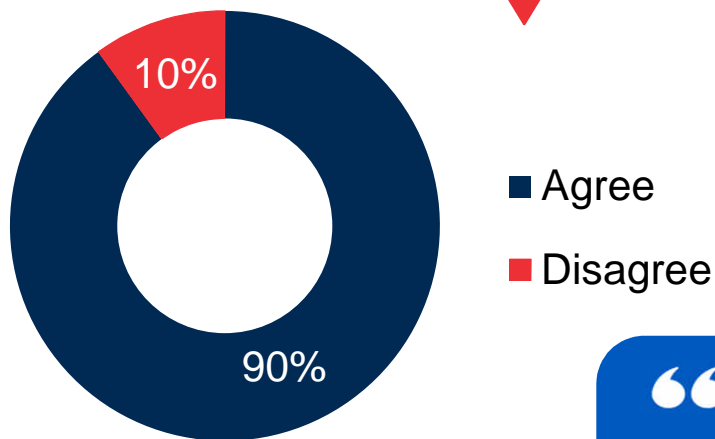




Cloud Contract Negotiations

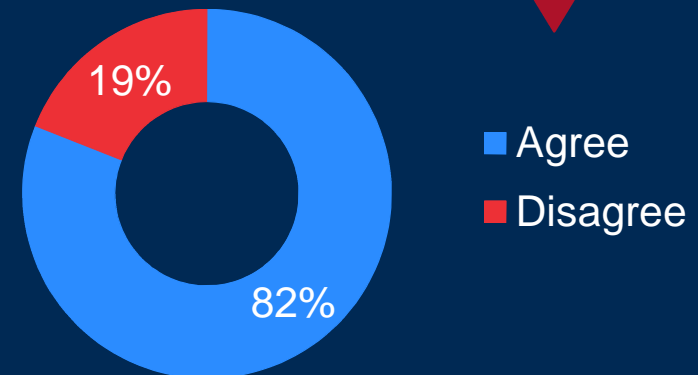
Our past surveys indicate that almost 80% of cloud contracts are either on provider's paper or a mix of provider's paper with certain buyer terms.

Do you agree or disagree?



Our past surveys have indicated that almost 60% of cloud contracts are negotiable.

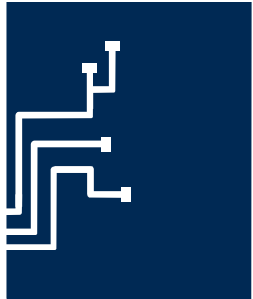
Do you agree or disagree?



“

Increased number of choices for vendors, but more limited ability to negotiate contracts.

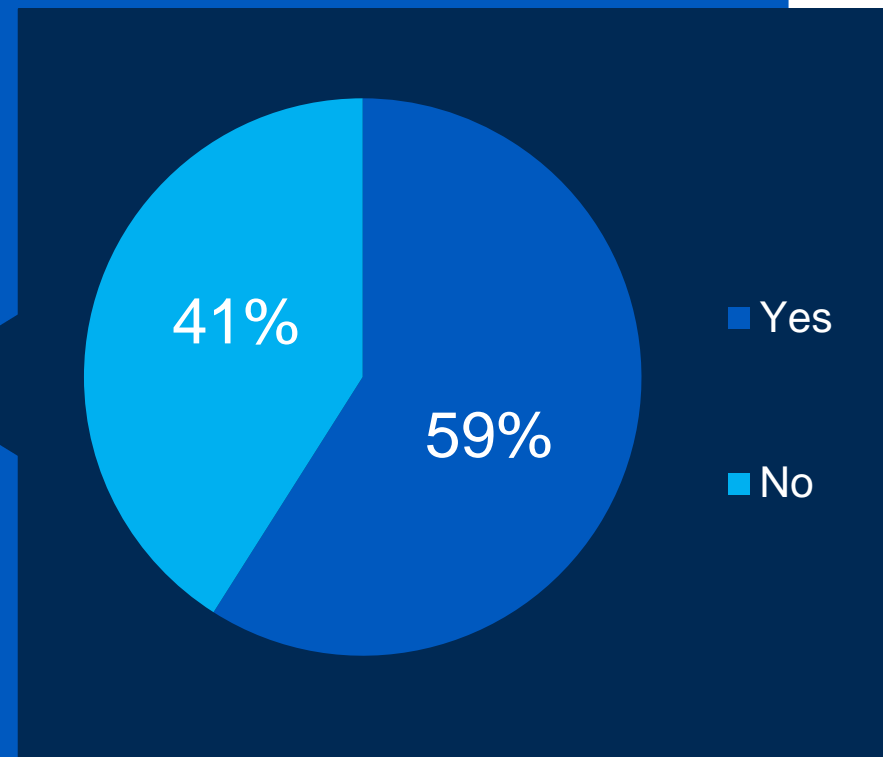
”

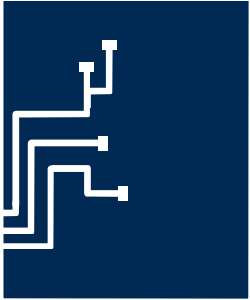


Cyber Insurance

Just over 50% of respondents to our last survey indicated their companies carry cyber liability insurance.

Does your company carry cyber liability insurance?

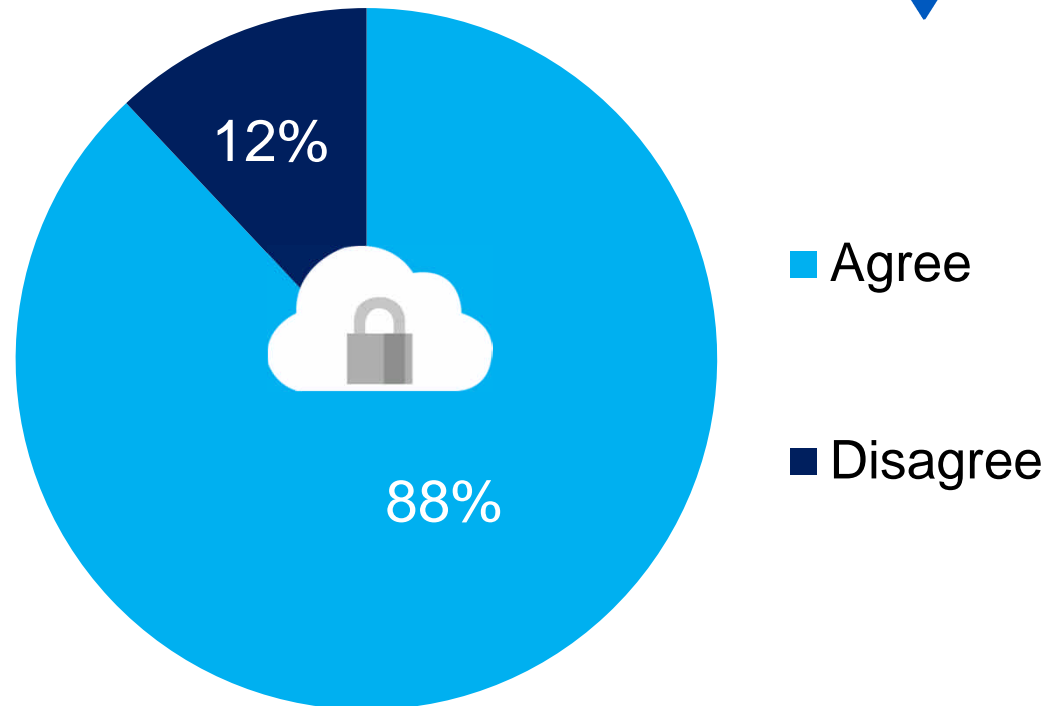
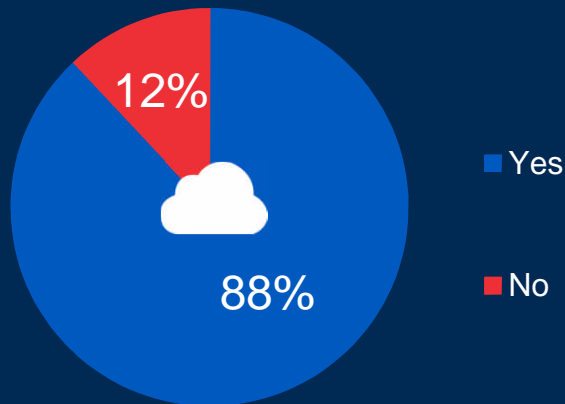


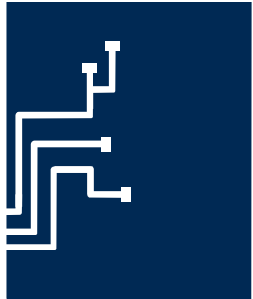


Limitations on Liability

Our past surveys have indicated that cloud contracts typically have 1-3x fees in damage caps with higher caps for data security incidents. Do you agree or disagree?

In your cloud contracts do you typically find that consequential losses are generally excluded?

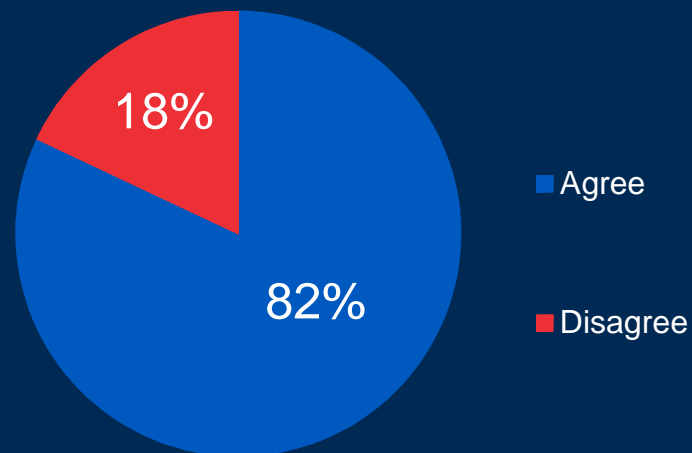




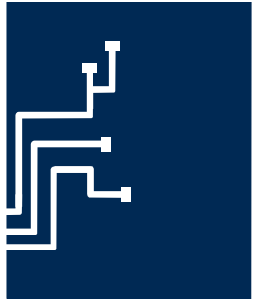
Indemnification

Our past surveys indicated that cloud providers indemnify customers for willful misconduct, IP infringement, violations of law, and data security breaches.

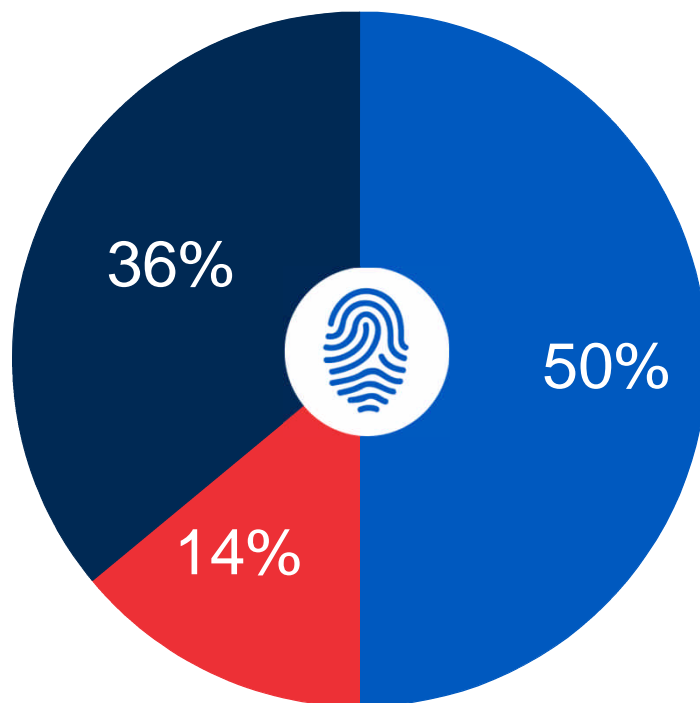
Do you agree or disagree?



Our respondents indicated that the most heavily negotiated indemnification relates to data security breaches.



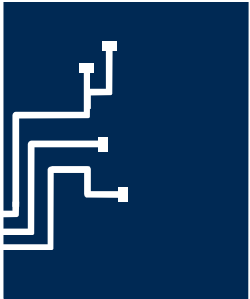
Data Localization



- Yes
- No
- Not yet

Are emerging laws requiring data localization (e.g., Russian data residency law, China cybersecurity law, Indonesia's personal data regulation) impacting your cloud procurement/provision decisions?

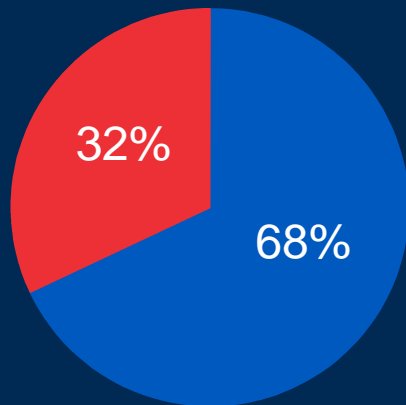




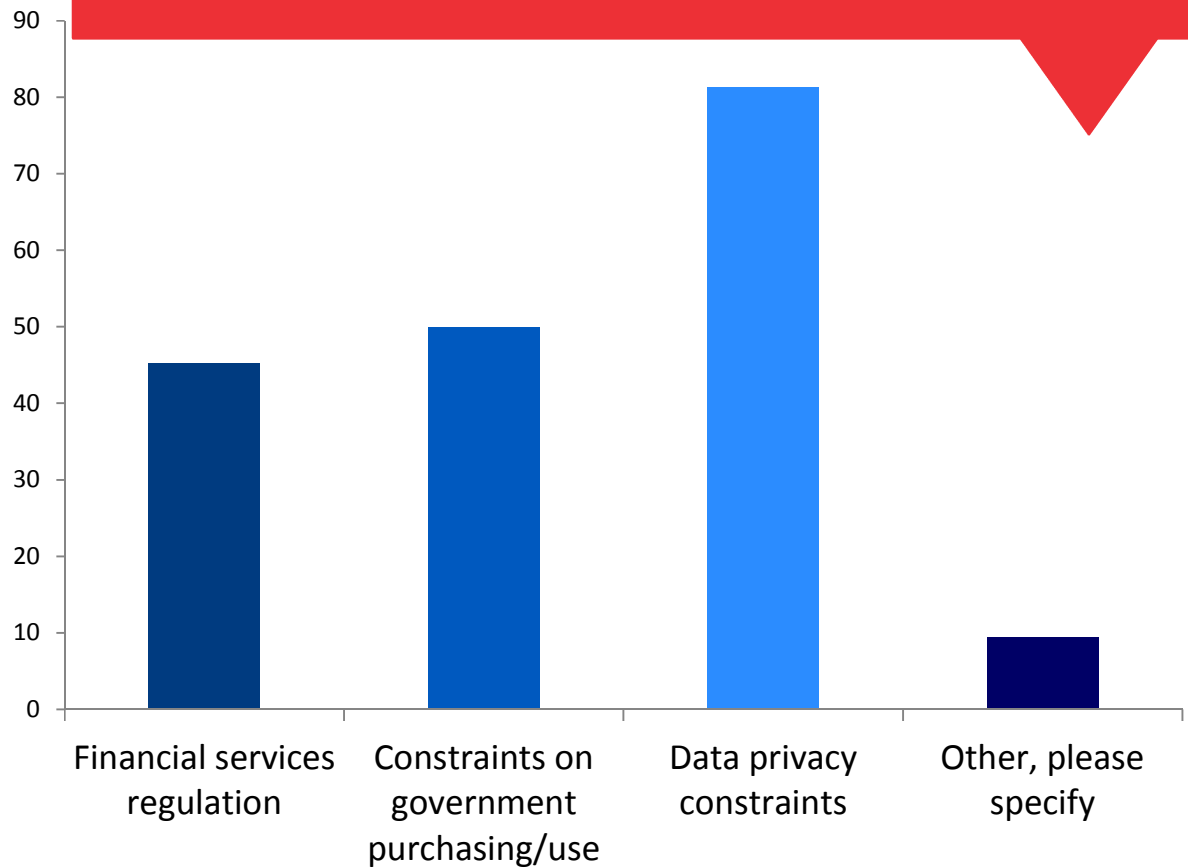
Regulatory Restrictions

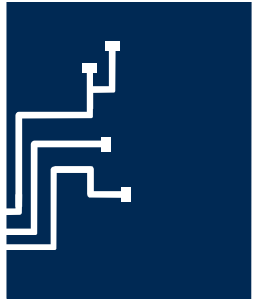
Do you face regulatory restrictions in implementing cloud for your business or your customers' businesses?

■ Yes ■ No



Please indicate the type of restrictions:

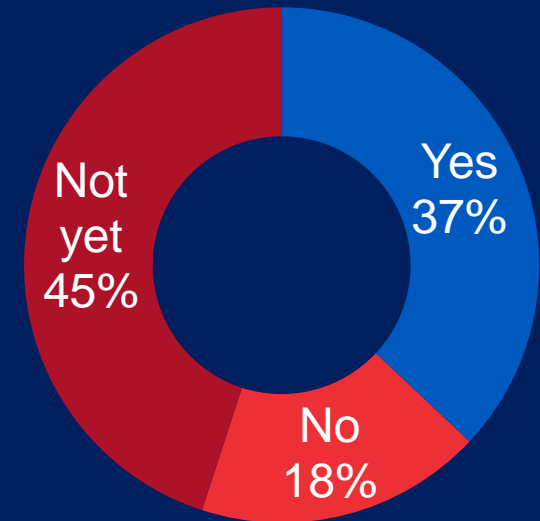


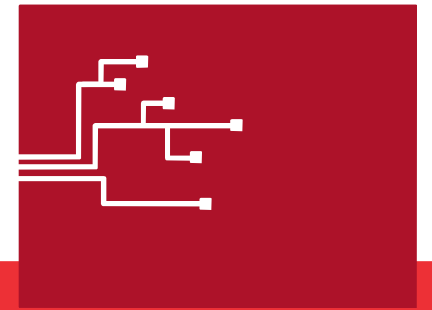


GDPR



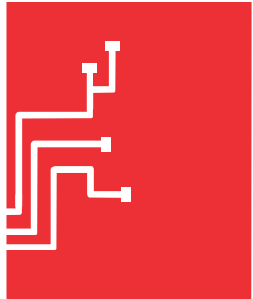
Have you updated your contractual provisions regarding data protection in light of the GDPR (the European Union General Data Protection Regulation)?





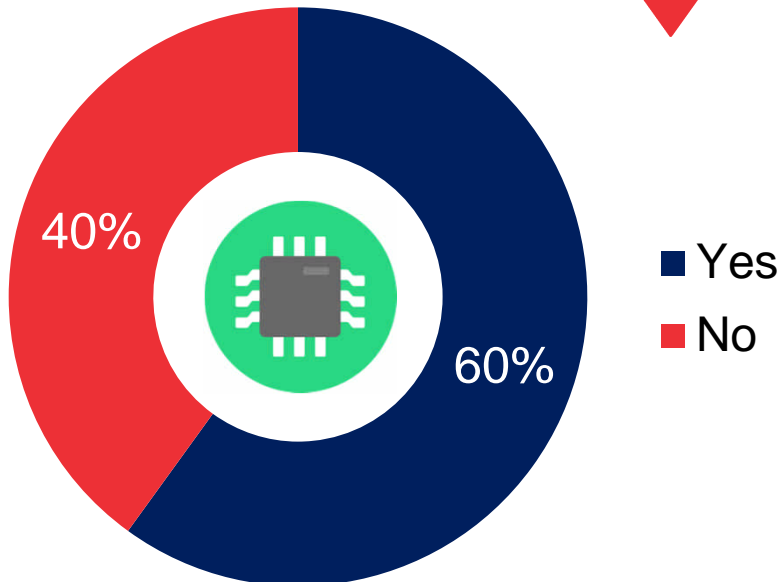
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Digitization Impacts



Digitization Impacts

Has the use of digital tools changed the way your enterprise plans its sourcing needs?



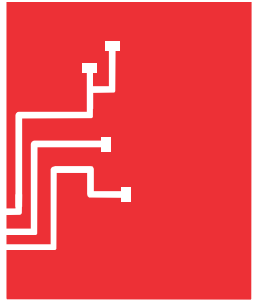
“

Theoretical ability to review agreements across divisions and platforms, but in reality we cannot get the various databases to coordinate.”

“

Operational staff are circumventing the sourcing and legal functions and contracting direct with suppliers because they believe it is quicker and digital contracts are lower risk!

”



Digitization

61% of respondents indicated that the use of digital tools has changed the way their enterprise plans its sourcing needs.

Those respondents then ranked the applicable areas where digital tools have had an impact from highest to lowest.

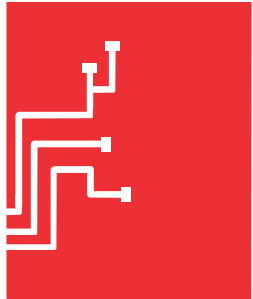


Highest Rank

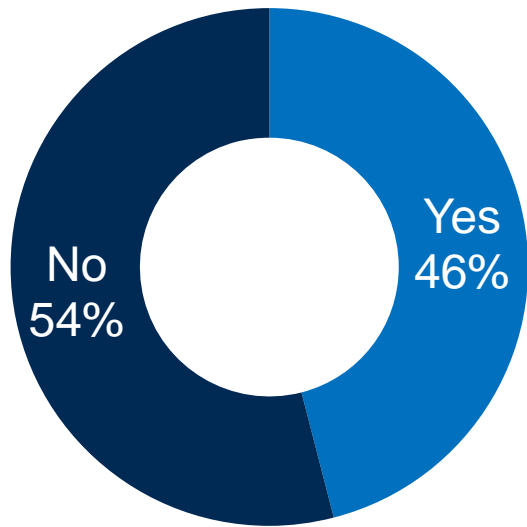


Lowest Rank

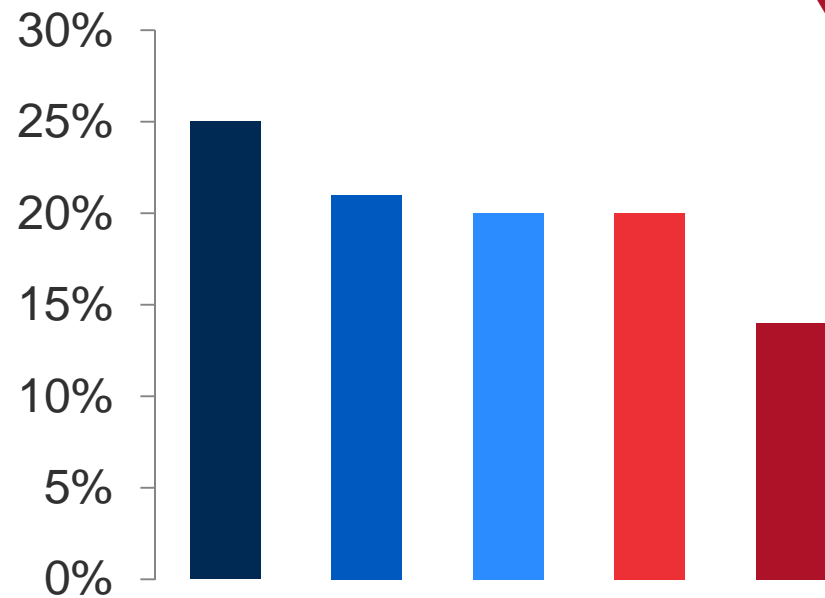




Digitization Impacts

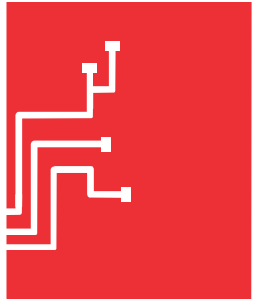


Please rank the methods of contract negotiation you use (higher number indicates greater frequency)



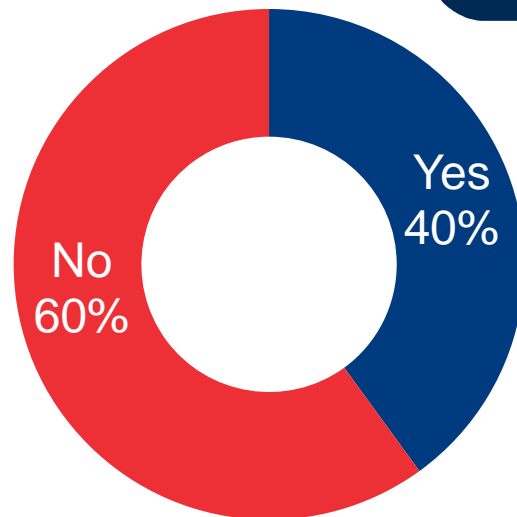
- In Person Negotiation
- Remotely with Email Only
- Remotely with Teleconference
- Remotely with a Combination of Tools
- Remotely with Screen Sharing

Has your company's travel and expense policy changed in response to transformative digital technology impacts?



Digitization Impacts

Has digitization enabled you to facilitate the use of centres of excellence for reorganization of otherwise local activities?



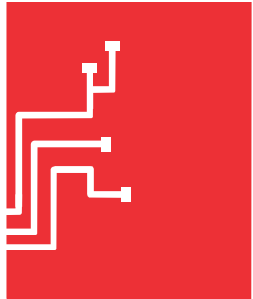
“

We have centres of excellence around the globe that have allowed us to pool expertise in a single place and serve multiple markets efficiently.

”

Based on the data, consider:

How do you best structure staffing for transactions that are more digital?



Digitization Challenges



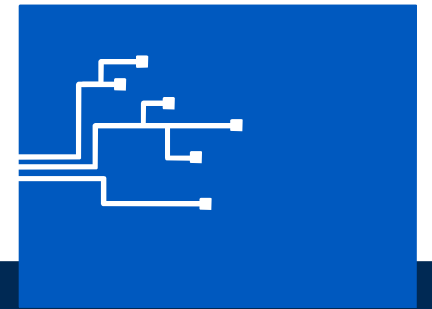
Digitization impacts are presenting new opportunities and challenges

Adoption Rates – slower adoption means maintaining multiple systems, new and legacy

Integration – the failure of various systems and functions to integrate seamlessly reduces the value from digitization

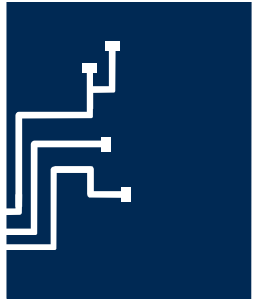
Tracking and ROI – the difficulty in quantifying the actual and potential gains makes it harder to obtain stakeholder buy-in

Rules of the Road – digitization does not always mean lower risk and digitization may enable bypassing legal and sourcing functions

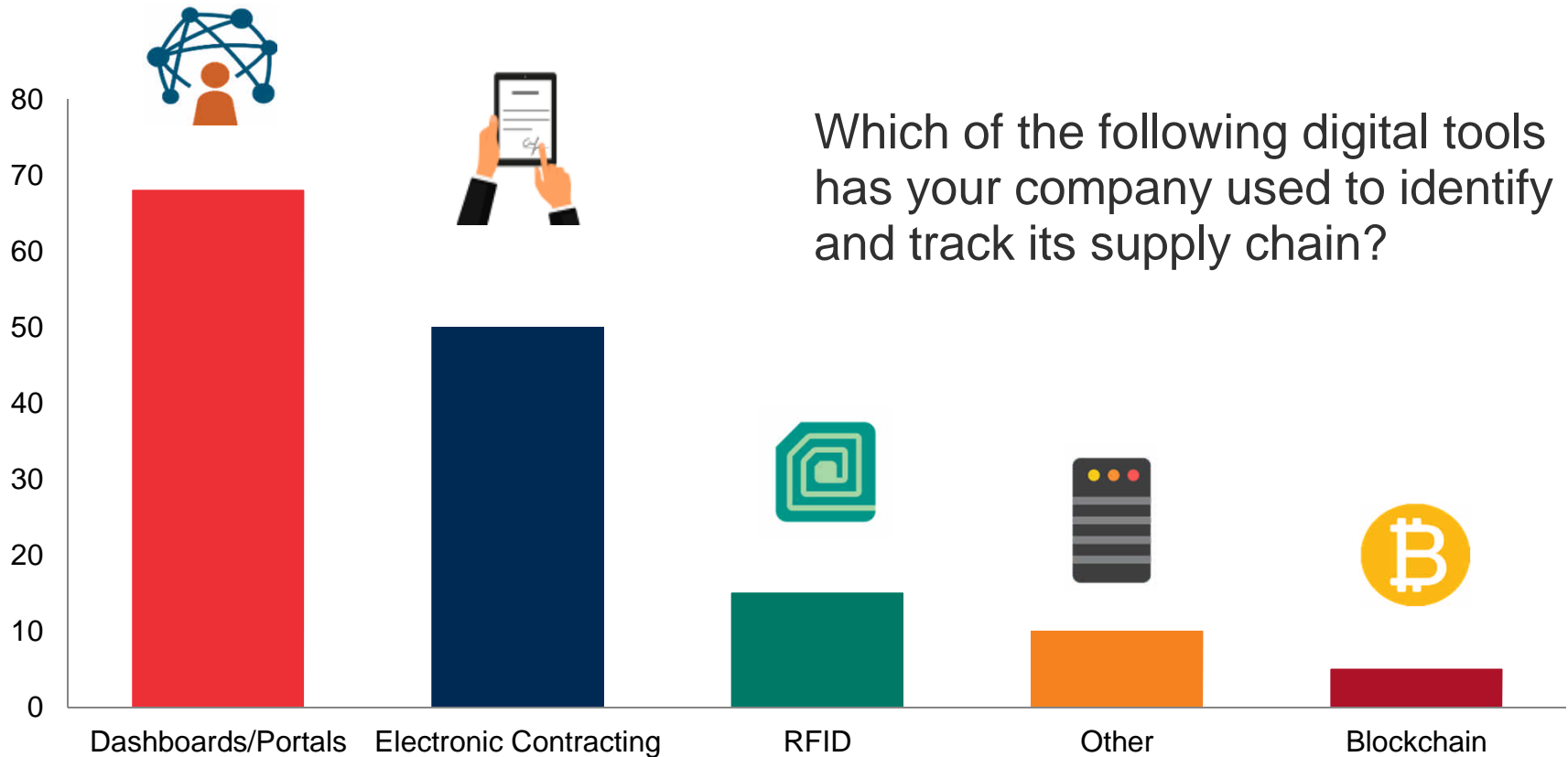


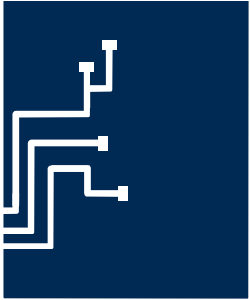
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Digital Transformation

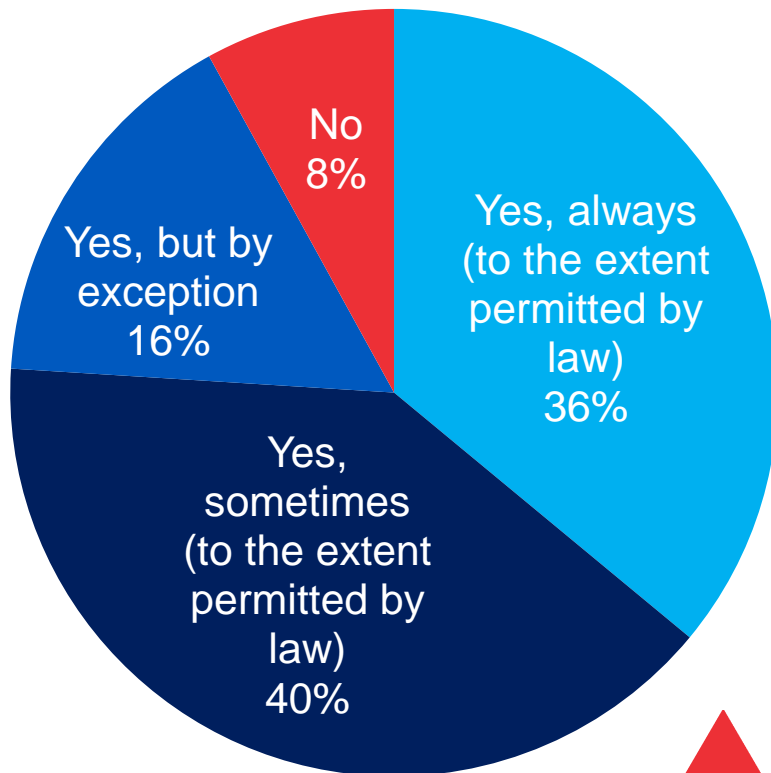


Digital Tools and the Supply Chain



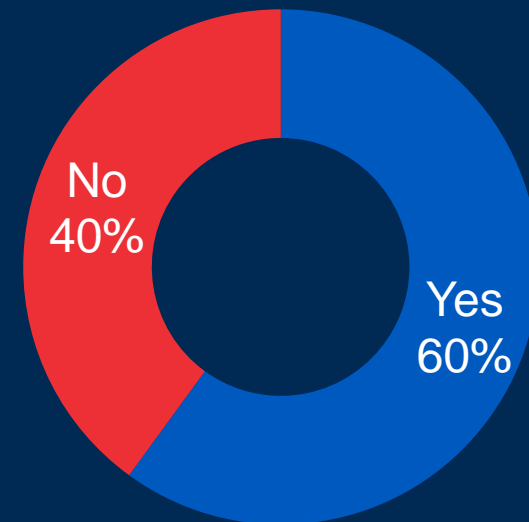


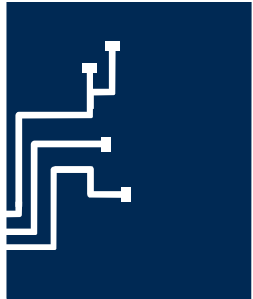
Electronic Signatures



Does your company permit the use of electronic signatures to execute contracts?

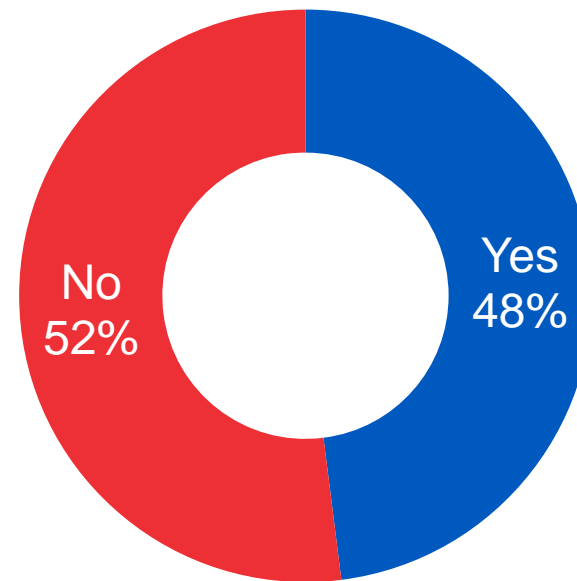
If electronic signatures or other forms of electronic contracts are permitted, are the results integrated with your company's ERP or other record keeping systems?



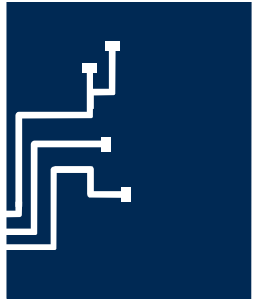


Use of Digital Tools

Has your company used any digital tools or platforms for the management of performance (e.g., service levels) provided to your clients or received from your service providers?



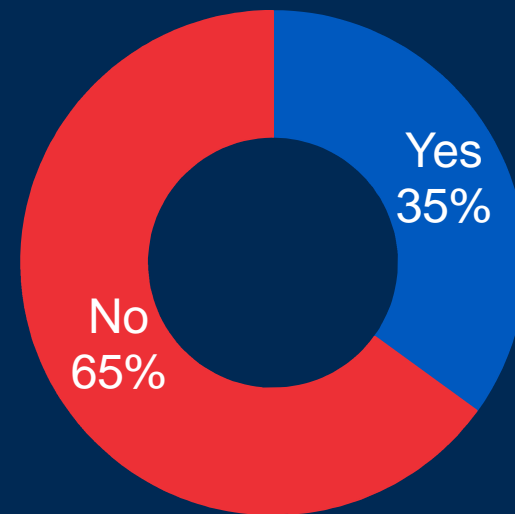
With wide use of electronic signatures and growing use of digital tools in governance, what comes next?

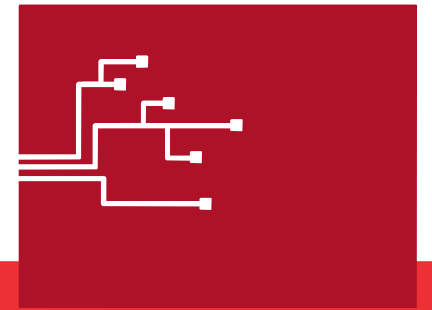


Digitization and Contracts

What is the lawyer's role in the digitization of the extended enterprise?

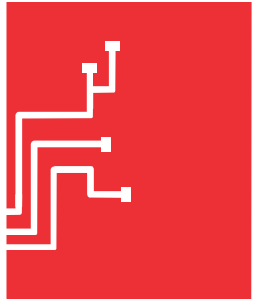
Does your company have digital tools in place for negotiation of standard company contracts and tracking deviations to the standard contracts?





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Data

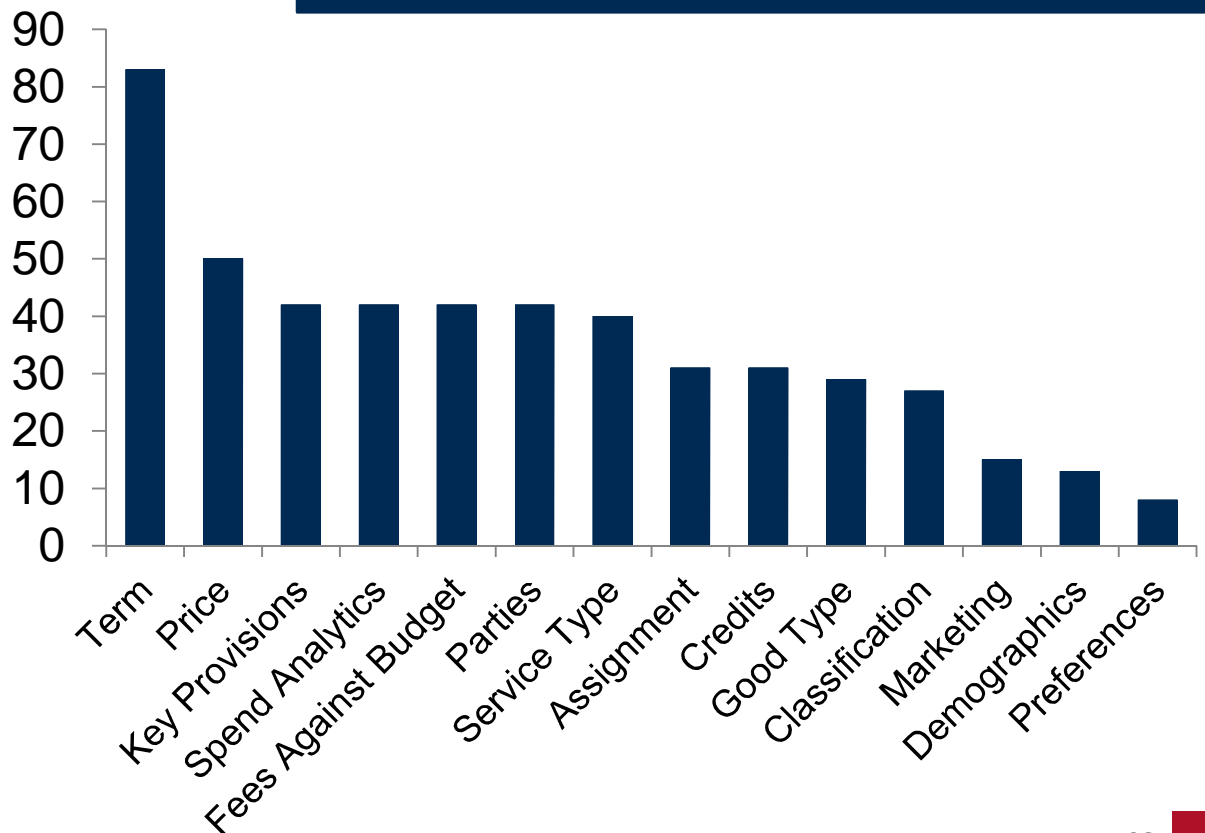


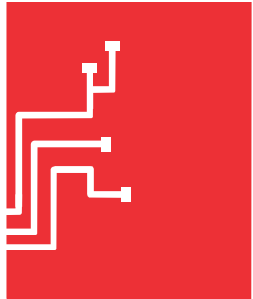
Capture Data

Has your company been able to capture and use (whether by direct monetization or otherwise) the following sources of data related to its agreements?

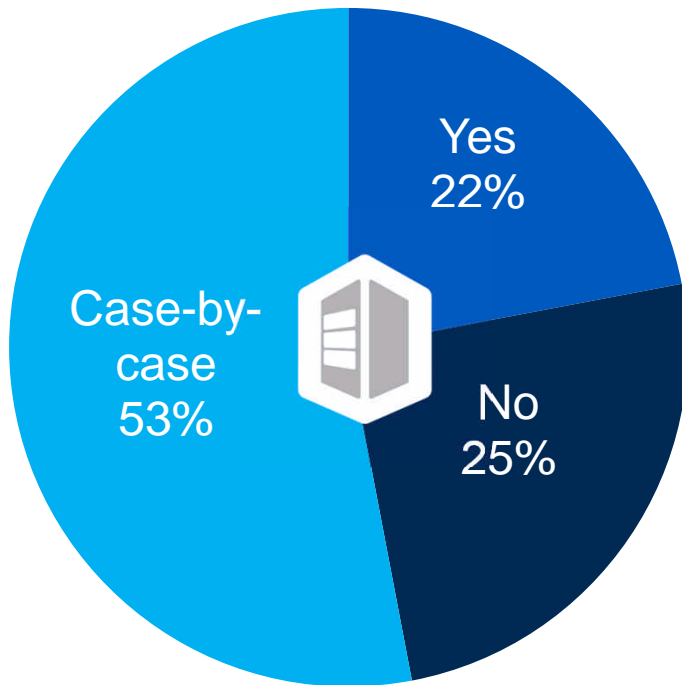


Percentage of Respondents that Checked Each Response

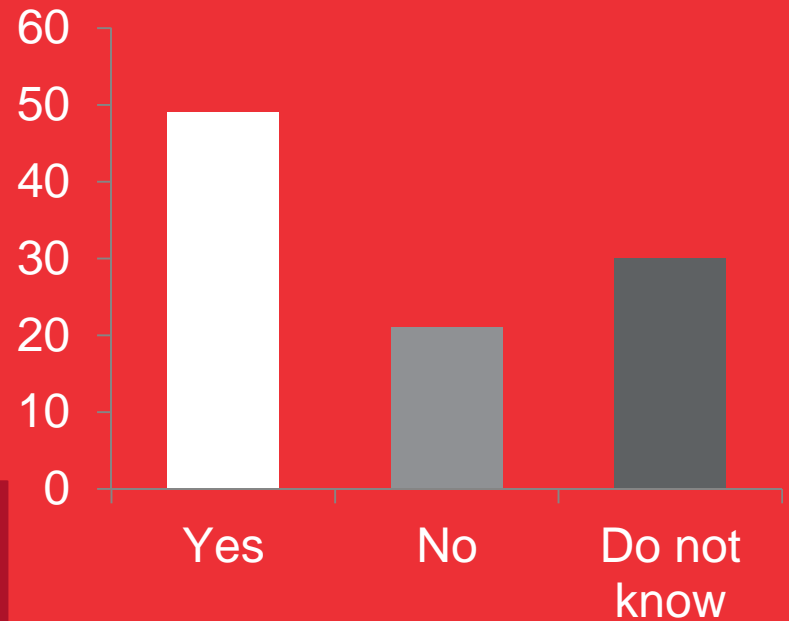




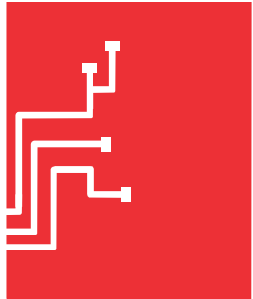
Use of Data



Does your company have a policy for using the data generated by connected devices/equipment?



Does your company permit a supplier to use anonymized data for its own purposes?



Data – New Risks?

The ability to capture and analyze more data creates new opportunities, but also creates new risks



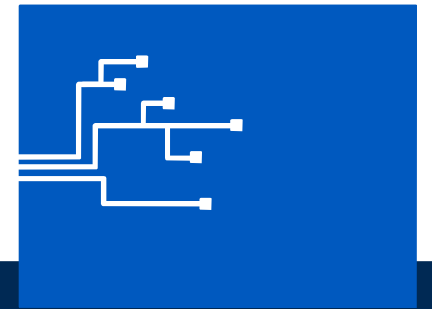
- **Personal Data**: New data regulations; treatment, handling, and retention of data; employee data and employment decisions taken on the basis of that data; the use of consumer data (e.g., online behavioral advertising)



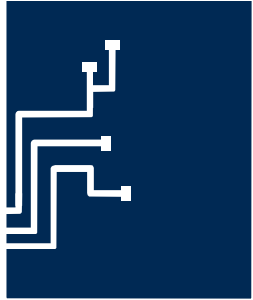
- **Intellectual Property**: Who owns all of the data that has been collected? How may the data be used? What are the best ways to monetize the data? What are the best ways to protect the data?



- **Access and Regulatory**: With the data all available in one place, what is the impact on government access rights or e-discovery access? Are there concerns in how the data may be used now that it exists (e.g., antitrust)?



Looking Around the Corner

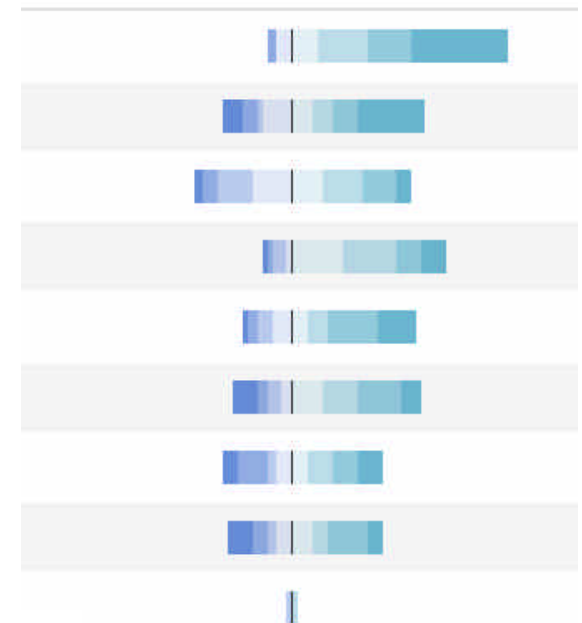


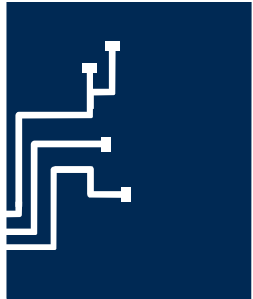
Considering the Impacts of Digitization

How does your company consider the potential impact of disruptive technologies in its longer term contracting planning? For each consideration that applies, please rank them from most helpful to least helpful.

- “Looking around the corner” at leading technology trends
- Spending resources on research and development
- Reading industry publications
- Consulting with industry professionals or futurists
- Establishing internal think tanks
- Identifying competing/compatible businesses or startups
- Appointing external consultants
- Conducting regular (e.g., annual) technology impact assessments
- Other

Rank Distribution

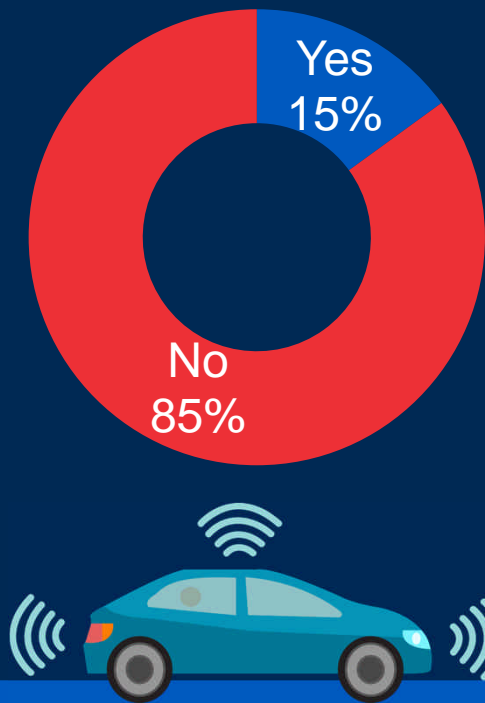




What's next?

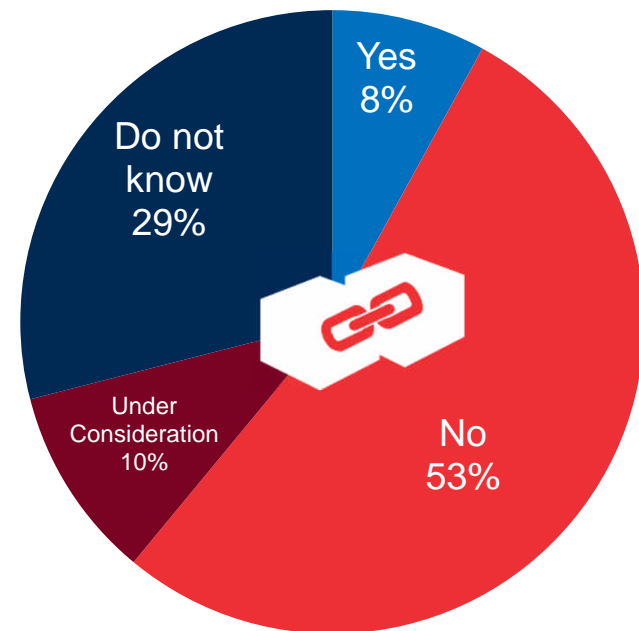
Machine Learning

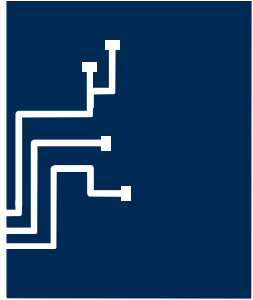
Do you use any contract management solutions that use machine learning?



Blockchain

Is your company using Blockchain in its contract management lifecycle (e.g., execution, settlement, and/or clearance)?





Questions?

We are happy to take your questions. Here are some of ours:

- What are the best ways to structure legal departments as the method and manner of contracting evolves?
- Which digitization disruptions are likely to impact you this year? In three years?
- Have you been able to quantify the commercial benefits of digitization and process automation?
- What topics did we not address that we should have?



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