

**Key Data Ownership, Privacy and Protection
Issues and Strategies for the International
Precision Agriculture Industry**

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Stewardship Defined:

“The conducting, supervising, or managing of something; *especially* : the careful and responsible management of something entrusted to one's care.” *Merriam-Webster*

Points of Risk Related to Farm Data Stewardship

“Cyber criminals and hactivists will increasingly target farm data.”

FBI/USDA Cyber Division Private Industry Notification,
“*Smart Farming May Increase Cyber Targeting Against US Food and Agriculture Sector*,” (March 31, 2016).

Farm Data—What Is It:

- **Personal information**
- **Financial Information**
- **Operational Information**

Components of Data Stewardship

Data Ownership

Problems:

- Farmers Own?
- Complex situations, such as leased land
- Company use/historical permissions

Components of Data Stewardship

Data Ownership
Solution:

Data Lease Agreement



Components of Data Stewardship Data Security/Protection

- Conduct security risk assessments
- Remediate vulnerabilities
- Provide security training for employees
- Create and implement policies, including access and use policies
- Enforce policies
- Conduct security audits
- Implement best practices for archiving system logs for purposes of investigation and internal policy compliance



Components of Data Stewardship

Data Privacy

- Collect, use and retain data in a manner consistent with privacy laws
- Implement systems and audit them to ensure actual privacy protection practices are consistent with the law and customer-facing statements



Five Specific Points of Risk

- 1) Geography (a country's governing laws)
- 2) Physical Infrastructure (the vast network of public cables and private hardware)
- 3) Logic layer (the protocols that automatically transmit and route data packets to the addressed location)
- 4) Cyber personas (identifiers such as IP addresses and usernames)
- 5) People (individuals, not always easily linked to cyber personas)

Address Parts of This Risk Through Good Contract Drafting

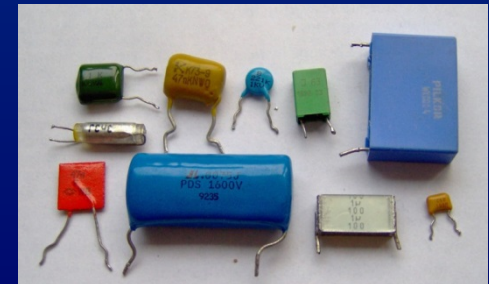
Focus on:

- Limitations of Liability
- Indemnifications
- Process



Contract Components to Consider

- **Definitions** – data, sensitive data, “anonymized” information according to what standard?
- **Standard of care** – what level of precautions must be taken, by whom and when, and are you liable for actions of independent contractors?



Contract Components to Consider

- **Breach procedures** – identify the contact persons, notice timelines and procedures, expenses, investigation coordination obligations, which party covers expense of different tasks?
- **Oversight** – audit rights, assessments, monitoring?
- **Return, delete, destroy** – when and how must data be retained or relinquished?



Contract Components to Consider

- **Administrative controls** – internal policies, restricted access, and logging?
- **Employee devices** – internal policies banning, allowing, or limiting use to minimize risk?
- **Cyber Insurance** – is it required, how much, what is excluded?

International Issues: China

- Privacy enshrined in Chinese law—right to dignity
- New regulations provide detailed data security requirements, privacy protections, and require a posted privacy policy
- Must stop collecting and delete personal information after service is concluded

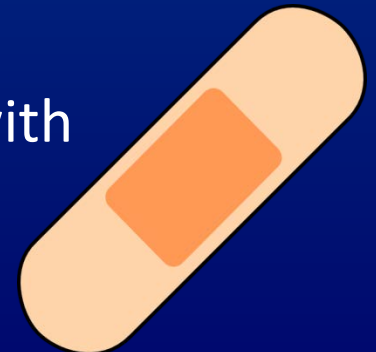
International Issues: Brazil

- Constitutional privacy protection
- Contracts that don't comply with data stewardship requirements can be invalidated
- Must obtain consent to collect PII and must have prominent clauses that detail data collection, use, storage and processing of information
- Mandatory data preservation term

International Issues: EU

The Bandage - EU-US Privacy Shield

- The EU-Privacy Shield Incorporates:
 - Strong obligations on companies handling European' personal data and robust enforcement
 - Clear safeguards and transparency obligations on US government access
 - Effective protection of EU citizens' rights with several redress possibilities



Questions?

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