

## Privacy Policy

Last updated: May 2018

Nemaris, Inc. d/b/a as “Surgimap” and our affiliates (together, “Surgimap,” “us”, “we”, “our,” etc.) operates a web site at <https://www.surgimap.com/> (the “Site”). By our “Service” we mean all related web sites, downloadable software, mobile applications (including tablet applications), and other services provided by us, or any digital media on which a link to this Privacy Policy is displayed, and all other communications with individuals through written or oral means (such as email or phone) directed at accessing or using any service we offer, together with the Site.

We are providing you this Privacy Policy so that you can be informed about our policies regarding the collection, use, and disclosure of personal data when you use our Service and the choices you have associated with that data.

We may use your data to provide and improve the Service or to provide technical support for customers using our Service. By using the Service, you agree to the collection and use of information in accordance with this policy, and our Terms of Service. This Privacy Policy is incorporated into and subject to our Terms of Service. Unless otherwise defined in this Privacy Policy, terms used in this Privacy Policy have the same meanings as in our Terms of Service.

### 1. Key Terms Used in this Privacy Policy

- **“Client”** means a customer of Surgimap.
- **“Client Data”** means Personal Data a Client provides to use the Service.
- **“Personal Data”** means any information relating to an identified or identifiable natural person or considered personally identifiable information by law.
- **“Public Area”** means those portions of the Service that can be accessed both by Users and Visitors, without needing to log in.
- **“Restricted Area”** means those portions of the Service that can be accessed only by logging in.
- **“User”** means a person or entity that uses the Service.
- **“User Data”** means Personal Data that a User provides to use the Service.
- **“Visitor”** means an individual other than a User, who uses the public area, but has no access to the restricted areas of the Site or Service.

## 2. Information We Collect

**2.1 Client and User Provided Information.** We collect information to provide and improve our Service to you. We sometimes collect Personal Data including:

- ***“Registration Information”***: After you download our software, you will be asked to complete a registration. When you register to use our Service, you may be asked to provide certain identifying or contact information such as name address, phone/fax number, email address and other Personal Data. This form also requires providing information about your business.
- ***“Usage Data”***: We may also collect information that your browser sends whenever you visit our Service. This may include information such as your computer's Internet Protocol address (i.e. IP address), browser type, browser version, the pages of our Site that you visit, the time and date of your visit, the time spent on those pages, unique device identifiers, and the like. Usage Data may also include data about your purchasing patterns, your contact details, and your profile information.

When you access the Service by or through a mobile device, this Usage Data may include information such as the type of mobile device you use, your mobile device unique ID, the IP address of your mobile device, your mobile operating system, the type of mobile Internet browser you use, unique device identifiers and other diagnostic data.

- ***“Patient Information”***: Surgimap offers software and services for preoperative planning and surgical simulation for surgeons. Surgeons may tag certain patient information in DICOM images (i.e. the Digital Imaging and Communications in Medicine standard) including age, patient demographic information, comorbidities, surgical date, and the like and other data concerning procedures.
- ***“Account Activities Information”***: We record and retain the records of your Account activities when you use the Service. If you make sale and purchase transactions online through Surgimap's platform, we also collect information related to such transactions including the types and specifications of the goods, pricing and delivery information, trade dispute records, and the like.
- ***“Statistical Information”***: In addition, we gather statistical information about our Site and Users, including anonymized or depersonalized compilations of data relating to patients and surgical procedures for use in assisting medical vendors and other providers in improving the quality of health care and surgical tools.

- ***“Marketing Information”***: From time to time, we gather information about our Users and prospective users during trade shows, marketing events and other functions for follow up marketing purposes.
- ***“Disclosed Personal Information”***: From time to time, our Users may disclose Personal Data deliberately or inadvertently including without limitation to personal identifiers such as name, email addresses, telephone number, facsimile number and IP address of individuals in the course of using the Site. Surgeons may also include information embedded as tags on DICOM images, which they may upload through the Surgimap Services at their discretion.

**2.2 Information Collected by Clients.** A surgeon or health care provider may collect patient information or upload such information into the Service. Surgimap has no direct relationship with patients or non Client Users whose Personal Data it may host as part of Client Data. Each Client is responsible for providing notice to Users who are its customers or patients and third persons concerning the purpose for which the Client collects their Personal Data and how this Personal Data is processed in or through the Service as part of Client Data.

**2.3 Information Collected by Cookies.** We use "cookies" to store specific information about you and track your visits to our Site. It is not uncommon for websites to use cookies to enhance identification of their users. A "cookie" is a small amount of data that is sent to your browser and stored on your computer's hard drive. A cookie can be sent to your computer's hard drive only if you access our Site using the computer. If you do not de-activate or erase the cookie, each time you use the same computer to access our Site, our web servers will be notified of your visit to our Site and in turn we may have knowledge of your visit and the pattern of your usage. We use automatically collected information and other information collected on the Service through cookies and similar technologies to: (i) personalize our Service, such as remembering a User's or Visitor's information so that the User or Visitor will not have to re-enter it during a visit or on subsequent visits; (ii) provide customized advertisements, content, and information; (iii) monitor and analyze the effectiveness of Service and third-party marketing activities; (iv) monitor aggregate site usage metrics such as total number of visitors and pages viewed; and (v) track your entries, submissions, and status in any promotions or other activities on the Service. You can learn more about our collection of cookies by reading our Cookie Policy available at the Site or learn more about cookies generally by visiting <http://www.allaboutcookies.org>.

You can determine if and how a cookie will be accepted by configuring your browser, which is installed in the computer you are using to access the Site. If you desire, you can change those configurations in your browser to accept all cookies, to be notified when a cookie is sent, or to

reject all cookies. If you reject all cookies you may be required to re-enter your information on our Site more often and certain features of our Site may be unavailable.

Examples of Cookies we may use:

- *Session Cookies.* We may use Session Cookies to operate our Service.
- *Preference Cookies.* We may use Preference Cookies to remember your preferences and various settings.
- *Security Cookies.* We may use Security Cookies for security purposes.

**2.4 Collected Information.** By “Collected Information” we mean information collected by cookies, information collected by Clients that is provided to us or collected by us as Client Data, Registration Information, Patient Information, Usage Data, Account Activities Information, Statistical Information, Marketing Information, Disclosed Personal Information and any information we may collect from you, from our affiliates, or from other parties or through any other means.

### 3. How we Use Collected Information

Surgimap may use the Collected Information for various purposes:

**3.1 General:** We use your Collected Information to improve our marketing and promotional efforts, to statistically analyze site usage, to improve our content and product offerings and to customize our Site's content, layout and Service specifically for you. We may use Collected Information to provide technical support to Clients or other services to Clients, including but not limited to investigating problems, resolving disputes and enforcing agreements with us. We may use Collected Information to facilitate proper operation of our Service and business activities of its Users including without limitation by providing depersonalized statistical data about patients and procedures to medical device and services vendors to improve health care services and products offered to physicians and health care providers.

**Except for depersonalized statistical data, we do not otherwise sell, rent, trade or exchange any Personal Data of our Clients, Users or Visitors.** Your Collected Information may be transferred, stored, used and processed outside your home jurisdiction. You may also elect of your own volition to share your Collected Information with our partners by sharing case information directly with them via the Service platform or requesting to register for a partner's marketing materials and/or a partner's surgical implant product portfolio. In case of a merger with or transfer of business to another business entity, we will transfer your Collected Information to the entity which acquires the business). In such an event the combined business may adopt or modify this Privacy Policy.

**3.2 Registration Information:** We may use your Registration Information or other Collected Information to provide services that you request or to contact you regarding additional services about which Surgimap determines that you might be interested. Specifically, we may use your email address, mailing address, phone number, mobile number or fax number to contact you regarding notices, surveys, product alerts, new service or product offerings and communications relevant to your use of our Site or your professional interests or activities. We may also generate reports and analysis based on Collected Information for internal analysis, monitoring, marketing decisions and to provide to other Service Providers.

**3.3 Patient Information:** Patient Information and related Collected Information may constitute Protected Health Information (“PHI”) under the Health Insurance Portability and Accountability Act (“HIPAA”), a special category of information under the European Union’s General Data Protection Regulation (“GDPR”), or be protected under other applicable laws. To the extent any Collected Information constitutes a special category of data under GDPR, Surgimap collects and processes such information for research and statistical purposes, and for the provision of health care related services. Moreover, Surgimap’s Services are generally directed at physicians and particularly at surgeons. Surgimap strives to be compliant with HIPAA, GDPR, and other applicable privacy laws, but Surgimap does not generally market directly to patients or provide services directly to patients. Surgimap does not control how physicians, physician assistants, hospitals, other health care providers, or other Users use its Services or choose to process or transfer Patient Information or other Collected Information. Patients or other individuals providing data to health care providers should inquire as to their data security, protection, and privacy policies concerning this information.

**3.4 Usage Data:** We may use Usage Data to provide value-added services to our Clients, Users, affiliates, or related entities, including without limitation to providing pattern and behavioral data to facilitate marketing initiatives and decision-making.

**3.5 Account Activities Information:** We use Account Activities Information to provide the Services that you request. We may also generate reports, statistics and analysis based on Account Activities Information to enhance and improve our Services.

**3.6 Statistical Information:** We use Statistical Information to help diagnose problems with and maintain our computer servers, to manage our Services, and to enhance our Services based on the usage pattern data we receive. We also may generate reports and analysis based on the Statistical Information for internal analysis, monitoring and marketing decisions. We may provide Statistical Information to third parties, in particular information concerning surgical procedures, devices used, and other patterns relating to the provision of surgical and health care services. When we provide Statistical Information to third parties, we depersonalize or

anonymize the information to prevent disclosure of personally identifying information without your permission.

**3.8 Disclosed Personal Information:** We provide surgical imaging and pre-operative planning services to surgeons and health care providers as well as facilitate commerce between medical suppliers and manufacturers and health care providers. Our Services should not be used for personal use. Uses of any Personal Information by any of our Clients or Users are subject to privacy laws in each of their respective jurisdictions. Each of our Clients is solely responsible for observing applicable laws and regulations in its respective jurisdictions to ensure that all use of the Site and Services are in compliance with the same. Each of our Clients is expressly prohibited from using any Personal Information for illegal activities.

## 4. Disclosure Of Data

**4.1 Unrestricted Information.** Any information included in a Public Area of the Service will be available to any Visitor or User who has access to that content.

**4.2 Disclosure to Service Providers.** We may provide Collected Information to our affiliates and service providers under contract to support the operation of the Site and Service. We work with third party service providers who provide website, application development, hosting, maintenance, and other services for us. These third parties may have access to, or process Personal Data or Client Data as part of providing those services for us. We limit the information provided to these service providers to that which is reasonably necessary for them to perform their functions, and retain data as required by applicable law, including HIPAA.

**4.3 Business Transactions.** If Surgimap is involved in a merger, acquisition or asset sale, your Personal Data may be transferred as a result of that merger, acquisition, or asset sale. We will provide notice if Personal Data becomes subject to a different Privacy Policy.

**4.4 Disclosure for Law Enforcement.** Under certain circumstances, Surgimap may be required to disclose or make public Collected Information, including Personal Data. For example, we may disclose Personal Data in the good faith belief that such action is necessary to:

- To comply with a legal obligation, for example in response to a subpoena or other judicial order or when we reasonably believe that such disclosure is required by law, regulation or administrative order of any court, governmental or regulatory authority.
- To protect and defend the rights or property of Surgimap, including to identify, contact or bring legal action against someone who may be infringing or threatening to infringe, or who may otherwise be causing injury to or interference with, the title, rights,

interests or property of Surgimap, our Users, Clients, partners, affiliates, Visitors, or anyone else who could be harmed by such activities.

- To prevent or investigate possible wrongdoing in connection with the Service
- To protect the personal safety of users of the Service or the public
- To protect against legal liability
- To pursue a claim or prevent further injury to Surgimap or others If we have reason to believe that a User is in breach of the Terms of Use or any other agreement with us

## 5. Retention of Data

Surgimap will retain your Personal Data only for as long as is necessary for the purposes set out in this Privacy Policy or as reasonably necessary to provide, promote and support the Service. We will retain and use your Personal Data to the extent necessary to comply with our legal obligations (for example, if we are required to retain your data to comply with applicable laws), resolve disputes, and enforce our legal agreements and policies. In this regard, please understand that we retain data indefinitely to comply with legal obligations under HIPAA and other laws.

Surgimap may also retain Usage Data for internal analysis purposes. While Usage Data is generally retained for a shorter period of time, it may be retained for a long period of time if it is used to strengthen the security or to improve the functionality of our Service, or if we are legally obligated to retain this data for longer time periods.

## 6. Transfer Of Data

Your information, including Personal Data, may be transferred to — and maintained on — computers located outside of your state, province, country or other governmental jurisdiction where the data protection laws may differ than those from your jurisdiction.

If you are located outside United States and choose to provide information to us, please note that we transfer the data, including Personal Data, to United States and process it there.

Your consent to this Privacy Policy followed by your submission of such information represents your agreement to that transfer.

Surgimap will take all steps reasonably necessary to ensure that your data is treated securely and in accordance with this Privacy Policy and no transfer of your Personal Data will take place to an organization or a country unless there are adequate controls in place including the security of your Personal Data and other personal information.

## 7. Third Party Services

We have established relationships with other parties that may offer you the benefit of other products and services that we ourselves do not offer. The privacy policies of such other parties may differ from ours, and we may not have any control over the information that you submit to such third parties or co-branded sites. We therefore encourage you to read those policies before responding to any offers, products or services provided by such other parties.

## 8. Security Of Data

If you are a Client or User who has registered with the Service, your Registration Information, and Patient Information you upload through the Services can be viewed and edited through your Account, which is protected by a Password. We recommend that you do not divulge your Password to anyone. Our personnel will never ask you for your Password in an unsolicited phone call or in an unsolicited e-mail. If you share a computer with others, we recommend you do not save your login information (e.g., User ID and Password) on the computer. Remember to sign out of your Account when you have finished your session. If you are a User or Visitor, please note that no method of transmission over the Internet, wireless transmission, or method of electronic storage is perfectly secure. The security of your data is important to us, and we strive to use commercially acceptable means to protect your Personal Data. However, we cannot guarantee its security.

## 9. Children's Privacy

Our Service does not address and is not directed towards anyone under the age of 13 ("Children"). We do not knowingly collect personally identifiable information from anyone under the age of 13. If you are a parent or guardian and you are aware that Children have provided us with Personal Data, please contact us. If we become aware that we have collected Personal Data from Children without verification of parental consent or other legal justification, we will take steps to remove that information from our servers.

## 10. Your Rights

Surgimap aims to take reasonable steps to allow you to correct, amend, delete, or limit the use of your Personal Data.

**10.1 Modifying Personal Data.** Whenever made possible, if you have registered to use our Service, you can update your Personal Data directly within your account settings section. If you are unable to change your Personal Data, please contact us to make the required changes.

**10.2 Removing Personal Data.** If you wish to be informed what Personal Data we hold about you and if you want it to be removed from our systems, please contact us. If you are not a Client or User please initially contact the Client or User (a physician or health care provider) that collected and processed your Personal Data.



**10.3 Data Portability.** You have the right to data portability for the information you provide to Surgimap. You can request to obtain a copy of your Personal Data in a commonly used electronic format so that you can manage and move it. Surgimap will provide such data as it may be reasonably available and technologically feasible to obtain or segregate from other data.

**10.4 Other Data Subject Rights.** In certain circumstances, you have the right:

- To access and receive a copy of the Personal Data we hold about you
- To rectify any Personal Data held about you that is inaccurate
- To request the deletion of Personal Data held about you

Please note that we may ask you to verify your identity before responding to such requests. Please further note that you may be required to first make any such request to the Client or User (a physician or health care provider) that collected or processed your Personal Data due to restrictions imposed by HIPAA and other applicable laws.

## **11. Changes To This Privacy Policy**

We may update our Privacy Policy from time to time. We will notify you of any changes by posting the new Privacy Policy on this page.

We will let you know via email and/or a prominent notice on our Service, prior to the change becoming effective and update the effective date at the top of this Privacy Policy.

You are advised to review this Privacy Policy periodically for any changes. Changes to this Privacy Policy are effective when they are posted on this page.

## **12. Contact Us**

If you have any questions about this Privacy Policy, please contact our Data Protection Officer, Jonathan Gardi, by email at [GDPRquestions /@/ Surgimap.com](mailto:GDPRquestions@Surgimap.com) or by visiting this page on our website: <https://www.surgimap.com/support/it-department/>.