Intuitive Surgical Privacy Shield Policy

Intuitive Surgical, Inc. and Intuitive Surgical Operations, Inc. (collectively, “Intuitive”) comply with the EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield Frameworks as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of Personal Data transferred from the European Union (“EU”) and Switzerland to the United States (the “Privacy Shield Principles”). Intuitive has certified to the Department of Commerce that it adheres to the Privacy Shield Principles when processing Personal Data regarding individuals who reside in the EU and Switzerland, including, but not limited to: administrative and commercial contacts; users of devices manufactured by Intuitive; users of Intuitive websites and other online applications; and employees, applicants, and independent contractors.

For purposes of this Privacy Shield Policy (“Policy”), “Personal Data” means any information received by Intuitive from the EU or Switzerland, recorded in any form, which relates to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. More information about the EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield Frameworks as well as Intuitive’s certification on the Privacy Shield List are available at www.privacyshield.gov. If there is any conflict between the terms in this Policy and the Privacy Shield Principles, the Privacy Shield Principles shall govern.

Intuitive's Collection And Use Of Personal Data

Intuitive receives Personal Data about individuals in the EU and Switzerland, including, but not limited to:

- Administrative contacts of Intuitive’s and its affiliates’ customers and contacts at suppliers, distributors, business contacts, and other third parties, e.g., regulatory agencies (collectively, “Administrative and Commercial Contacts”);
- Surgeons, hospital residents, medical students, proctors, and other individuals who use, have used, or may use medical devices manufactured by Intuitive and its affiliates (collectively, “System Users”);
- Users of websites and other online applications operated by Intuitive and its affiliates (“Website Users”); and
- Employees, independent contractors, and applicants of Intuitive and its affiliates.

Intuitive collects Personal Data from Administrative and Commercial Contacts including: identification data, e.g., name, email address, and country; professional data, e.g., employer, work contact information, and job title; financial data, e.g., compensation details; recordings, e.g., pictures or videos; and profiling data, e.g., interests and memberships, and any other data provided to Intuitive Surgical.

Personal Data collected from System Users includes identification data, e.g., name and date of birth; personal characteristics, e.g., dietary restrictions for planning conference meals; professional data, e.g., resume and business contact information; financial data, e.g., compensation details; recordings, e.g., photographs and videos; and profiling data, e.g., interests, memberships, and training and procedure related information, and any other data provided to Intuitive.
Intuitive uses Administrative and Commercial Contacts as well as System Users Personal Data for purposes including, but not limited to: providing support and preventative maintenance of Intuitive products, including but not limited to order fulfilment including shipping and invoicing, customer training, providing information about our products and services, training and recommendations for training, simulation and simulator data including modules used and scores, learning plan/training course enrollments, online data storage, and site visits; relationship management, including but not limited to 1. proctoring and other activities, 2. procedure reporting, and 3. customer efficiency and cost saving, for example, contract management, including to negotiate and submit contracts with customers and/or purchasers, accounting, individual, process and program performance; improving Intuitive products, services and processes including marketing and sales, e.g., compensation analysis, budgeting, planning and headcount, market analysis, satisfaction surveys, benefits and expenses, providing performance information, sponsored agreements and complaints handling; ensuring compliance with applicable laws and regulations, e.g., legal advice, negotiation, fraud prevention and network security, and including EU and US laws and regulations such as the French Sunshine Act and the Physician Payments Sunshine Act; and providing a resource for Intuitive’s research and business development.

Intuitive receives Personal Data from Website Users such as personal identification data, e.g., an online identifier, first, middle and last name, phone number, email address, country, state, time zone, preferred language, username and password to the website; professional data, e.g., title, role, hospital, specialty, interested procedures, identification number, secondary email, and secondary hospital, simulator data including modules used and scores, learning plan/training course enrollments, answers and completions, and certificates of completion earned; profile data, e.g., user account, online profile, video views, and content preferences, and any other data provided to Intuitive.

Intuitive uses that Personal Data for purposes including, but not limited to responding to your interactions with the website, such as confirming information in forms that you fill out or informing you of system and website updates; providing support and preventative maintenance of Intuitive products; submission of complaints and ordering; improving Intuitive products or services; providing a general resource for Intuitive’s research and business development; providing you with information about our products at your hospital or available to you through the website; analyzing our business effectiveness; conducting market research; if you opt-in, providing you with other information about our products and services that we think may be of interest to you, including promotional and sales content to improve your understanding of the product capabilities, new advanced technology, and enhancements available; providing you with training and recommendations for training including simulator training as well as certificates of completion and courses taken; if you opt-in to the leaderboard, tracking your simulator scores in comparison with others; as necessary for fraud prevention, reporting suspected criminal acts, and for ensuring compliance with the applicable laws and regulations; and network and information security, fraud prevention, and reporting suspected criminal acts.

In addition, Intuitive receives Personal Data from employees, applicants, and independent contractors in the form of identification data, e.g., names, contact information, date and place of birth, emergency contact information, gender, marital status and information, family information, citizenship, visa and work/residence permit, social security number and/or national identifier number, driving license information; personal characteristics, e.g. gender; professional data, e.g., qualifications, educational background and certifications, information regarding compensation and benefits, performance CONFIDENTIAL AND PROPRIETARY – Intuitive Surgical Inc.
evaluations, disciplinary process, military service and related information, hire date, job details, holiday entitlement, leaves of absences and related certificates, termination date and reason; financial data e.g., account information, information related to personal tax situation, compensation and benefits; recordings, e.g., company pictures and voicemails; health data, e.g., occupational medical examination; and any other data provided to Intuitive.

Intuitive uses Personal Data of employees and independent contractors to facilitate the administration of the employment relationship for employees and contractual relationship with independent contractors, including, but not limited to, the creation, administration and termination of the relationship and addressing post-employment or post-contract matters, and to permit Intuitive to carry out activities that relate to the administration of the corporate group. Those purposes include: administering secure access to computer systems worldwide, administering access to the physical facilities of Intuitive when non-US workers visit the United States, conducting internal investigations and defending against legal claims, to meet legal and regulatory requirements such as maintaining a complaint hotline established pursuant to the Sarbanes-Oxley Act, to manage any legal claims, investigations or disputes, for immigration processes, to declare employment to local authorities, performing academic and employment verifications; to provide training, to facilitate business travel and accommodation, to coordinate relocation, to manage holiday and leave of absences, to evaluate job performance, for replacement planning, to facilitate administrative functions, security operations, risk management and insurance functions, budgeting, financial management and reporting, strategic planning, and the maintenance of licenses, permits, certifications and authorizations applicable to business operations, and establishing goals, analyzing results and running workforce analytics including predictive analytics. In addition, Intuitive uses Personal Data of independent contractors for purposes including: to assess the performance of their contractual obligations and to provide payment. Employee Personal Data is also used to administer employee benefits and employment compensation, including, but not limited to, payment of wages and bonuses and income tax withholding. Intuitive uses Personal Data of applicants for purposes including: to evaluate their suitability for employment, for legal compliance, to establish goals, to analyze results, to run workforce analytics including predictive analytics, and as otherwise described herein.

Intuitive’s Disclosure Of Personal Data

Intuitive may disclose the Personal Data of individuals located in the EU and Switzerland, subject to written agreement, to authorized service providers who provide services related to the purposes for which Intuitive collects that Personal Data. For example, the Personal Data of customer contacts is entered into Intuitive’s customer relationship management database, which is hosted by an authorized service provider. Other authorized service providers include providers of communications services, employee benefits providers, logistics service providers, database and analytics providers, attorneys, accountants, and banks. Intuitive may share data related to customers or partners with those customers or partners. Intuitive also shares Personal Data with its affiliated companies located outside the U.S. subject to an appropriate onward transfer agreement. The affiliated companies use the Personal Data for the purposes for which Intuitive collects that Personal Data, as described in the preceding section. In addition, Intuitive may disclose the Personal Data to other third parties as described above.

Intuitive may be required to disclose, and may disclose, Personal Data in response to lawful requests by public authorities, including for the purpose of meeting national security or law enforcement requirements.
Intuitive is accountable for Personal Data that it receives in the United States under the Privacy Shield and subsequently transfers to a third party as described in the Privacy Shield Principles. In particular, Intuitive remains liable under the Privacy Shield Principles if third-party agents that it engages to process the Personal Data on its behalf do so in a manner inconsistent with the Principles, unless Intuitive is not responsible for the event giving rise to the damage.

**Choices For Limiting The Use And Disclosure Of Personal Data**

Intuitive will provide the opportunity for individuals to opt out from: (a) the disclosure of their Personal Data to a non-agent third party other than the customer or as required by law; and (b) the use of their Personal Data for purpose(s) that are materially different from the purpose(s) for which the Personal Data was originally collected or subsequently authorized by the individual. Intuitive will provide individuals with clear, conspicuous and readily available mechanisms to exercise their choices regarding Personal Data should such circumstances arise. Individuals who wish to limit the use or disclosure of their Personal Data as described in this Policy should submit their requests to data.privacy@intusurg.com.

**Individuals’ Right To Access Their Personal Data**

Upon request and subject to the limitations established by the Privacy Shield Principles, Intuitive will grant individuals access to their Personal Data. Individuals who wish to exercise this right can do so by contacting data.privacy@intusurg.com. For security purposes, Intuitive may require verification of the requester’s identity before providing access to Personal Data.

**More Information And What To Do If You Have a Complaint**

Individuals can contact Intuitive with any inquiries about the Privacy Shield or the processing of their Personal Data at data.privacy@intusurg.com.

In compliance with the Privacy Shield Principles, Intuitive commits to resolve complaints about its collection or use of the Personal Data of individuals located in the EU and Switzerland. Any such individual who has a complaint regarding this Policy should first contact Intuitive at data.privacy@intusurg.com. Intuitive will promptly investigate, and attempt to resolve, such complaints in accordance with this Policy and the Privacy Shield Principles. Any individual who is not satisfied with the internal resolution of a complaint may seek redress with the JAMS EU-Swiss Privacy Shield, an alternative dispute resolution provider based in the United States. If you do not receive timely acknowledgment of your complaint, or if your complaint is not satisfactorily addressed, please visit https://www.jamsadr.com/file-an-eu-us-privacy-shield-claim for more information and to file a complaint.

If your complaint involves human resources data transferred to the United States from the EU and/or Switzerland in the context of the employment relationship, and Intuitive does not address it satisfactorily, Intuitive commits to cooperate with the panel established by the EU data protection authorities (“DPA Panel”) and/or the Swiss Federal Data Protection and Information Commissioner, as applicable and to comply with the advice given by the DPA Panel and/or Commissioner, as applicable with regard to such human resources data. To pursue an unresolved human resources complaint, you should contact the state or national data protection or labor authority in the appropriate jurisdiction. Complaints related to CONFIDENTIAL AND PROPRIETARY – Intuitive Surgical Inc.
human resources data should not be addressed to the JAMS EU-Swiss Privacy Shield. Contact details for the EU data protection authorities can be found at [http://ec.europa.eu/justice/data-protection/bodies/authorities/index_en.htm](http://ec.europa.eu/justice/data-protection/bodies/authorities/index_en.htm). Intuitive has registered with CNIL as its data protection authority.

If your Privacy Shield complaint cannot be resolved through the above channels, under certain conditions, the EU-U.S. Privacy Shield Framework provides the right to invoke binding arbitration to resolve complaints, as described in [Annex I](#) to the Privacy Shield Principles. The Federal Trade Commission has jurisdiction over Intuitive’s compliance with the EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield Frameworks.

Effective Date: **December 17, 2018**