

PRIVACY NOTICE

RELATING TO THE ACCESS AND USE OF THE *ADVISE™*™ PLATFORM OR SYSTEM

1. **Who we are**

Neo Medical S.A. (“Neo Medical”), a company limited by shares incorporated under the laws of Switzerland, on its own behalf and on behalf of its affiliates and/or wholly owned subsidiaries, believes that protecting the data privacy is one of our most important responsibilities. When we refer to ‘we’, ‘us’ and ‘our’, we mean Neo Medical SA.

2. **Definition of Personal Data**

“Personal Data” means any information relating to an identified or identifiable natural person (“Data Subject”); 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, mental, economic, cultural or social identity of that natural person.

3. **Scope of application of this Notice - ADVISE™**

This privacy policy (“Privacy Notice”) covers how we collect, use, and securely store Personal Data that you, as our customer, or your Authorized users may forward to us (“Customer Personal Data”). The scope of this Privacy Notice applies to Neo Medical’s Advanced Dynamic Visualization of Intraoperative Spinal Equilibrium system (“ADVISE™”), an AI-driven software and tool designed to bring surgeons real-time, augmented reality (AR) visibility to spinal surgery.

4. **Applicable Law (Data Protection)**

The Swiss Federal Act on Data Protection of 19 June 1992 (“FADP”), the General Data Protection Regulation 2016/679 applicable within the European Union (“GDPR”) and other applicable privacy laws including in member States of the UE (hereinafter collectively defined as “Applicable Law”) require us to provide people with information about what Personal Data we process, what are the Data Subject’s rights, how they can exercise those rights, and how to make complaints. This Privacy Policy provides that information and we undertake to comply with Applicable Law requirements. If you would like more information about what Personal Data we process, for what purpose or how long we keep it for, please use the contact details provided at the end to ask us. If you do not agree with this Privacy Policy, do not access or use our ADVISE™ solutions or services.

5. **Our duties and yours as our customer**

If the provision of the ADVISE™ solutions or services implies the processing by us of any Customer Personal Data, we shall process such Customer Personal Data (i) as data processor, exclusively for the purpose agreed in the ADVISE™ general terms and conditions (or “GTC”), and only to the extent necessary to fulfil our obligations in accordance with your instructions, and you as customer shall act as data controller; and (ii) for our legitimate business operations incident to provision of the ADVISE™ solutions or services and other legitimate purpose as strictly set out herein.

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You shall ensure, with respect to any Customer Personal Data processed by us within the frame of your purchase or use of the *ADVISE™* solutions or services, that such Customer Personal Data has been collected from the Data Subjects and transferred to us in strict compliance with the applicable data protection or data privacy laws and regulations.

6. Customer Personal Data that we should or should not receive from you

As our customer for or User of the *ADVISE™* solutions or services, please note that :

- (i) we should not be provided with Personal Data relating to any of Authorized Users including any surgeons using the *ADVISE™* solutions or services, except if and to the extent needed to allow us to train Authorized Users to the use of *ADVISE™* solutions or services, and
- (ii) we expect that the only other Personal Data you will provide or transfer to us are Personal Data of individuals who represent your organization or act on your behalf in relation to the purchase or use of the *ADVISE™* solutions or services or, more generally, persons or Users with whom we may interact in the framework of the contractual relationships relating to the provision, access and use of the *ADVISE™* solutions or services. If you contact us directly, we may receive additional information about you such as your name, email address, phone number, the contents of the message and/or attachments you may send us, and any other information you may choose to provide, and
- (iii) you are responsible to ensure that none of the information or data transferred to us can be related to any identified physical person who is your patient (for medical care, in particular for spine surgery). Generally, you as our customer ou User must, and are responsible to ensure that we will **not** receive from you any information relating to the health or medical condition of any of your patients or personnel or any other physical person, and
- (iv) you are responsible to ensure that none of the Customer Personal Data transferred to us qualifies as sensitive personal data being part of the so-called “special categories” of Personal Data under the GDPR, namely any information pertaining to a Data Subject’s racial or ethnic origin; political opinions; religious or philosophical beliefs; trade union membership; genetic data; data related to the Data Subject’s sex life or sexual orientation; biometric data; health condition ; and criminal or judicial records.

7. What we may process your Customer Personal Data for

Applicable Law such as the GDPR requires organizations like us to provide a lawful basis to collect, process and/or use Personal Data. Our lawful basis to collect process and/or information from our customers includes when we need it in order to provide you with the *ADVISE™* solutions or services and to carry out the core activities related to our provision

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of the *ADVISE™* solutions or services. Even where Neo Medical has a legitimate interest in processing your Customer Personal Data, it will not do so to the extent that processing would override the interests, rights and freedoms of the Data Subject to protect his/her Personal Data.

For the sole purpose of identifying potential bugs and to fix them in a timely manner, in a case of an error in the software, data and information on your device called « Log Data » are collected (SENTRY, www.sentry.io). This Log Data may include information such as your device Internet Protocol (“IP”) address, device name, operating system version, the configuration of the software when used, the time and date of use of and other statistics.

We may also use Personal Data to protect against and prevent fraud, claims, and other liabilities and to comply with or enforce applicable legal requirements, industry standards, and our policies and terms. We use Personal Data for these purposes when it is necessary to protect, exercise or defend our legal rights, or when we are required to do so by applicable law. We may also use Personal Data if the Data Subject gives us (through your intermediary as the case may be) his/her consent to do so for a specific purpose.

8 Your rights

Under Applicable Law, the Data Subject has the right to obtain (i) confirmation that his/her Personal Data is being processed; (ii) other supplementary information – that largely corresponds to the information provided in this Privacy Notice.

We will provide this information to you in relation to Customer Personal Data free of charge unless the request is ‘manifestly unfounded or excessive’, when we may choose to charge an administration fee or refuse to respond. We will endeavour to provide the information as soon as possible, and never more than one month after receipt of the request. To ensure data security we will request evidence of identification before we supply any Personal Data.

Where you as our customer or the Data Subject tell us that the information, we hold on our records about the Data Subject, is incorrect, we will update the Data as quickly as possible, and no longer than one month after receipt of the information.

Pursuant to and to the extent allowed by Applicable Law, you as our customer or the Data Subject have the right, at any time, to request to Neo Medical access to, rectification, erasure, restriction of the processing concerning relevant Personal Data or to object to relevant processing activity and to receive in a structured, commonly used and machine-readable format the Personal Data concerning the Data Subject.

Requests to exercise such rights must be sent to the following e-mail address: privacy@neo-medical.com or the following postal address : NEO MEDICAL SA, Route de Lausanne 157A, CH-1096 Villette, Switzerland.

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In any case, pursuant to Applicable Law, you as our customer or the Data Subject have the right to lodge a complaint with the relevant supervisory authority if you believe that the processing of Personal Data is not carried out in compliance with Applicable Law.

9. Transfers

If the Data Subject is an EU/EEA resident, it is not our intention that his/her Personal Data held by Neo Medical will be transferred to, and stored at, destinations outside the EEA that may not be subject to equivalent data protection laws, including the United States. However, if this should happen for any reason, by using our *ADVISE™* solutions and services, you authorize the transfer of the Data Subject's information to the United States, where we have a subsidiary, and to other locations where we and/or our service providers operate, and to its (and their) storage and use as specified in this Privacy Policy and the GTC.

Where Customer Personal Data are transferred outside the EEA, we will take all steps reasonably necessary to ensure that your Customer Personal Data is subject to appropriate safeguards, such as relying on a recognized legal adequacy mechanism, and that it is treated securely and in accordance with this Privacy Policy.

10. Recipients

Your Customer Personal Data may be disclosed, in close relation to the purposes specified above, only to:

- i) subjects necessary for order fulfillment of the services (i.e. contractors we use to support our business), in which case we will require such third parties to agree to treat it in accordance with this Privacy Policy and use it for the same purposes. You can obtain the complete list of authorized third parties, by request addressed to us at privacy@neo-medical.com;
- ii) persons authorized by Neo Medical to process Personal Data, that are committed to/ or under an appropriate statutory obligation of confidentiality (e.g., hosting provider, employees of Neo Medical) (i. and ii. are hereinafter collectively referred to as "Recipients");
- iii) law enforcement agencies and public authorities when so required under applicable laws or regulations ;
- iv) third-party services providers that we use for the purpose of crash or log data, that may collect information to identify Users; these are trusted services providers who do not have an independent use of such information and are bound by contract or by policies that conform with the rules set forth in this Privacy Notice

We guarantee that we will not communicate your Customer Personal Data to non-authorized recipients and that we will not sell such Data to anyone.

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11. Data Retention

We will process your Customer Personal Data only for the duration necessary to achieve the purposes described in the GTC and herein. Apart from the above, Neo Medical will retain your Customer Personal Data for a period of time necessary or permitted to comply with Applicable Law. Further information regarding the period of retention of your Customer Personal Data and the criteria used to determine such period may be requested from us.

12. Children

Neo Medical will not knowingly collect or process identifiable Personal Data of children under the age of 16, unless with the consent of their parents, pursuant to Applicable Law.

13. Security

Neo Medical takes reasonable steps to protect Personal Data and implemented appropriate technical and organizational measures to ensure a level of security appropriate to the risk, and to protect your Customer Personal Data from loss, misuse, and unauthorized access, disclosure, alteration, or destruction.

The security of your Customer Personal Data in the context of our processing or storage activities is guaranteed by the pseudonymisation and/or encryption of the Personal Data; the confidentiality, integrity, availability and resilience of our processing systems and services; the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; and a regular process of testing, assessing and evaluating the effectiveness of the technical and organizational measures that we take for ensuring the security of your Customer Personal Data.

14. Contact

If you wish to request access to the personal data we hold about you or if you have any question, simply contact us:

E-mail address: privacy@neo-medical.com

Postal address : NEO MEDICAL SA
Attn : Data Protection Officer
Route de Lausanne 157A
CH-1096 Villette
Switzerland