

# NightOwl - Privacy Policy

## V1.2

(10/05/2018)

Privacy Policy is supplied electronically, paper format is available on request at [info@ectosense.com](mailto:info@ectosense.com).

Please read our Privacy Policy carefully as it explains the following:

- What personal information we collect from you and for which purpose (Section 3 and 4)
- The measures to safeguard the access to and the security of your Personal Data (Section 5);
- Your rights to access, rectify, erase your Personal Data and object to the processing of your Personal Data (Section 8).

**In order to use the Products, you must first acknowledge and agree to our Privacy Policy. You cannot use the Products without first accepting our Privacy Policy.**

### 1. General

Ectosense provides the NightOwl home sleep apnea test (HSAT), a system that detects sleep apnea. NightOwl HSAT is mainly available on prescription or recommendation from a doctor. NightOwl HSAT consists of the NightOwl Sensor, the NightOwl Mobile Application, the NightOwl Dashboard, and the NightOwl Platform (each as defined hereinafter and collectively the "**Application**"). The NightOwl Sensor streams the data from the Nightowl Sensor to the NightOwl Mobile Application, which subsequently uploads the data to the NightOwl Platform where the data will be analyzed automatically, and a comprehensive diagnostic report will be produced. As a consequence thereof, the Application also analyses and stores data. The recordings via the NightOwl Mobile Application are performed by placing the NightOwl Sensor on the forehead or finger of the User thereby detecting the photoplethysmography (PPG) and motion through accelerometer measurements. The NightOwl Dashboard is an online tool with the sole intention to display and store your data by way of diagnostic reports.

The Results (as defined hereinafter) are automatically transferred to the NightOwl Dashboard. Please note that this automatic transfer is only possible after you have made the link between the Ectosense Sensor and the Ectosense Mobile Application. Please note that the automatic forwarding of the results does not imply that you are continuously monitored by your doctor or Ectosense.

Please note that you are not obliged to install the Application and your refusal to install the Application does not have any impact on the quality treatment by your Physician.

Ectosense NV ("**Ectosense**", "**we**", "**us**") recognizes and understands the importance of the privacy of its users ("**Users**", "**you**") and wants to respect their desire to store and access personal information in a private and secure manner. This Privacy Policy applies to our Application and our Website (collectively the "**Products**") and

describes how Ectosense manages, stores and utilizes your Personal Data through its Products.

In order to use our Products, we require you to consent to the collection and processing of your Personal Data before you start using the Products. If you do not agree with any of the terms of this Privacy Policy, you may not use in any manner the Products.

Ectosense is committed to protecting the privacy of all of its Users Personal Data and providing a secure, user-controlled environment for the use of the Products in accordance with the Privacy Act of 8 December 1992 and the EU Regulation 2016/679, applicable as from 25 May 2018, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation). At the same time, you also share responsibility for maintaining privacy and security for example, by not allowing any third party to use your personal Activation Code on the NightOwl Mobile Application and NightOwl Dashboard. Ectosense asks all Users to be responsible for safeguarding any authentication information and to immediately notify Ectosense of any unauthorized use of your personal Activation Code.

Please read this Privacy Policy carefully (which is also available on our Website [www.ectosense.com](http://www.ectosense.com)) so that you fully understand how we obtain and process your Personal Data. By accepting this Privacy Policy, you acknowledge and agree that you were adequately informed of the functioning and objectives of the Application.

## **2. Definitions**

"Activation Code" means the code you are asked to scan or type in before making use of the Application, as such linking your data with the right NightOwl Dashboard account;

"Application" means the (i) NightOwl Sensor; (ii) NightOwl Mobile Application; (iii) NightOwl Dashboard; and (iv) NightOwl Platform;

"NightOwl Sensor" means the sensor device placed on the User's finger or forehead that acquires PPG and accelerometer measurements and communicates with the NightOwl Mobile Application;

"NightOwl Mobile Application" means the mobile application (i) which the User has to download on its mobile device and (ii) is intended receive, display, store and transmit certain personally identifiable information, including but not limited to first name, last name, date of birth, email, phone number, photoplethysmography and accelerometer measurements;

"NightOwl Dashboard" means the dashboard made available to the Physician that recommended the NightOwl HSAT, located at [sleep.ectosense.com](http://sleep.ectosense.com);

"NightOwl Platform" means the platform on which the NightOwl Mobile Application and the NightOwl Dashboard are connected and collectively function. Depending on the user profile (User, Physician, Clinic administrator) different application functions can be made available;

"Physician" means the doctor (or other medical party) from which you obtained the recommendation and your personal Activation Code to make the automatic link with your Physician via the NightOwl Mobile Application.

"Products" means the Application and the Website;

"Results" means the results of the analysis by the NightOwl Platform of the photoplethysmography (PPG) and accelerometer data recorded by the User through the NightOwl Mobile Application

"Third Parties" means any natural or legal person or entity other than Ectosense;

"Website" means the website available at [www.ectosense.com](http://www.ectosense.com).

### **3. Information we collect**

We may collect several types of Personal Data from the Users of our Products, and store it on your mobile device and/or our server such as:

- Contact information (e.g. your name, e-mail address, and mobile or other telephone number);
- Information in helpdesk support inquiries;
- Information such as date of birth and gender;
- Information about your device, such as its model, unique device identifier and operating system version;
- Information collected by the Application, such as measurement of your PPG and accelerometer data and the local time;
- Information from third services such as Google Play Services.
- Web behavior information such as information related to how the Users use the Products (e.g. browser type, domains, page views) collected through cookies and other automated technology (cfr. Section 6 "Cookies").

Hereinafter collectively "**Personal Data**".

We shall store your Personal Data on our servers located in the European Economic Area.

We would like to draw your attention to the fact that Personal Data consisting of patient medical data is also protected by medical secrecy rules.

### **4. How do we use your Personal Data**

Ectosense (i) collects, (ii) uses, (iii) maintains and (iv) may share your Personal Data provided by you or collected by us with its affiliates, parent companies or other related companies for all purposes necessary to ensure the proper functioning and operation of the Application and/or the proper functioning of the Products. These purposes may include (collectively the "**Purpose**"):

- Providing information and allowing the Users and the Physician access to the Products;
- Diagnosing technical problems and managing technical support and processing inquiries concerning the Products;
- Contacting the Users by phone, email, text for information and operational purposes such as instructions, alerts, reminders, customer service, system maintenance and others
- Contacting the Users to (i) communicate about, and organize your participation in market research or (ii) obtaining testimonials;
- Commercializing the Application;

- Performing data analyses (including anonymization and aggregation of Personal Data) and using and sharing the resulting data to third parties for commercialization purposes;
- The operation, evaluation and improvement of the Products (including the development of additional products and/or services, enhancing and improving the current Products, analysis of our Products, quality control activities and performing internal business functions such as accounting and auditing);
- Protecting against, identify and prevent fraud and other unlawful activity, claims and other liabilities;
- Complying with and enforcing any applicable legal obligations with respect to our Terms of Use and Privacy Policy.

Furthermore, you agree that Ectosense is free to access, retain, and disclose Personal Data in the following events:

- In order to be in compliance with any applicable legislation or regulations;
- If a law enforcement authority or other government official requests so;
- To enforce the Ectosense Terms of Use or Privacy Policy;
- The investigation of any suspected or actual fraudulent or illegal activity; and
- To protect your or our safety and/or rights.

By using the Application, you acknowledge and explicitly agree that we disclose your Personal Data to the Ectosense by giving it access through the NightOwl Dashboard to your personal data and recordings performed by the Application. Without prejudice to the foregoing, you acknowledge and understand that the processing of your Personal Data on the Application by Ectosense in accordance with this Privacy Policy occurs with the supervision of a qualified practitioner.

By using the Application, you acknowledge and explicitly agree that we may disclose certain information to vendors and service providers who help us provide the Products. Examples of these vendors and service providers include entities that provide analytics and web hosting services.

You furthermore understand and agree that the technical processing and transmission of the Products, including your Personal Data, may involve (i) transmissions over various networks; and (ii) modifications to conform and adapt to technical requirements of connecting networks, or devices.

## **5. Security**

Ectosense shall take appropriate administrative, technical and organizational measures against unauthorized or unlawful processing of any Personal Data or its accidental loss, destruction or damage, access, disclosure or use. Upon written request, Ectosense can provide you with a list of people of Ectosense that may have access to your Personal Data. These people have entered into confidentiality agreements prior to having been granted access to your Personal Data.

In the event of and following discovery or notification of a breach of the security of the Personal Data, or access by an unauthorized person, Ectosense is required by law to notify the User if the breach is likely to affect your privacy.

## 6. Cookies

When using the Products, we may collect certain information by automated means, such as cookies (small text files stored in your browser) and similar technologies, including mobile application identifiers, to improve your experience of the Products, increase security, measure use and effectiveness of the Products, identify and resolve issues and marketing purposes. We may also use cookies and other automated means for purposes such as management our Products and other aspects of the commercialization of our business.

The information we collect in this manner includes IP address, browser characteristics, device characteristics, operating system version, information on actions taken on our Products (such as usage, activity logs and click-throughs), and dates and times of visits. Log data is promptly deleted on a regular basis.

You can control cookies through your browser settings and other tools. Your device may offer you control over the use of cookies or other technologies when you use the Products. For example, you may be able to set your device or browser to disable, clear, reset or block the use of cookies or similar technologies. Please note, however, that without cookies the Products may not work properly or you may not be able to use all of their features.

Third parties, such as google analytics, may also use cookies to collect information about your activities on our Products to understand and continue improving the performance of our Products. Please check the relevant third-party website for more information about their use of cookies. Where this site allows such cookies to be set or you access other websites from the Products using the links provided, the operators of these websites will use cookies in accordance with their own cookies policy, which may differ from ours.

**By continuing to use our Products, you consent to the placement of cookies and other automated means in your browser and device in accordance with this Privacy Policy.**

## 7. Disclosure to Third Parties

In the event of full or partial merger with, or acquisition of all or part of Ectosense, we may transfer your Personal Data to a Third Party. In such event, Ectosense shall impose this Third Party to use any Personal Data strictly consistent with this Privacy Policy.

Other than as set out in this Privacy Policy, we shall not sell or otherwise disclose your Personal Data to Third Parties without obtaining your prior explicit consent unless this is necessary for the purposes set out in this Privacy Policy or unless we are required to do so by law.

We may also share Personal Data with Third Party service providers who help us to provide, understand, commercialize and improve our Products. We do not authorize these Third Party service providers to use or disclose your Personal Data except as strictly necessary to perform any services under our supervision or to comply with applicable legislation. We seek to provide any such Third Party service provider with only the Personal Data they need to perform their specific function.

In any event, such Third Party service providers shall be obliged to treat your Personal Data in accordance with this Privacy Policy. However, Ectosense cannot be

held liable for any damages, whether direct or indirect, that may result from the misuse of your Personal Data by such Third Party service providers.

## **8. Your rights**

**Right of access** If you are concerned or have any questions about your Personal Data, you have the right to request access to the Personal Data which we hold or process about you. We will then provide you with information about the data that are being processed and on the source of those data.

**Right of rectification and right of erasure** You have the right to request us free of charge to correct, erase or block any inaccuracies in your Personal Data if such Personal Data would be incomplete, inaccurate or processed unlawfully.

**Right to not be subject to automated individual decision making** You have the right to request us not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning you or similarly significantly affects you.

**Right to object to data processing** Without prejudice to the termination provisions of the Terms of Use, you may withdraw at any time your consent to the processing of your Personal Data by Ectosense by permanently removing the Application and notifying us in writing thereof via [info@ectosense.com](mailto:info@ectosense.com). Upon receipt of this notification, Ectosense shall promptly stop any processing of your Personal Data. You may also ask us to stop using your Personal Data for direct marketing purposes.

To exercise your abovementioned rights or any other questions concerning this Privacy Policy, please contact us by e-mail at [info@ectosense.com](mailto:info@ectosense.com) or by writing to Privacy, Ectosense NV, Bosbessenlaan 19A, B-3110, Rotselaar. You should add a copy of your identity card or other proof of your identity to your request. Ectosense will undertake the necessary action without undue delay and provide information on action taken (or the absence of any such action) within 30 days.

You may also lodge a complaint with a supervisory authority in case of breach of the applicable privacy laws by Ectosense.

## **9. Data retention and deletion**

We may retain information regarding you and your use of the Products, including Personal Data, for as long as reasonably needed to provide you with the Products and the uses described in this Privacy Policy.

Please note that we retain your Personal Data even if you temporarily stop using the Application until you permanently delete the Application on your mobile device and notify us thereof. Upon notification, we may retain and continue to use and disclosure your Personal Data to Third Parties exclusively on a fully anonymized basis.

## **10. Third Party websites or applications**

You acknowledge and agree that certain content or services provided by Third Parties may be made available to you through the Products. You agree that such linked content or services may have their own privacy policies for which Ectosense cannot be held responsible. Ectosense does not in any way review or endorse the privacy practices of such Third Parties.

## **11. Updates or changes to our Privacy Policy**

Occasionally, we may change or update this Privacy Policy to allow us to use or share your previously collected Personal Data for other purposes. If Ectosense would use your Personal Data in a manner materially different from that stated at the time of the collection, we will provide you with a notice on our Website and in our NightOwl Mobile Application indicating that the Privacy Policy has been changed or updated and request you to agree with the updated or changed Privacy Policy.

### **Controller**

Ectosense NV  
Bosbessenlaan 19A  
3110 Rotselaar  
Belgium  
[www.ectosense.com](http://www.ectosense.com)

### **Data Protection Officer**

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