**Brainlab Cognition - Privacy Statement**

Last updated on September 07, 2017

Welcome to the Brainlab Cognition App provided by Brainlab. We are highly committed to protecting your privacy and treat your personal data with utmost care. We collect and use your data only according to the applicable data protection provisions.

Our employees and agents are obliged to comply with the data protection provisions in accordance with statutory requirements.

Hereinafter we inform you about the extent, type and purpose of the collection and use of data by using the Brainlab Cognition App (the “App”). This Privacy Statement applies for the use of the provided services via the App on the mobile device on which the App is being used.

**Who is collecting, processing and using your data?**

The responsible entity concerning data privacy is Brainlab AG, Olof-Palme-Straße 9, 81829 Munich, Germany (“Brainlab”).

**Which data is collected and used?**

**Collection and use of non-personal data**

Once you visit our App, specific data will be stored anonymously in a protocol file. There will be an anonymous storage of e.g. the operating system and version, resolution and the date and time the App has been accessed. We use this anonymous information solely to improve the appearance, contents and functionality of the App.

**Collection and use of personal data**

Personal data includes details related to personal or factual matters of a specified or specifiable natural person (the data subject), e.g. your date of birth etc.

Upon accepting the Terms of Use to the App the identity of the device (i.e. name of the iPad given at first setup) on which the App is running will be collected and processed in a log file.

The App provides a verbal memory test. You will be asked to repeat words given previously as part of the testing in order to test your verbal memory skills. For this, the App has voice recognition. To perform the verbal memory test you will be asked to allow the App access to the iPad microphone which can be selected in the application settings. It is necessary to allow the App access to the microphone to use the App. Voice recognition is made while pressing and holding the displayed microphone symbol during the test. You can revoke permission to access the iPad microphone in the application settings. Then you will not be able to use the App.

The answer to the questions, particularly the words which you are asked to repeat by the App are not likely to allow any reference to you as a specific person. You will not be asked to provide any identifying information such as your name or address. We highly recommend not to use words or phrases from which there might result a reference to your identity. However, the disclosure of any such personally identifiable information by you will be given voluntarily and be based on your consent.
The results for each task, such as correct responses, incorrect responses, time to finish the task and reaction time to stimuli will be contained in an evaluation report. Additionally, the treating physician will enter your date of birth, from which your age is determined, gender, education and very basic treatment and tumor clinical information such as tumor location, tumor and target volume, start date and type of treatment, clinical parameters (Karnofsky performance status) and medications which will be stored on the iPad. This information will allow your healthcare provider to have information about your cognitive performance throughout time. Your healthcare provider can export the evaluation report as PDF file, print it or send it to his/her e-mail account. Besides this, the data will only be used by Brainlab for research purposes and to improve the product.

The App uses a voice recognition software of the manufacturer Nuance Communications, Inc. (Headquarters: 1 Wayside Road, Burlington, MA 01803, United States). When using the App the voice recognition software collects and uses your voice recordings for training, tuning, enhancing and improving the speech recognition and other components of its software and services as well as the IP address if needed. The collection and use of the voice recordings and the IP address by the Nuance software requires your prior express consent. You will be asked for your consent for the collection and use of your voice recordings and the IP address when starting the App and accepting the Terms of Use. In case you do not give this express consent any voice recording and IP address is collected or used, but you will not be able to use the App. You may revoke your already given consent at any time during the use of the App without giving any reason to prevent future use of the data. To revoke your consent you can click the home button of the device on which you use the App. This will exit the App and will lead you to the start page.

Otherwise, your personal or personally identifiable data will not be collected and used unless you have given your express consent prior to such collection and use of data.

When clicking the reset button in the App all data stored in the App will be removed from the device. However, the created test report will be retained by Brainlab and will not be deleted.

Will there be any access to personal data by third parties?

Your personal data will be transferred to associated companies and service providers e.g. IT providers and others who help Brainlab provide the services to you. These service providers will only get access to those specific data that is required to fulfill their services. They do not have the right to use your information for their own purposes. Some of these associated companies and service providers are located outside the scope of the law of the European Union (e.g. United States or Israel). Should third parties come into contact with your personal data or personally identifiable information, we shall have made use of legal, technical and organizational measures and regular monitoring to ensure that such parties comply with the relevant data protection regulations and with this Privacy Statement as well. Particularly, where service providers are involved which are located in a country not considered as providing an adequate level of protection for personal data transferred from the European Union in relation to automated international transfer of personal data from the European Union these service providers are obliged on the basis of contractual agreements ensuring an adequate level of data protection.

Otherwise, your personal or personally identifiable data will not be transferred to third parties unless you have given your express consent prior to such data transfer.

Sharing and use of de-identified information originating in the United States
With the exception of encrypted Protected Health Information (PHI) as that term is defined in applicable U.S. federal, state and local statutes, regulations and rules relating to data privacy and security, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the privacy and security standards pursuant to the same, as amended, and the Health Information Technology for Economic and Clinical Health Act (HITECH Act) and regulations and guidance issued pursuant to the same, other types of information that are fully de-identified (stripped of any information that could be used to identify any person) may be used by Brainlab for any reason and shared freely with third parties in de-identified or aggregated form subject to HIPAA and other applicable regulations. We will not re-identify such data and we will ask our contracting parties to agree to keep the data in its de-identified form. PHI may be shared in compliance with HIPAA and HITECH.

What does Brainlab do for data security?

We have taken extensive technical and operational precautions in order to protect data stored with us from unauthorized access and misuse. Our security procedures are monitored regularly and updated in line with technological progress. Our staff is trained regularly concerning data protection as well as data security and is committed to data secrecy.

Accountability for special categories of personal information/patient information

As a healthcare provider, You understand that for creating a patient account within the App, only numbers can be entered in the “subject” box and that nothing should be entered that could be traced back to the patient. You are solely responsible for using the App in a manner consistent with all applicable privacy laws relating to the use and disclosure of medical or health information. You also acknowledge that only one mobile device should be used by one physician at a time and that you are not allowed to share your personal access code for the App on that device.

If you are in the United States and are a healthcare provider: You are solely responsible for using the App in a manner consistent with all applicable federal and state privacy laws relating to the use and disclosure of medical or health information, including but not limited to HIPAA and the HITECH Act and regulations and guidance issued pursuant to the same. By utilizing the App, you represent and warrant that your use and/or disclosure of personal information, including protected health information (PHI), fully complies with all such applicable federal and state privacy laws and regulations and professional and medical practice laws and regulations governing health care providers and practitioners and their designees. You are also solely responsible for obtaining all appropriate consents or authorizations, as necessary, from patients whose personal information will be used or disclosed in the App or in connection with the App or taking appropriate steps to de-identify PHI consistent with HIPAA and HITECH. By using the App, and/or using services or other features available to you in the App, you expressly agree to comply with all such requirements and your use is deemed your acceptance of this Privacy Statement and the Terms of Use. You also remain solely responsible for any medical or professional advice or opinions you provide through the use of this App.

If you are outside the United States and are a healthcare provider: You are solely responsible for using the App in a manner consistent with all applicable privacy laws relating to the use and disclosure of medical or health information. You are also solely responsible for obtaining all appropriate consents or authorizations, as necessary, from patients whose personal information will be used or disclosed in the App or in connection with the App. By using the App, and/or using
services or other features available to you in the App, you expressly agree to comply with all such requirements and your use is deemed your acceptance of this Privacy Statement and the Terms of Use. You also remain solely responsible for any medical or professional advice or opinions you provide through the use of this App.

As a patient, You understand that no results from the use of the App constitute a recommendation for specific medical care by the App or Brainlab, nor do we make any warranty or representation of any kind as to the accuracy or appropriateness of recommendations or advice you receive from the App. We assume no liability for any diagnosis, treatment decision, or action taken based on information found in the App and assume no responsibility for any consequences related directly or indirectly to any action or inaction you take based upon the information, material, advice or recommendations obtained through the use of this App.

Communications with you in the United States

If You are in the United States: You authorize Brainlab to transmit, email to you, to respond to your communications initiated by you, and provide information to you about new developments, features, services, inquiries, or the App.
Please note that unsubscribe requests may take up to ten (10) days to become effective. You may not opt out of receiving communications regarding your dealings with the App or technical information about the App.

Changes to this Privacy Statement

We may from time to time amend, modify or otherwise improve this Privacy Statement, and the date of last revision will be available at the top of this page. However, we will not materially change this Privacy Statement to be less protective of personally identifiable information collected in the past without your consent.

How to contact us?

In the event of queries please contact us at support@brainlab.com. Please note that email communications may not be secure. Accordingly, you should not include personal or other sensitive information in your email correspondence.