

## Terms and Conditions

The following terms and conditions (the "**Terms**") is a binding agreement between Myndliff Ltd., an Israeli company, having its principal place of business at 150 Menachem Begin St., Tel Aviv, Israel ("**Myndliff**"), and the purchaser designated on the applicable Subscription Form (defined below ("**Customer**", or "**you**"). Your subscription to the Service through the applicable Subscription Form shall constitute your full acceptance of the Terms.

### 1. **DEFINITIONS:**

"**Authorized Users**" shall mean employees, agents and independent contractors of Customer who are authorized by Customer to use the Service through the subscription thereto by Customer in accordance with the Terms.

"**End User**" shall mean the individual patient of Customer whose personal and health information are input by the Customer into the Platform after obtaining informed consent from the End User to participate in the Service.

"**End User Mobile Application**" shall mean mobile application that records and processes electroencephalography and neurofeedback data.

"**Muse Headband**" means the Muse headband, which is a device or system of devices developed by or on behalf of InteraXon Inc. ("**InteraXon**"), a third-party supplier of Myndliff, intended to be used with the Service, and includes sensors that monitor EEG biodata and other data.

The "**Hardware Components**" shall mean the applicable hardware products supplied by Myndliff with which the Service is designed to run, and includes, among others: Myndliff electrodes and Muse Headband, or any other related accessories supplied by Myndliff.

"**End User Data**" shall mean the personal information, health information, electroencephalography and neurofeedback data, activity records and information of an End User collected and generated through the Platform, as detailed in the Myndliff [Privacy Notice for End Users](#).

"**Customer Data**" shall mean the personal information of Customer collected through the Platform as detailed in Myndliff [Privacy Notice for Clinicians](#).

"**Output Data**" shall mean reports, analytics, and other types of information and data that the Service may generate, provide or make available to Customer and/or End User, based on End User Data.

"**Data**" mean End User Data, Customer Data and Output Data, collectively.

The “**Subscription Form**” shall mean the online Subscription Form, available on Myndlift's website, filled out and submitted by Customer through the Myndlift web portal (to be provided to Customer), and accepted by Myndlift, with details of the User Subscription package and price selected and forming part of the Terms.

The “**Platform**” shall mean Myndlift's proprietary clinical platform that helps therapists and physicians to administer neurofeedback using a mobile device.

The “**Service**” shall mean Myndlift's proprietary solution which is comprised of (1) Hardware Components; (2) the Platform; and (3) End User Mobile Application.

The “**Subscription Fees**” or the “**Fees**” means the subscription fees payable by Customer to Myndlift for the User Subscription(s) in accordance with the respective User Subscription(s) package, as set out in the Subscription Form.

The “**User Subscriptions**” shall mean the user subscriptions purchased by Customer in accordance with these Terms for the number of Authorized Users as set out in the Subscription Form which entitle such Authorized Users to access and use the Service.

“**Subscription Period**” shall mean the period set forth in Customer's respective User Subscription package.

“**Optional Training**” shall mean an online course and remote consulting sessions provided via teleconference or videoconference by Myndlift to Customers on how to develop a neurofeedback practice and how to use the Myndlift Service.

## 2. **SCOPE:**

By submitting a Subscription Form, Customer agrees to purchase the Hardware Components and to subscribe for the Service by way of purchasing a User Subscription. Customer acknowledges that it, or its Authorized User, has reviewed these Terms prior to selecting a User Subscription package and agrees that the use of the Platform and/or Service will be subject to the Terms. No terms or conditions contained in any order form submitted by Customer that varies from, or conflicts with, any of these Terms shall become part of the Subscription Form or the Terms unless it is expressly accepted in writing by Myndlift's authorized representative(s). Myndlift reserves the right to modify these Terms at any time, and such modifications shall become effective as soon as the newly modified Terms are posted online on the Myndlift customer dashboard. The modified Terms

shall automatically apply to each User Subscription or renewal thereof executed or subscribed to after the modified Terms becomes effective.

### **3. DELIVERY OF HARDWARE:**

- 3.1. For export shipments, Myndliff shall deliver the Hardware Components to Customer FOB Destination (Incoterms 2010).
- 3.2. Myndliff shall make reasonable efforts to deliver the Hardware Components within the time period agreed with Customer. Notwithstanding the foregoing, it is clarified that the delivery time provided to each Customer is an estimated time only, and it is hereby further clarified that in the event that the Hardware Components is not delivered to the Customer within 30 days from the date of shipment and that following due inquiry by Customer (to Myndliff's satisfaction), that the Hardware Components are not being detained by the relevant customs authority, then Myndliff may consider the Hardware Components as lost and as sole remedy to the Customer, Myndliff will ship an additional Hardware Components (of the same type and specifications as in the original order) to the Customer without bearing any additional liability to Customer.
- 3.3. Any stated delivery dates are approximate, and notwithstanding the aforesaid, Myndliff shall not be liable to Customer for any losses, damages, penalties, or expenses if any Hardware Components are delivered after the said time period for any reason whatsoever. Delays in shipment shall not constitute a breach of contract on the part of Myndliff and shall not be cause for termination of these Terms.
- 3.4. Hardware Components will be delivered to Customer to the address designated by the Customer and specified in the Subscription Form. Myndliff cannot accept changes and/or alterations to the delivery address once it begins processing the shipment of the Hardware Components. It is Customer's responsibility to accurately fill in the delivery address in the Subscription Form, and Myndliff will not be responsible for any failure to deliver the Hardware Components due to an inaccuracy in your delivery address as specified in the Subscription Form. Risk in the Hardware Components passes to the Customer on delivery of the Hardware Components to the shipping address entered in the Subscription Form. Title in the Hardware Components will pass to Customer upon receipt of full payment by Myndliff for such Hardware Components.

- 3.5. All Hardware Components will be accepted by the Customer subject to inspection by the Customer within a reasonable time after delivery. Absent notice by Customer within three (3) calendar days, the Hardware Components shall be deemed to be accepted by Customer.
- 3.6. Customer must use and handle the Hardware Components carefully and strictly in accordance with the instructions conveyed by Myndlift. Customer may not handle the Hardware Components in any manner which is not expressly permitted by Myndlift, including dismantling them, tampering with them, or conducting any repair, alteration, adaptation, addition thereto or derogation therefrom.

#### 4. **MAINTENANCE AND SUPPORT; LIMITED HARDWARE WARRANTY:**

- 4.1. During the Subscription Period, Myndlift will provide technical support for technical questions, problems and inquiries regarding the Platform and End User Mobile Application, during Myndlift's business days and hours, and pursuant to the support scheme, hours and channels separately conveyed to Customer.
- 4.2. Support for Hardware Components will be provided for a period of sixty (60) days from the date the Hardware Components are shipped to Customer, which period may be extended at Myndlift's sole discretion ("**Free Technical Support**"). Further maintenance and support which may be made available to subscribers of Myndlift's maintenance plan (when and if available; together with the Free Technical Support, the "**Technical Services**") may be subject to further payments to be determined based on Myndlift then applicable payment plan.
- 4.3. Myndlift will attempt to respond to Customer's technical questions, problems and inquiries within a reasonable time. However, Myndlift –
  - 4.3.1. May decline to provide such support for matters that Myndlift deems, at its discretion, to require unreasonable time, effort, costs or expenses;
  - 4.3.2. Makes no guarantees to any specific response-time or to the successful or satisfactory resolution of the question, problem or inquiry.
- 4.4. For the purpose of the provision of technical support for Customer's technical questions, problems and inquiries, Customer will cooperate, and work closely with Myndlift, to reproduce malfunctions, including conducting diagnostic or troubleshooting activities, as Myndlift reasonably requests. Customer agrees to cooperate and perform such requested modifications.

4.5. MYNDLIFT HEREBY REPRESENTS AND WARRANTS THAT FOR A PERIOD OF TWELVE (12) MONTHS FROM THE DATE OF DELIVERY OF THE HARDWARE COMPONENTS (THE “**WARRANTY PERIOD**”) THE ELECTRODES CONSTITUTING PART OF THE HARDWARE COMPONENTS (THE “**HARDWARE UNDER WARRANTY**”) SHALL BE FREE FROM MATERIAL DEFECTS IN MATERIAL AND WORKMANSHIP AND SHALL SUBSTANTIALLY PERFORM IN ACCORDANCE WITH MYNDLIFT’S DOCUMENTATION AND THE TUTORIALS (AS DEFINED BELOW), DESCRIBING THE USE, FEATURES AND OPERATION OF THE PLATFORM AND/OR TECHNICAL SERVICES, IN ALL MATERIAL RESPECTS, ALL IN ACCORDANCE WITH THE TERMS OF THE LIMITED PRODUCT WARRANTY INCORPORATED HEREIN AS **APPENDIX A**, A COPY OF WHICH WILL ALSO BE PROVIDED TO CUSTOMER FOLLOWING ITS EXECUTION OF A SUBSCRIPTION FORM. WITHOUT DEROGATING FROM THE TERMS OF THE WARRANTY PROVIDED FOR THE HARDWARE UNDER WARRANTY PURSUANT TO THIS SECTION 4.5, MYNDLIFT WILL BE UNDER NO OBLIGATION TO REPAIR OR REPLACE THE PRODUCT UNDER WARRANTY TO THE EXTENT: (I) CUSTOMER HAS NOT COMPLIED WITH STORAGE REQUIREMENTS APPLICABLE TO THE PRODUCT UNDER WARRANTY; OR (II) THE PRODUCT UNDER WARRANTY HAS BEEN MODIFIED IN ANY WAY BY, OR ON BEHALF OF, ANYONE OTHER THAN MYNDLIFT; OR (III) THE DAMAGE OR HARM IS CAUSED OR CONTRIBUTED TO BY CUSTOMER AND/OR END USER, ANY THIRD PARTY, OR ANY GOOD OR SERVICE OF A THIRD PARTY.

For the avoidance of doubt, Myndlift provides no warranty for other components of the Hardware Components (i.e. including, without limitation, the Muse Headband), which shall be subject to the warranty provided by their manufacturers (if any). Myndlift will assign to Customer all warranties extended to it by the manufacturers of the other Hardware Components (where applicable), including, without limitation the one-year warranty provided by InteraXon in connection with the Muse Headband (the “**InteraXon Warranty**”), provided that Customer shall at all times comply with the terms of the InteraXon Warranty as specified in the warranty certificate provided to Customer, and/or as specified in the terms of the warranty set forth in the following link: <https://choosemuse.com/legal>. If any InteraXon software is provided to you in conjunction with the Muse Headband (including any future updates, upgrades or versions of the software) (the “**InteraXon Software**”), then You hereby acknowledge and understand, and shall ensure that End Users will acknowledge and understand, that the InteraXon Software, user information, user interface, support, communication and agreement, are only provided in certain languages. Do not use or authorize your End Users to use the Muse Headband or other InteraXon products, unless you and your End Users can fluently read and understand one of the available languages. Myndlift is not and shall not be responsible or liable for any for any loss or damage of any sort of kind

incurred by Customer and/or End User as a result of using any InteraXon Software. The Muse Headband shall be subject to the product return policy of InteraXon. Myndlift assumes no responsibility and liability for the Muse Headband and any other InteraXon products used by End User and/or Customer. Customer acknowledges and understands that notwithstanding anything herein, under the warranty certificate provided for the Product Under Warranty pursuant to Section 4.5, or in the InteraXon Warranty, the Hardware Components, including, without limitation, the Muse Headband, shall be stored in a safe and suitable environment (which shall not damage the Hardware Components and/or impair the performance, function or appearance thereof), and in accordance with Myndlift's reasonable instructions from time to time and/or in accordance with the instructions of the manufacturer of such Hardware Components.

- 4.6. The warranty granted herein with respect to the Hardware Under Warranty does not apply to:
- (i) use of any equipment or software acquired from any source other than Myndlift;
  - (ii) any Hardware Under Warranty which is installed, used or operated in a way other than in accordance with the Documentation;
  - (iii) any Hardware Under Warranty which was modified, changed, adjusted or altered in any way, without its manufacturer's and/or Myndlift's prior written approval;
  - (iv) any breakage or failure resulting from user tampering, misuse, neglect, abuse, accidents, failure to continually provide a suitable operating environment (including necessary ventilation, electricity, protection from power surges, cooling and/or humidity) or from any other cause beyond Myndlift's reasonable control;
  - (v) Hardware Under Warranty which was repaired by anyone other than its Manufacturer and/or Myndlift;
  - (vi) the combination of any Hardware Components with equipment or software not authorized or provided by Myndlift or otherwise approved in the Documentation.

## **5. USE OF THE SERVICE:**

- 5.1. Subject to these Terms and Customer's payment of the applicable Fees, Customer may, during the Subscription Period, access and use the Service, strictly for Customer's own business purposes, including the purpose of treating and providing services for the number of End Users and number of Muse Headbands authorized in the Subscription Order.
- 5.2. Before ordering the Hardware Components and subscribing to the Services, Customer shall check <https://intercom.help/dashboard-myndlift/written-tutorials/supported-and-unsupported-devices> to determine whether the End User Mobile Application is designed to work with Customer's smartphone or tablet or other third party equipment. Myndlift assumes no responsibility with regard to the performance or use of Customer's smartphone/tablet/other

third party equipment with the Hardware Component and/or the Service. Customer is solely responsible for the selection, implementation and performance of the tablet/smartphone/other third party equipment with which the Hardware Components and the Service will be used.

- 5.3. Customer must ensure that Customer's Authorized Users designated to use the Service and access the Platform for Customer's benefit fully comply with these Terms. Customer shall be liable to Myndlift for all acts or omissions of those that use and deal with the Service for Customer's benefit, as though Customer itself had performed those acts or omissions.
- 5.4. Customer shall use the Service in accordance with these Terms.
- 5.5. Customer shall require its End Users to confirm reading the Privacy Notice for End Users prior to the use of the End User Mobile Application.
- 5.6. Customer acknowledges and understands, and shall ensure that End Users will acknowledge and understand, that the Service, user information, user interface, support, communication and agreement, are only provided in certain languages. Customer shall not use and shall not allow End Users to use the Service or any of the Hardware Components, unless Customer and its End Users can fluently read and understand one of the available languages.

## **6. DATA:**

- 6.1. Myndlift will collect and process End User Data. Customer acknowledges and agrees that:
  - 6.1.1. End User Data may include personal data, personally identifiable information, and health information, the sharing, processing, and use of which shall be subject to applicable data protection and privacy laws and regulations, all in accordance with the Myndlift [Privacy Notice for End Users](#).
  - 6.1.2. It is responsible to obtain and maintain valid informed consent from all End Users, as may be required under applicable law (including data protection laws and regulations), in order to allow Myndlift to lawfully collect, handle, retain, process and use the End User Data in the manners and for the purposes set forth in the Myndlift Privacy Notice for End Users.
- 6.2. Myndlift will dedicate its best efforts, using no less than commercially reasonable measures, to maintain the confidentiality of Data that Myndlift is exposed to, and to prevent and refrain from, disclosure or use of Data for purposes other than those specified in these Terms and in

Myndlift's Privacy Notices for [End Users](#) and [Clinicians](#). Myndlift's personnel will access Data on a strict 'need to know' basis, subject to these Terms.

- 6.3. Customer assumes sole and exclusive responsibility to carry out such actions as it deems appropriate as a result of the Data. Myndlift has no responsibility or liability, regarding Customer's reliance upon, or use of, the Data, Customer's actions or omissions in connection with the Data, or any consequences resulting therefrom.
- 6.5 Customer agrees to indemnify and hold harmless Myndlift and its directors, officers, employees, and subcontractors, upon Myndlift's request and at Customer's own expense, from, and against, any damages, loss, costs, expenses and payments, including reasonable attorney's fees and legal expenses, arising from any third party complaint, claim, plea, or demand in connection with breach of these Terms.

## 7. **TERMS OF PAYMENT:**

- 7.1. All amounts due to Myndlift in connection with the purchase of the Hardware Components and/or subscribing for the Service must be paid pursuant to the applicable plan as selected by Customer in the Subscription Form, and according to the payment terms specified below.
- 7.2. Customer will pay Myndlift the Subscription Fees and any additional applicable fees related to the Services and the Hardware Components as specified in the Subscription Form in accordance with this Section 7. Unless otherwise agreed by Myndlift and the Customer, or unless specified in the Subscription Form, Myndlift will invoice Customer for the Subscription Fees under the Monthly Plan (defined below), monthly in advance of each month, and under the Annual Plan (defined below), annually in advance of each year, it being clarified that with respect to the first subscription period, Customer will be invoiced and charged the applicable Subscription Fees and any additional fees related to the Services and the Hardware Components upon first subscribing to the Service.
- 7.3. The Customer may select one of the following User Subscriptions packages:
  - 7.3.1 Monthly subscription (the "**Monthly Plan**"). Under the Monthly Plan, Customer's subscription to the Service will be for a period of one month, renewable automatically for an additional month unless the Customer cancels its subscription by written notice to Myndlift prior to the last day of each month during which Customer will be subscribed for the Service.



- 7.3.2 Annual subscription (the "**Annual Plan**"). Under the Annual Plan, Customer's subscription to the Service will be for a period of one year, renewable automatically for an additional year unless the Customer cancels its subscription by written notice to Myndlift prior to the last day of each year during which Customer will be subscribed for the Service.
- 7.4. Upon selecting a User Subscription package by Customer, Customer will also select the number of Muse Headbands which may be allowed to be used when providing the Service. It is clarified that the Subscription Fees under the Monthly Plan and the Annual Plan are determined, among other considerations, on the basis of the number of Muse Headbands used by Customer in connection with the Service. To this effect, in the event that during any calendar month following the subscription by Customer to the Service under any of the aforesaid plans, the number of Muse Headbands used by Customer will increase, then the Subscription Fees applicable to the same month will increase accordingly and will be charged at the end of same month. Additionally, any Muse Headband used by an End User for longer than twenty five (25) minutes during a session will be subject to an additional charge.
- 7.5. Myndlift reserves the right to change the Subscription Fees and any additional applicable fees related to the Services by providing at least 30 days' notice to Customer. In any event of renewal of Customer's subscription for the Service, Customer shall be bound by the most recent published Subscription Fees in effect on the last day of the expiring term (i.e. month or year, as applicable).
- 7.6. Optional Training provided by Myndlift is excluded from the User Subscription package and may be subject to additional fees.
- 7.7. Payment shall be made in full in US Dollars, in the amount specified in Subscription Form upon purchase, by credit card, unless otherwise agreed to in writing by Myndlift. Payment by credit card may be subject to an additional fee.
- 7.8. Prices are exclusive of all federal, state, municipal, or other government, excise, sales, use, occupation, or similar taxes, together with tariffs, duties, or similar surcharges, freight and insurance. Customer agrees to pay all such charges, unless, in the case of taxes, Customer has provided Myndlift with a release or other exemption certificate in the appropriate form (satisfactory to Myndlift) for the jurisdiction in which Customer's place of business or residence is located and any other jurisdiction to which the Hardware Components are to be directly shipped hereunder. If Myndlift is required to pay additional taxes, the Customer will immediately reimburse and hold Myndlift harmless for any such additional taxes.

7.9. If Myndlift has not received payment for any invoices by the due dates and without prejudice to any other rights and remedies of Myndlift, Myndlift may, without liability to Customer, disable Customer's account and access to the Services, and Myndlift will be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid.

7.10. Subscription to the Service by Customer is usually activated on the 21<sup>st</sup> day following the date of subscription to the Service by Customer and is subject to receipt of the Hardware Components by Customer.

## 8. **ASSEMBLY AND INSTALLATION:**

The assembly and installation of the Hardware Components purchased by Customer shall be performed by the Customer in accordance with Myndlift's assembly and installation instructions as specified in the Myndlift's manual guide provided to Customer upon delivery ("**Documentation**") and in the video tutorials ("**Tutorials**") available under the Frequently Asked Questions and 'free video tutorials' on the Myndlift dashboard (dashboard.myndlift.com), and at Customer's own responsibility. Myndlift shall not assume any legal liability in relation to the assembly and installation of the Hardware Components. Myndlift shall not assume legal liability for damages caused to the Hardware Components or other accidents caused or damages incurred while the Customer is assembling or installing the Hardware Components. The foregoing shall not apply to damages arising from a cause directly attributable to Myndlift.

## 9. **RESTRICTIONS:**

9.1. Customer may not modify, make derivative works of, disassemble, de-compile or reverse engineer any binary-code part of the Service, or otherwise attempt to discover its underlying code, structure, implementation or algorithms.

9.2. Customer may not use the Service in order to develop, or create, or permit others to develop or create, a product or service similar or competitive to the Service.

9.3. Customer may not offer the Service to third parties, including by reselling, licensing, renting, leasing, transferring, lending, timesharing, assigning or redistributing the Service or any part thereof, except for allowing and/or offering End Users to use the Hardware Components and the End User Mobile Application strictly for the purpose of using the Service pursuant to these Terms, unless they receive express written consent from Myndlift to do so.

9.4. Customer may not perform or attempt to perform any of the following in connection with the Service:

- 9.4.1. Breaching the security of the Service, identifying, probing or scanning any security vulnerabilities in the Service,
- 9.4.2. Accessing data not intended for Customer;
- 9.4.3. Interfering with, circumventing, manipulating, overloading, impairing or disrupting the operation, or the functionality of the Service;
- 9.4.4. Working around any technical limitations in the Service;
- 9.4.5. Using any tool to enable features or functionalities that are otherwise disabled, inaccessible or undocumented in the Service;

8.5 CUSTOMER MAY NOT USE THE SERVICE FOR ANY ACTIVITY THAT CONSTITUTES, OR ENCOURAGES CONDUCT THAT WOULD CONSTITUTE, A CRIMINAL OFFENSE, GIVE RISE TO CIVIL LIABILITY, OR OTHERWISE VIOLATE ANY APPLICABLE LAW.

10. **REVOCATION:**

Subject to applicable law, Customer shall have the right to revoke these Terms within fourteen (14) calendar days from the date on which the Hardware Components are delivered to Customer, it being clearly agreed that the right of revocation does not apply to Hardware Components which were unsealed and/or used after delivery. The Hardware Components shall be returned in original packaging and in the same condition in which they were delivered to Customer. Myndliff shall have the right to deny a refund until Customer has returned the Hardware Components to Myndliff or until Customer provided Myndliff with evidence satisfactory to Myndliff that it has sent the Hardware Components to Myndliff, whichever is earlier. Customer shall return the Hardware Components immediately, but in any case, in no later than fourteen (14) calendar days from the date on which Customer notifies Myndliff of the revocation of the Terms. All direct costs of returning the Hardware Components shall be borne by Customer. Customer shall be responsible for handling, assembling and installing the Hardware Components with due care and shall be liable for damage caused by Customer and/or any of its representatives. It is hereby clarified that Myndliff shall have the right to claim damages for returned Hardware Components which were used or damaged in any other way by Customer. Customer will be required to compensate a loss in value of any returned Hardware Components if this loss in value can be traced back to a use by Customer. To this end, Myndliff expressly reserve the right to deduct all

damages/losses in value from amounts which Myndlift is required to reimburse to Customer as set forth above (setoff).

**11. CUSTOMER DEFAULT:**

If Customer is in default on any provision hereof, all of Customer's payment obligations to Myndlift shall immediately become due and payable, and Myndlift may, without notice, decline to make further shipments, and deliveries of the Hardware Components and/or terminate Customer's outstanding Subscription(s), without affecting any other right or remedy Myndlift may have, including, but not limited to, any right to cancellation charges. For purposes of these Terms, a "default" shall occur in the event that Customer is more than five (5) calendar days delinquent in any payment to Myndlift; breaches any of its undertakings and/or obligations hereunder without curing the same within five (5) calendar days from receiving notice to this effect from Myndlift; becomes insolvent; is adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statutes; is appointed a receiver or makes an assignment for the benefit of creditors; or is otherwise unable to meet its financial obligations as they become due. In the case of more than one Hardware Components set is ordered, continued shipment by Myndlift of the Hardware Components following Customer's default shall not constitute a waiver nor shall it affect Customer's legal obligations hereunder.

**12. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY:**

**12.1.** Myndlift will endeavor to have the Service operate properly. However, as a service that relies on software, algorithms, third-party networks, and continuous internet connectivity, Myndlift does not guarantee that the Service will operate in an uninterrupted or error-free manner, or that it will always be available, free from errors, omissions or malfunctions.

**12.2.** If Myndlift receives notice of any failure or malfunction, or if Myndlift becomes aware of them independently, Myndlift will attempt to regain the Service's availability as soon as practicable. However, such incidents will not be considered a breach of these Terms.

**12.3. The Service does not constitute medical advice. Although the Service may alert Customer of brainwave activity of End Users, any Data provided to Customer is for informational purposes only and do not constitute a diagnosis or treatment. Customer remains responsible at all times for the diagnoses, treatment, and care of its End Users.**

**12.4.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT IN THE EVENT OF MYNDLIFT'S INTENTIONAL MISCONDUCT OR INTENTIONAL BREACH OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS, MYNDLIFT, INCLUDING ITS EMPLOYEES, DIRECTORS, OFFICERS, SHAREHOLDERS, ADVISORS, AND ANYONE ACTING ON ITS BEHALF, WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, STATUTORY OR PUNITIVE DAMAGES, LOSSES (INCLUDING LOSS OF PROFIT, LOSS OF BUSINESS OR BUSINESS OPPORTUNITIES AND LOSS OF DATA), COSTS, EXPENSES AND PAYMENTS, EITHER IN TORT, CONTRACT, OR IN ANY OTHER FORM OR THEORY OF LIABILITY (INCLUDING NEGLIGENCE), ARISING FROM, OR IN CONNECTION, WITH THESE TERMS, ANY USE OF, OR THE INABILITY TO USE THE SERVICE AND/OR THE OPTIONAL TRAINING (IF APPLICABLE), THEIR FEATURES, OR THE OUTPUT DATA, ANY RELIANCE UPON THE DATA OR THE SERVICE'S OR THE OPTIONAL TRAINING'S FEATURES, OR ANY ERROR, INCOMPLETENESS, INCORRECTNESS OR INACCURACY OF THE SERVICE AND/OR THE OPTIONAL TRAINING, ITS FEATURES, OR THE DATA.

**12.5.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT IN THE EVENT OF MYNDLIFT'S INTENTIONAL MISCONDUCT, THE TOTAL AND AGGREGATE LIABILITY OF MYNDLIFT AND ITS EMPLOYEES, DIRECTORS, OFFICERS, SHAREHOLDERS, ADVISORS, AND ANYONE ACTING ON THEIR BEHALF, FOR DAMAGES ARISING OUT OF OR RELATED TO THESE TERMS, THE SERVICE, THE OPTIONAL TRAINING OR THE DATA, SHALL BE LIMITED TO THE FEES CUSTOMER HAS ACTUALLY PAID MYNDLIFT IN THE TWELVE MONTHS PRECEDING THE EVENT PURPORTEDLY GIVING RISE TO THE CLAIM.

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS, THE SERVICE IS PROVIDED TO CUSTOMER "AS IS". MYNDLIFT DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICE, HARDWARE COMPONENTS, ITS FEATURES OR THE DATA, AND THE OPTIONAL TRAINING, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, NON-INFRINGEMENT, TITLE, SECURITY, COMPATIBILITY OR PERFORMANCE.

### **13. Optional Training**

13.1. Optional Trainings are optional. In order to register for and receive an Optional Training, you must have an account with Myndliff via our website. If you already have an account with Myndliff, you can log into the account using your username and password. The fees for the Optional Training shall be as set forth in the [Myndliff Academy Teachable platform](#), which you will be able to view before choosing to enroll in the Optional Training Course. Such fees shall be paid by you prior to accessing and/or utilizing the Optional Course.

- 13.2. If you have purchased an Optional Training and have already accessed and/or viewed and/or utilized such Optional Training or any part thereof, you shall have no right to cancel your order.
- 13.3. Any purchase by you of an Optional Training must be purchased and selected for your own account and benefit, are offered for your own use, and may not be offered to any third party without Myndlift's prior written consent.
- 13.4. The Optional Training does not constitute medical advice and is provided for informative purposes only.
- 13.5. We shall be able to terminate your purchase of an Optional Training with immediate effect, in the event that you (i) fail to pay fees applicable to the Optional Training when due; (ii) act in an aggressive, offensive, threatening or harassing manner towards Myndlift's employees and/or representatives who provide the Optional Training; or (iii) if you are in breach of these terms and conditions.
- 13.6. As between you and Myndlift, all intellectual property rights in the Optional Training course materials and contents, are and remain, the intellectual property of Myndlift and/or its licensors. You are not and shall not be authorized to (i) copy, modify, reproduce, re-publish, sub-license, sell, upload, post, transmit or distribute any of the materials contained in an Optional Training acquired by you without our prior written consent; (ii) record on video or audio or other means, the Optional Training, (iii) use the Optional Training in providing any training provided by you or a third party; (iv) remove any copyright or other notice of Myndlift on the materials contained in the Optional Training.

#### 14. **RELATIONSHIP BETWEEN THE PARTIES:**

The relationship between Customer and Myndlift shall be that of independent contracting parties. Nothing herein shall be construed to create the relationship of principal and agent or any other relationship other than as explicitly specified herein. It is hereby clarified that Myndlift shall have the right to engage any subcontractors for the execution of its obligations under these Terms at its sole discretion.

#### 15. **CHANGES:**

Myndlift may, at any time and without prior notice, change the layout, design, scope, features or availability of the Service. **Myndlift may revise these Terms, in whole or in part, at any time by**

**putting You on notice of the amended Terms. Your continued use of the Service after the effective date of the amended Terms constitutes Customer's consent to the amended Terms.**

12. **GENERAL:**

The substantive laws of the State of New York will govern the interpretation and enforcement of these Terms, without regard to its choice of law rules. The parties consent to the jurisdiction of the federal and state courts in New York County, New York over any action to enforce these Terms. However, in case of disputes, Myndlift reserves the right to initiate proceedings against Customer in the competent court at the Customer's place of residence. No rights of Customer under these Terms may be assigned or otherwise transferred by Customer, in whole or in part, without the express written consent of Myndlift. Myndlift may assign any rights in, or delegate any obligations in, or subcontract, the Terms or any portion thereof without Customer's consent and to any successors in a merger, acquisition or reorganization. If any provision of these Terms is held to be invalid or unenforceable for any reason, such determination shall not affect the validity or enforceability of any or all of the remaining portions hereof. Failure of either party to insist upon strict performance of any of the terms or conditions hereof, or delay in exercising any remedy, shall not constitute a waiver of such terms and conditions nor shall it constitute a waiver of any default or remedy hereunder. No third party is an intended third-party beneficiary of any of Myndlift's obligations under these Terms. These Terms (and the Subscription Form) are a complete and exclusive statement of the agreement and understanding between the parties regarding the subject matter hereof and supersede and replace all prior or contemporaneous agreements or understanding whether written or oral. Nothing herein is intended to or shall operate to create a partnership between the parties, or authorize Customer to act as agent for Myndlift, and Customer may not act in the name of Myndlift or on its behalf or bind it in any way. No default shall be caused by Myndlift and Myndlift shall not be responsible to Customer or any third party for any loss, damages, or penalty resulting from any delay or failure to perform the obligations of Myndlift hereunder that are due to any cause beyond Myndlift's control, including but not limited to act of God, flood, war, riot, fire, accident, explosion, flood, sabotage, inability to obtain fuel, power, raw materials or parts, embargo, strikes or labor trouble, delay or default by subcontractor or Myndlift of materials or services, the existence of any circumstance making performance commercially impracticable or any other cause beyond Myndlift's reasonable control.





## Appendix A

### MYNDLIFT LIMITED PRODUCT WARRANTY

The following limited warranty is provided by Myndlift Ltd. (“**Myndlift**”) to \_\_\_\_\_ (the “**Customer**”) in connection with the purchase of the Myndlift product which may be comprised of Hardware Components pursuant to the Terms and Conditions (“**Terms & Conditions**”) to which this Warranty is attached (the “**Product**”). Capitalized terms used herein but not defined shall have the meaning provided to them in the Terms & Conditions. This warranty is not assignable by the Customer. For the purpose of this Warranty, the "Hardware Components" shall have the meaning set forth in the Terms & Conditions.

1. Warranty Description. Myndlift warrants to the Customer that:

1.1 Under normal use and service, the electrodes constituting part of the Hardware Components supplied to Customer with the Product (the “**Hardware Under Warranty**”) shall be free from defects in material, and workmanship and shall substantially perform in accordance with Myndlift’s Documentation and Tutorials, describing the use, features and operation of the Platform and/or Technical Services, in all material respects, for a warranty period of twelve (12) months from the date of delivery to Customer, except to the extent a longer period is required under applicable law (the “**Warranty Period**”).

1.2 During the Warranty Period, Myndlift shall repair or replace at its option and expense any Hardware Under Warranty which fails to comply with the Warranty specified above in Section 1.1 and timely returned to Myndlift’s premises at Customer’s expense. Customer must request a Return Material Authorization and receive an RMA number and shipping instructions from Myndlift prior to returning the defective Hardware Under Warranty under this warranty. Return of the repaired or replaced Hardware Under Warranty to Customer’s original destination shall be at the expense of Myndlift, unless Myndlift determines that the respective Hardware Under Warranty is not defective within the terms and scope of this Warranty, in which event Customer shall reimburse Myndlift its reasonable transportation (shipping and handling) costs, prior to delivery of any Hardware Under Warranty suspected of failing to comply with the warranty set forth in Section 1.1 above. Notwithstanding the above, the final determination whether the respective Hardware Under Warranty is defective shall be made by Myndlift, based on tests provided at Myndlift’s facilities.

2. Limitation on Warranties. Warranties and Customer’s remedies hereunder are solely for the benefit of Customer and shall not be extended to any person whatsoever. Customer shall be solely responsible for the selection, use, efficiency and suitability of the Product, including, without limitation, the Product under Warranty. This Warranty shall not apply to any Hardware Under Warranty or related items in the event that Myndlift determines after testing and examination that the alleged defect or nonconformity does not exist or, that:

(i) have been used with accessories other than the accessories provided by Myndlift with the Product;

(ii) have been damaged by improper operation, maintenance, misuse, accident, neglect, fire, lightning, or other peril, failure to continually provide a suitable operating environment, or from any other cause beyond Myndlift’s reasonable control, including Force Majeure event (as described in the Terms and Conditions);

(iii) have been used in a manner not in accordance with the instructions supplied by Myndlift, including,

without limitation, under the Terms and Conditions;

(iv) have been subject to the opening of any sealed components without Myndlift prior written approval;

(v) have had changes made by Customer or Customer's representatives to the physical, mechanical or interconnection components of the Product and/or the Hardware Under Warranty supplied by Myndlift without written authorization of Myndlift to do so; or

(vi) have been repaired or otherwise altered by anyone not under the control of, or not having the written authorization of Myndlift to do such repair or alteration.

3. This warranty is for the Hardware Under Warranty only and does not cover any software and/or service and/or hardware made available, shipped, or distributed by Myndlift to Customer, even if such are used with the Hardware Components.

4. THE WARRANTIES PROVIDED IN THIS WARRANTY DOCUMENT CONSTITUTE MYNDLIFT'S SOLE AND EXCLUSIVE LIABILITY FOR DEFECTIVE OR NONCONFORMING HARDWARE UNDER WARRANTY AND SHALL CONSTITUTE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR DEFECTIVE OR NONCONFORMING HARDWARE UNDER WARRANTY. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON THE PART OF MYNDLIFT FOR DAMAGES.

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