

## 1.1. Terms of Service

Welcome to Myndlift, an online at-home neurofeedback brain training system (the “**Service**”). The Service is owned and operated by Myndlift Ltd. (“**Myndlift**”, “**we**”, “**us**”).

The Service is available through a Myndlift provider or through our Remote Training program.

THESE TERMS OF SERVICE ONLY APPLY TO USE OF THE SERVICE THROUGH OUR REMOTE TRAINING PROGRAM.

## 2. DEFINITIONS:

**User** – an Individual who registers to use the Service.

**Application** – a mobile application that records and processes data, including but not limited to behavioral, electroencephalography (EEG) and neurofeedback-related data.

**Muse Headband** – a device or system of devices developed by or on behalf of InteraXon Inc. (“**InteraXon**”), a third-party supplier of Myndlift, intended to be used with the Service including sensors that monitor EEG and other data.

**Hardware Components** – the applicable hardware products supplied by Myndlift with which the Service is designed to run, and includes, among other items: Myndlift electrode, Muse Headband, or any other related accessories supplied by Myndlift.

**User Data** – information associated with a User recorded or generated by the Application, including but not limited to behavioral, EEG and neurofeedback-related data.

**Output Data** – reports, analytics, and other types of information that the Service may generate or provide to a User, based upon or incorporating User Data.

**Data** – User Data and Output Data, collectively.

## 3. THE SERVICE:

To use the Service, you must sign up through our website at [www.myndlift.com](http://www.myndlift.com) (the “**Website**”). After you sign up for the Service, we will send you the Hardware Components, provide you with access to the Application and assign you a neuro-coach.

## 4. ASSIGNMENT OF NEURO-COACH

4.1. After you sign up for the Service, we will assign you a remote neuro-coach who will guide, assist you with, and supervise your use of the Service.

- 4.2. You may communicate with your neuro-coach through video conference/virtual meeting, telephone, and email.
- 4.3. THE NEURO-COACH DOES NOT PROVIDE PROFESSIONAL MEDICAL CARE, DIAGNOSIS OR ADVICE AND SHOULD NOT BE REGARDED AS PROVIDING SUCH SERVICES. THE NEUROCOACH PROVIDES INSTRUCTIONAL AND INFORMATIONAL SERVICES ONLY.

#### **5. DELIVERY OF HARDWARE:**

- 5.1. After you sign up for the Service, we will send the Hardware Components to the address you provided during registration.
- 5.2. We will make reasonable efforts to deliver the Hardware Components as quickly as possible. Notwithstanding the foregoing, it is clarified that in the event that the Hardware Components are not delivered to you within 60 days from the date of shipment and that following due inquiry by you (to Myndlift's satisfaction), it is determined that the Hardware Components are not being detained by the relevant customs authority, Myndlift may consider the Hardware Components lost and as sole remedy to you, Myndlift will ship additional Hardware Components (of the same type and specifications in the original order) without bearing any additional liability to you.
- 5.3. Any stated delivery dates are approximate, and notwithstanding the aforesaid, Myndlift shall not be liable to you 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 these Terms on the part of Myndlift and shall not be cause for termination of these Terms.
- 5.4. Hardware Components will be delivered to the address designated by you. Myndlift cannot accept changes and/or alterations to the delivery address once it begins processing the shipment of the Hardware Components. It is your responsibility to accurately enter the delivery address when you sign up for the Service, and Myndlift will not be responsible for any failure to deliver the Hardware Components due to an inaccuracy in your delivery address. Liability for the Hardware Components becomes yours on delivery of the Hardware Components to the shipping address. For purposes of our 30-day money-back guarantee (Section 10.7), the 30-day count begins on delivery of the Hardware Components to the shipping address.

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

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

- 6.1. During the Subscription Period, Myndlift will provide technical support for technical problems and inquiries regarding the Application during Myndlift's business days and hours, and pursuant to the support scheme, hours and channels available with the User's subscription.
- 6.2. Support for Hardware Components will be provided for a period of sixty (60) days from the date the Hardware Components are shipped to User, 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's then applicable payment plan.
- 6.3. Myndlift will attempt to respond to User's technical problems and inquiries within a reasonable time. However, Myndlift –
  - 6.3.1. May decline to provide such support for matters that Myndlift deems, at its discretion, to require unreasonable time, effort, expense or other cost;
  - 6.3.2. Makes no guarantees of any specific response time or to the successful or satisfactory resolution of the question, problem or inquiry.
- 6.4. For the purpose of the provision of technical support for User's technical problems and inquiries, User will cooperate, and work closely with Myndlift, to reproduce malfunctions, including conducting diagnostic or troubleshooting activities, as Myndlift reasonably requests. User agrees to cooperate and perform such requested modifications.
- 6.5. 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 SERVICE, 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 USER FOLLOWING ITS EXECUTION OF A SUBSCRIPTION. WITHOUT DEROGATING FROM THE TERMS OF THE WARRANTY PROVIDED FOR THE HARDWARE UNDER WARRANTY PURSUANT TO THIS SECTION (6.5), MYNDLIFT WILL BE UNDER NO OBLIGATION TO REPAIR OR REPLACE THE PRODUCT UNDER WARRANTY TO THE EXTENT: (I) USER 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 USER, ANY THIRD PARTY, OR ANY GOOD OR SERVICE OF A THIRD PARTY.

For the avoidance of doubt, Myndlift provides no warranty on 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 User 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 User shall comply at all times with the terms of the InteraXon Warranty as specified in the warranty certificate provided to User, 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**”), you hereby acknowledge and understand that the InteraXon Software, user information, user interface, support, communication and agreement, are only provided in certain languages. Do not use the Muse Headband or other InteraXon products, unless you can fluently read and understand one of the available languages. Myndlift is not and shall not be responsible or liable for any loss or damage of any sort incurred by 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 User. User acknowledges and understands that notwithstanding anything herein, under the warranty certificate provided for the Product Under Warranty pursuant to this section (6.5), 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 compromise 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.

- 6.6. 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 that is installed, used or operated in a way other than in accordance with Myndlift's documentation and Tutorials; (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 that 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 Myndlift's documentation and Tutorials.

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

- 7.1. You may use the Service only for your private and personal purposes, and in accordance with these Terms, and any other rules and instructions that Myndlift may convey with respect to the Service.
- 7.2. The Service is available to individuals who are age 13 or over. If you are under the age of 13, you may not use the Service.

## **8. RESTRICTIONS:**

- 8.1. You 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.

- 8.2. You 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.
- 8.3. You may not perform or attempt to perform any of the following in connection with the Service:
  - 8.3.1. Breaching the security of the Service, identifying, probing or scanning any security vulnerabilities in the Service.
  - 8.3.2. Accessing data not intended for you.
  - 8.3.3. Interfering with, circumventing, manipulating, overloading, impairing or disrupting the operation, or the functionality of the Service.
  - 8.3.4. Working around any technical limitations in the Service.
  - 8.3.5. Using any tool to enable features or functionalities that are otherwise disabled, inaccessible or undocumented in the Service.
- 8.4. You 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.

## **9. YOUR PRIVACY:**

We respect your privacy. Our [Privacy Notice](#) explains our privacy practices. We encourage you to read it carefully.

## **10. PAYMENT:**

- 10.1. All amounts due to Myndlift in connection with the purchase of the Hardware Components and/or subscribing to the Service must be paid pursuant to the applicable plan as selected by User upon subscribing to the Service, and according to the payment terms specified below. Plans may include a one-time payment, or a recurring payment billed monthly, quarterly, biannually or annually. Myndlift may periodically change the available plans, including adding or discontinuing a plan, or adjusting the billing intervals for recurring payment plans.
- 10.2. User will pay Myndlift the Subscription Fees and any additional applicable fees related to the Service and the Hardware Components in accordance with this section (10). Upon initially subscribing to the service, User will be invoiced and charged the applicable Subscription Fees and any additional fees related to the Service and the Hardware Components. For recurring payment plans, Myndlift will invoice User for the Subscription

Fees in advance of each billing period (e.g., monthly plan: monthly in advance of each month).

- 10.3. Myndlift reserves the right to change the Subscription Fees and any additional applicable fees related to the Service. In the event of renewal of User's subscription to the Service, User shall be bound by the Subscription Fees in effect on the last day of the expiring term (e.g., monthly plan: month).
- 10.4. Payment shall be made in full in US Dollars by credit card. Payment by credit card may be subject to an additional fee.
- 10.5. 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. User agrees to pay all such charges, unless, in the case of taxes, User has provided Myndlift with a release or other exemption certificate in the appropriate form (satisfactory to Myndlift) for the jurisdiction in which User'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 User will immediately reimburse and hold Myndlift harmless for any such additional taxes.
- 10.6. If Myndlift has not received payment for any invoices by their respective due dates, and without prejudice to any other rights and remedies of Myndlift, Myndlift may, without liability to User, disable User's account and access to the Service, and Myndlift will be under no obligation to provide any or all of the Service while the invoice(s) concerned remain unpaid.
- 10.7. After initially subscribing to the Service under a one-time payment plan (if available) and within 30 days of User's receipt of the Hardware (see Section 5.4), if the User is unsatisfied for any reason, Myndlift will issue a full refund for the Subscription Fee and any additional fees paid by the User and received by Myndlift related to the Service and the Hardware Components.

#### **11. ASSEMBLY AND INSTALLATION:**

The assembly and installation of the Hardware Components purchased by the User shall be performed by the User in accordance with Myndlift's assembly and installation instructions as specified in the video tutorials ("**Tutorials**") available in the Application and on the Myndlift website, and at User'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 User is assembling or installing the Hardware Components. The foregoing shall not apply to damages arising from a cause directly attributable to Myndlift.

#### **12. REVOCATION:**

Subject to applicable law, after initially subscribing to the Service, User shall have the right to give notice to Myndlift of revocation of these Terms within thirty (30) calendar days from the date on which the Hardware Components are delivered to User, it being clearly agreed that the right of revocation does not apply to Hardware Components that 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 User. Myndlift shall have the right to deny a refund until User has returned the Hardware Components to Myndlift or until User has provided Myndlift with evidence satisfactory to Myndlift (e.g., tracking information for registered mail) that s/he has sent the Hardware Components to Myndlift, whichever is earlier. User shall return the Hardware Components immediately, but in any case, in no later than fourteen (14) calendar days from the date on which User notifies Myndlift of the revocation of the Terms. All direct costs of returning the Hardware Components shall be borne by User. User shall be responsible for handling, assembling and installing the Hardware Components with due care and shall be liable for damage caused by User. It is hereby clarified that Myndlift shall have the right to claim damages for returned Hardware Components that were used or damaged in any way by User. User will be required to compensate Myndlift for a loss in value of any returned Hardware Components if this loss in value can be attributed to misuse by User. To this end, Myndlift expressly reserves the right to deduct all damages/losses in value from amounts that Myndlift is required to reimburse to User as set forth above (setoff).

#### **13. DISCLAIMER OF WARRANTY:**

13.1. 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.

13.2. If Myndlift receives notice of any failure or malfunction of the Service, or if Myndlift becomes aware of such independently, Myndlift will attempt to correct it as soon as practicable. However, such incidents will not be considered a breach of these Terms.

13.3. THE SERVICE DOES NOT CONSTITUTE A SUBSTITUTE FOR PROFESSIONAL MEDICAL CARE, DIAGNOSIS OR ADVICE, AND SHOULD NOT BE REGARDED AS SUCH. THE SERVICE IS



INTENDED FOR INFORMATIONAL PURPOSES ONLY. USER AGREES AND ACKNOWLEDGES THAT USE OF THE SERVICE IS ENTIRELY, OR AT THE MAXIMUM PERMITTED BY APPLICABLE LAW, AT HIS/HER OWN RISK.

- 13.4. EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS, THE SERVICE IS PROVIDED TO USER "AS IS". MYNDLIFT DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICE, HARDWARE COMPONENTS, ITS FEATURES OR ITS CONTENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, NON-INFRINGEMENT, TITLE, SECURITY, COMPATIBILITY OR PERFORMANCE.

**14. LIMITATION OF LIABILITY:**

- 14.1. 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, ITS FEATURES, OR THE OUTPUT DATA, ANY RELIANCE UPON THE DATA OR THE SERVICE, OR ANY ERROR, INCOMPLETENESS, INCORRECTNESS OR INACCURACY OF THE SERVICE, ITS FEATURES, OR THE DATA.

- 14.2. 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 FROM OR RELATED TO THESE TERMS, THE SERVICE OR THE DATA, SHALL BE LIMITED TO THE FEES USER HAS ACTUALLY PAID MYNDLIFT IN THE TWELVE MONTHS PRECEDING THE EVENT PURPORTEDLY GIVING RISE TO THE CLAIM.

**15. INDEMNIFICATION:**

To the maximum extent permitted by law, you will indemnify and hold harmless at your own expense, Myndlift, our employees and anyone acting on our behalf, from and against any

damages, costs and expenses resulting from any claim, allegation or demand, connected with your use of the Service, your breach of these Terms or infringement of any other person's rights.

#### **16. 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. We will notify you of the amended Terms. Your continued use of the Service after the effective date of the amended Terms constitutes your consent to the amended Terms.

#### **17. INTELLECTUAL PROPERTY:**

17.1. All rights, title and interest in and to the Service, including without limitation, patents, copyrights, trademarks, trade names, service marks, trade secrets and other intellectual property rights and any goodwill associated therewith, but excluding any content that originates from Users, are the exclusive property of Myndlift and its licensors.

17.2. You may not copy, reverse engineer, modify or create works derived from the Service's intellectual property, in any way or by any means.

#### **18. APPLICATION MARKETPLACE:**

The following terms apply if you downloaded the Myndlift Application from Apple's App Store. You and we agree and acknowledge as follows:

These Terms are concluded between yourself and Myndlift, and not with Apple Inc. ("**Apple**"). Apple is not responsible for the Application. In the event of a conflict between these Terms and the Usage Rules set forth for Licensed Applications (as defined in the App Store Terms of Service) or the App Store Terms of Service as of the Effective Date (i.e., the date you indicated your agreement to be bound by these Terms, by clicking the appropriate button), the Usage Rules or the App Store Terms of Service will prevail. If any provision of these Terms is less restrictive than the corresponding provision of the Usage Rules or the App Store Terms of Service, the Usage Rules or the App Store Terms of Service will prevail.

You may use the Application on an iPhone or an iPad that you own or control. Apple has no obligation whatsoever to furnish maintenance and support services with respect to the Application.

Apple is not responsible for addressing any claims by you or any third party relating to the Application or your possession and/or use of the Application, including (i) product liability claims, (ii) any claim that the Application fails to conform to any applicable legal or regulatory requirement, and (iii) claims arising under consumer protection or similar legislation.

In the event of any third-party claim that the Application or your possession and use of the Application infringes upon a third party's IP Rights, Apple will not be responsible for the investigation, defense, settlement and discharge of any such infringement claim.

Apple and Apple's subsidiaries are third party beneficiaries of these Terms. Upon Your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary thereof. You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) You are not listed on any U.S. Government list of prohibited or restricted parties.

If you downloaded the Application from a different application marketplace, other third parties may be beneficiaries of these Terms, pursuant to those marketplace's terms. Such other third parties are not responsible for providing maintenance and support services with respect to the Application.

#### **19. GOVERNING LAW & JURISDICTION:**

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 User in a competent court at the User's place of residence.

#### **20. GENERAL:**

- 20.1. **Assignment.** You may not assign or transfer your rights and obligations under these Terms without Myndlift's prior written consent. Any attempted or actual assignment by you, without Myndlift's prior written consent, shall be null and void.
- 20.2. **Changes in ownership.** In the event of mergers and acquisitions (M&A), Myndlift may, upon notice to you and without obtaining your consent, assign and delegate these Terms, including all our rights, performances, duties, liabilities and obligations contained herein, to a third party.
- 20.3. **Severability.** If any provision of these Terms is held to be illegal, invalid, or unenforceable by a competent court, then the provision shall be performed and enforced to the maximum extent permitted by law to reflect as closely as possible, the original intention of that provision, and the remaining provisions of these Terms shall continue to remain in full force and effect.

- 20.4. **Interpretation.** The section headings in these Terms are included for convenience only and shall have no part in the interpretation or construing of these Terms. Whenever used in these Terms, the term "including", whether capitalized or not, means without limitation to the preceding phrase, even if such is not expressly specified. All examples and are illustrative, not exhaustive.
- 20.5. **Entire agreement.** These Terms constitute the entire agreement between you and Myndlift concerning the subject matter herein and supersede all prior and contemporaneous negotiations and oral representations, agreements and statements.
- 20.6. **Waivers.** No waiver, concession, extension, representation, alteration, addition or derogation from these Terms by Myndlift, or pursuant to these Terms, will be effective unless consented to explicitly and executed in writing by our authorized representative. Failure on our part to demand performance of any provision in these Terms shall not constitute a waiver of any of our rights under these Terms.
- 20.7. **Relationship.** These Terms do not create any agency, partnership, employment or fiduciary relationship between you and Myndlift.

#### **CONTACT US**

At any time, you may contact us with any question, request, comment or complaint with respect to the Service or these Terms at [hello@myndlift.com](mailto:hello@myndlift.com).

**Last Update: April 22, 2020**

## Appendix A

### MYNDLIFT LIMITED PRODUCT WARRANTY

The following limited warranty is provided by Myndlift Ltd. ("**Myndlift**") to \_\_\_\_\_ (the "**User**") in connection with the purchase of a Myndlift product which may be comprised of Hardware Components pursuant to the Terms of Service ("**Terms of Service**") 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 of Service. This warranty is not assignable by the User. For the purpose of this Warranty, the "Hardware Components" shall have the meaning set forth in the Terms of Service.

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

1.1 Under normal use and service, the electrodes constituting part of the Hardware Components supplied to User 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 Service, in all material respects, for a warranty period of twelve (12) months from the date of delivery to User, 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 User's expense. User 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 User'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 User 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 User's remedies hereunder are solely for the benefit of User and shall not be extended to any person whatsoever. User 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 such:

(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, accident, 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 of Service);

(iii) have been used in a manner not in accordance with the instructions supplied by Myndlift, including, without limitation, under the Terms of Service;

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

(v) have had changes made by User or User'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 User, 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 USER'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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