

## Practitioner Terms and Conditions

The following terms and conditions (the "**Terms**") are a binding agreement between Myndlift Ltd., an Israeli company, having its principal place of business at 150 Menachem Begin Rd., Tel Aviv, Israel ("**Myndlift**"), and the practitioner identified on the applicable Subscription Form (defined below ("**Practitioner**", "**you**", or "**your**"). Your enrollment in a subscription to the Service through the applicable Subscription Form constitutes your full acceptance of the Terms.

### 1. **DEFINITIONS:**

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

"**End User**" means an individual client of the Practitioner whose personal and health information is fed by the Practitioner into the Platform (among other methods by which information is collected).

"**End User Mobile Application**" shall mean a mobile application operated by Myndlift and made available to End User to use, offering features and functions such as recording and processing electroencephalography and neurofeedback data of the End User.

"**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 Myndlift, intended to be used with the Service, and includes sensors that monitor EEG biodata and other data.

"**Hardware Components**" mean the applicable hardware products supplied by Myndlift with which the 'Neurofeedback' aspect of the Service (where relevant) is designed to run, and includes, among others: Myndlift electrode and Muse Headband, or any other related accessories supplied by Myndlift.

"**End User Data**" means 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 Myndlift's [Privacy Notice for End Users](#).

"**Practitioner Data**" means the personal information of a Practitioner collected through the Platform and in connection with the Services, as detailed in Myndlift's [Privacy Notice for Practitioners](#).

"**Output Data**" means reports, analytics, and other types of information and data that the Service may generate, provide or make available to Practitioner or End User.

"**Data**" means End User Data, Practitioner Data and Output Data, collectively.

The **“Subscription Form”** means the online Subscription Form or any other online forms for Service add-ons’, filled out and submitted by the Practitioner and confirmed by Myndlift, which details the User Subscription package, add-ons (as relevant), and applicable pricing. The Subscription Form constitutes an integral part of these Terms.

The **“Platform”** means Myndlift’s proprietary Practitioner’s platform through which Myndlift offers the Service.

The **“Service”** means the neurofeedback training, content resources, services, products, and other digital tools offered by Myndlift from time to time and requested by the Practitioner pursuant to the Subscription Form, such as, by way of example, neurofeedback, Optional Training, Hardware Components, Muse Headband, brain assessments, and symptom tracking, mental wellness resources, lessons, and exercises.

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

The **“User Subscription(s)”** shall mean the user subscription or add-on package(s) purchased by Practitioner in accordance with these Terms, including any quotas, package specifications or time or metric limits or measurements applicable to the subscription package or add-on which are presented to the Practitioner in the Subscription Form.

**"Subscription Period"** shall mean the period set forth in Practitioner's User Subscription.

**“Optional Training”** shall mean any online course and remote consulting sessions provided via teleconference or videoconference by Myndlift to Practitioners (whether in a one a one-on-one format or a group format) which covers matters such as how to develop a neurofeedback practice and how to use the Myndlift Service.

## 2. **SCOPE:**

2.1. By submitting a Subscription Form, the Practitioner purchases the selected User Subscription. By completing a Subscription Form, Practitioner acknowledges that it has reviewed the Subscription Fees and other specifics of the User Subscription that Practitioner has selected pursuant to the Subscription Form and agrees that the use of the Platform and the Service is subject to those Subscription Fees and other specifics of the User Subscription selected.

- 2.2. No terms or conditions contained in any order form submitted by the Practitioner that varies from, add to, or conflicts with any of these Terms or the User Subscriptions shall be binding unless it is expressly accepted in writing by Myndlift's authorized representative(s). However, past versions of terms and conditions that the Practitioner and Myndlift have agreed to (including applicable fees agreed to) will remain in force and effect until their expiration or termination in accordance with their own terms.
  - 2.3. Myndlift reserves the right to seek the Practitioner's consent to the modification of these Terms at any time, and such modifications shall become effective as soon as the newly modified Terms are accepted by the Practitioner, it being agreed that Practitioner's continued use of the Platform or the Service after Myndlift has notified it of the modified Terms constitute the Practitioner's acceptance of the modified Terms. Myndlift will not adversely change these Terms during the course of a User Subscription cycle for which the Practitioner has prepaid the Subscription Fees. The modified Terms shall automatically apply to each User Subscription or renewal thereof executed or subscribed to after the modified Terms become effective.
3. **DELIVERY OF HARDWARE:**
  - 3.1. Myndlift shall endeavor to deliver the Hardware Components within the time period agreed with the Practitioner. Notwithstanding the foregoing, it is clarified that the delivery time provided to each Practitioner is only an estimated time of arrival. If the Hardware Components are not delivered to the Practitioner within 30 days from the date of shipment, or if they are delivered in defective form and thus rejected by the recipient, then following a satisfactory inquiry by the Practitioner to determine that the Hardware Components are not detained by the relevant customs authority or that they are in fact defective, Myndlift, in its discretion, will consider the Hardware Components lost (or defective) and as sole remedy to the Practitioner, Myndlift will ship to the Practitioner replacement Hardware Components (of the same type and specifications as in the original order, to the extent practicable).
  - 3.2. Any stated delivery dates are approximate, and notwithstanding the aforesaid, Myndlift shall not be liable to the Practitioner 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 Myndlift and shall not be cause for termination of these Terms.
  - 3.3. Hardware Components will be delivered to the address designated by the Practitioner and specified in the Subscription Form. Myndlift cannot accept changes and/or alterations to the delivery address once it begins processing the shipment of the Hardware Components. It is the

Practitioner's responsibility to accurately fill in the delivery address in the Subscription Form, and Myndlift 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 Practitioner on delivery of the Hardware Components to the shipping address entered in the Subscription Form. Title in the Hardware Components will pass to the Practitioner upon receipt of full payment by Myndlift for such Hardware Components.

- 3.4. All Hardware Components will be accepted subject to inspection by the designated recipient entered in the Subscription Form within a reasonable time after delivery. Absent notice by Practitioner within three (3) calendar days, the Hardware Components shall be deemed to be accepted by Practitioner. Hardware Components delivered in a defective form will be replaced by Myndlift if Myndlift is timely notified and following an inquiry by Myndlift in which it has determined that the Hardware Components were in fact delivered in defective form.
- 3.5. The designated recipient entered in the Subscription Form must use and handle the Hardware Components carefully and strictly in accordance with the instructions conveyed by Myndlift. The designated recipient entered in the Subscription Form 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 Service(s), Platform and End User's Mobile Application, during Myndlift's business days and hours (excluding federal or state holidays in the United States), and pursuant to the support scheme, hours and channels separately conveyed to Practitioner.
- 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 the address designated by the Practitioner and specified in the Subscription Form, which period may be extended at Myndlift's sole discretion ("**Free Technical Support**"). If further maintenance and support are made available by Myndlift to subscribers of Myndlift's maintenance plan (when and if available; together with the Free Technical Support, these are the "**Technical Services**"), it is subject to further payments to be determined based on Myndlift's then-applicable payment plans.

- 4.3. Myndliff will attempt to respond to the Practitioner’s technical questions, problems, and inquiries within a reasonable time. However, Myndliff –
- 4.3.1. May decline to provide such support for matters that Myndliff 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 the Practitioner’s technical questions, problems, and inquiries, the Practitioner will cooperate, and work closely with Myndliff, to reproduce malfunctions, including conducting diagnostic or troubleshooting activities, as Myndliff reasonably requests. The Practitioner agrees to cooperate and perform such requested modifications.
- 4.5. MYNDLIFT 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), PURSUANT TO THE TERMS OF THE LIMITED PRODUCT WARRANTY INCORPORATED HEREIN AS **APPENDIX A**. WITHOUT DEROGATING FROM THE TERMS OF THE WARRANTY PROVIDED FOR THE HARDWARE UNDER WARRANTY PURSUANT TO THIS SECTION 4.5, MYNDLIFT IS UNDER NO OBLIGATION TO REPAIR OR REPLACE THE PRODUCT UNDER WARRANTY TO THE EXTENT: (I) THE PRACTITIONER 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 THE PRACTITIONER AND/OR END USER, ANY THIRD PARTY, OR ANY GOOD OR SERVICE OF A THIRD PARTY.

For the avoidance of doubt, Myndliff provides no warranty for other components of the Hardware Components (i.e., including, without limitation, the Muse Headband), which shall only be subject to the warranty provided by their manufacturers (if any). Myndliff will assign to Practitioner (or the recipient designated by the Practitioner and specified in the Subscription Form) 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 Practitioner (or the recipient designated by the Practitioner and specified in the Subscription Form) at all times complies with the terms of the InteraXon Warranty as specified in the terms of the

warranty set forth in the following link: <https://choosemuse.com/legal> (under the section titled "Limited Warranty For The Muse Headband"). 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 the Practitioner hereby acknowledges 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 User s to use the Muse Headband or other InteraXon products, unless you and your End User s 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 of kind incurred by the Practitioner 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 the End User and/or Practitioner. The Practitioner acknowledges and understands that notwithstanding anything herein, under the warranty provided pursuant to Section 4.5, or the InteraXon Warranty, the Hardware Components, including, without limitation, the Muse Headband, must 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 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 or Myndlift;
  - (vi) the combination of any Hardware Components with equipment or software not authorized or provided by Myndlift or otherwise approved it in the Documentation.

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

- 5.1.** Subject to these Terms and Practitioner's payment of the applicable Fees, The Practitioner may, during the Subscription Period, access and use the Service pursuant to the User Subscription, strictly for Practitioner's own business purposes, including the purpose of attending and providing services to End User s. If Practitioner has a past billing arrangement previously agreed with Myndlift, that arrangement shall continue to apply for the period previously agreed with Myndlift.
- 5.2.** Before ordering the Hardware Components, the Practitioner shall check <https://intercom.help/dashboard-myndlift/en/articles/2431831-supported-and-unsupported-devices> to determine whether the End User Mobile Application is designed to work with the smartphone, tablet, or other third party equipment of the intended End User (s) of the Practitioner. Myndlift assumes no responsibility with regard to the performance or use of End User's smartphone, tablet, or other third-party equipment with the Hardware Component.
- 5.3.** The Practitioner must ensure that the Practitioner's Authorized Users designated to use the Service and access the Platform for the Practitioner's benefit fully comply with these Terms. The Practitioner shall be liable to Myndlift for all acts or omissions of those that use and deal with the Service for the Practitioner's benefit, as though the Practitioner itself had performed those acts or omissions.
- 5.4.** The Practitioner shall use the Service in accordance with these Terms.
- 5.5.** The Practitioner acknowledges and understands, that the Service, user information, user interface, support, communication, and agreement, are only provided in certain languages. The Practitioner shall not use and shall not allow the End Users to use the Service or any of the Hardware Components unless the Practitioner and the Practitioner's End Users can fluently read and understand one of the available languages.

## **6. DATA:**

- 6.1.** Myndlift will collect and process End User Data. The Practitioner acknowledges and agrees that End User Data may include personal data, personally identifiable information, and protected health information, therefore –
  - 6.1.1** Where Practitioner is a Covered Entity under the rules of the U.S. federal Health Insurance Portability and Accountability Act (HIPAA), then Myndlift is Business Associate

under HIPAA, and the parties are bound by the Business Associate Agreement appended to these Terms as Appendix B (it being agreed that the Business Associate Agreement shall control and prevail in case of any inconsistency between it and the other parts of the Terms).

6.1.2 Where Practitioner is not a Covered Entity under the rules of the U.S. federal Health Insurance Portability and Accountability Act (HIPAA), then the following provisions of this subsection 6.1.2 apply. 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 User](#). Myndlift will dedicate commercially reasonable efforts and 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 [Practitioners](#). Myndlift's personnel will access Data on a strict 'need to know' basis, subject to these Terms.

**6.1.** The Practitioner 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 the Practitioner's reliance upon, or use of, the Data, the Practitioner's actions or omissions in connection with the Data, or any consequences resulting therefrom.

**6.2.** The Practitioner agrees to defend, indemnify and hold harmless Myndlift and its directors, officers, employees, and subcontractors, from, and against, any damages, loss, costs, expenses, and payments, including reasonable attorney's fees and legal expenses, arising from any complaint, claim, plea, or demand from an End User or a similar third-party to the extent it is based on the Practitioner's breach of these Terms or violation of any law applicable to the Practitioner.

**6.3.** Myndlift will promptly notify the Practitioner in writing of any claim for which it seeks indemnification hereunder; provided that the failure to provide such notice shall not relieve the Practitioner of its indemnification obligations hereunder except to the extent of any material prejudice directly resulting from such failure. The Practitioner shall bear full responsibility for, and shall have the right to solely control, the defense (including any settlements) of any such claim; provided, however, that (a) the Practitioner shall keep Myndlift informed of, and consult with Myndlift in connection with the progress of such litigation or settlement and (b) the Practitioner shall not have any right, without Myndlift's written consent (which consent shall not be unreasonably withheld), to settle any such claim in a manner that does not unconditionally release Myndlift. At the Practitioner's request, Myndlift will provide reasonable cooperation with respect to any defense or settlement.



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

- 7.1.** All Fees due to Myndlift in connection with the Service must be paid pursuant to the applicable User Subscriptions selected by Practitioner in the Subscription Form, and according to the payment and pricing terms specified therein and below.

Unless otherwise agreed by Myndlift and the Practitioner, or unless specified differently in the User Subscription, Myndlift will invoice Practitioner for the Subscription Fees in advance of each subscription cycle, it being clarified that with respect to the first Subscription cycle, the Practitioner will be invoiced and charged for the applicable Subscription Fees and, where applicable, any additional fees related to the Services and the Hardware Components upon first subscribing to the Service.

- 7.2.** To the extent indicated in the User Subscription, the User Subscription runs for the periodic subscription cycle specified for each User Subscription and automatically renews for successive periods of the same duration unless the Practitioner cancels the renewal by using the appropriate option on the Platform's dashboard on or before the last day of the subscription cycle. User Subscription may not be terminated in the course of the User Subscription's cycle, and no refund will be provided for the unused portion of a User Subscription cycle.

- 7.3.** Myndlift reserves the right to change the Subscription Fees and any additional applicable fees related to the Services by providing prior notice to the Practitioner before the end of the then-current User Subscription cycle. The updated Subscription Fees for the Service will apply as of the User Subscription cycle immediately subsequent to the one in which the notice of the change in the Subscription Fee was given.

- 7.4.** Payments are charged in the currency and amounts indicate in the User Subscription, and are payable by credit card unless otherwise agreed with Myndlift. Payment by credit card may be subject to an additional fee if indicated in the User Subscription.

- 7.5.** 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. The Practitioner agrees to pay all such charges, unless, in the case of taxes, they are subject to a release or other exemption certificate in the appropriate form for the jurisdiction in which the Practitioner'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 Practitioner will immediately reimburse and hold Myndlift harmless for any such additional taxes.

- 7.6.** 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 the Practitioner, disable the Practitioner'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.

**8. ASSEMBLY AND INSTALLATION:**

The assembly and installation of the Hardware Components shall be performed by the Practitioner or the recipient designated by the Practitioner and specified in the Subscription Form in accordance with Myndlift's assembly and installation instructions as specified in Myndlift's manual guide provided to the Practitioner or the recipient designated by the Practitioner and specified in the Subscription Form upon delivery ("**Documentation**") and in the video tutorials ("**Tutorials**") available on the Platform. Myndlift does 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 Practitioner or the recipient designated by the Practitioner and specified in the Subscription Form 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.** The Practitioner 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.** The Practitioner 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.** The Practitioner 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 the End User s 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.** The Practitioner 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 the Practitioner;
- 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 THE PRACTITIONER 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. CANCELLING HARDWARE COMPONENTS ORDERS:**

The Practitioner may cancel an order for the Hardware Components within twenty one (21) calendar days from the date on which the Hardware Components are delivered, so long as they were not mishandled in any of the manners specified below. If you wish to cancel the order, you must contact Myndlift for further instructions regarding how to return the Hardware Components, and for instructions on any additional information that Myndlift requires to process your request to return the Hardware Components. Myndlift shall have the right to suspend a refund until the Hardware Components are returned to Myndlift or until the Practitioner provided Myndlift with evidence satisfactory to Myndlift that it has sent the Hardware Components to Myndlift, whichever is earlier. Practitioner shall return the Hardware Components, or have them returned by the recipient designated by the Practitioner and specified in the Subscription Form. All direct costs of returning the Hardware Components shall be borne by the Practitioner. Myndlift may claim damages caused to returned Hardware Components which were used or damaged in any other way. The Practitioner 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 the Practitioner or the recipient designated by the Practitioner and specified in the Subscription Form. To this end, Myndlift expressly reserves the right to deduct all damages/losses in value from amounts which Myndlift is

required to reimburse to Practitioner as set forth above (set-off). Myndlift is not obligated to refund Hardware Components that Myndlift determines to be in improper condition because they –

- (i) have been mishandled with accessories other than the accessories provided by Myndlift with the Product, or have been mishandled not in accordance with the instructions supplied by Myndlift;
- (ii) have been damaged by improper operation, maintenance, misuse, accident, neglect, fire, lightning, or other peril, or failure to continually provide a suitable operating environment;
- (iii) have been subject to the opening of any sealed components without Myndlift prior written approval;
- (iv) have had changes made by someone other than Myndlift or its representatives, to the physical, mechanical or interconnection components of the Product Myndlift without written authorization of Myndlift to do so; or
- (v) 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.

#### **11. PRACTITIONER DEFAULT:**

If Practitioner is in default on any provision hereof, all of the Practitioner'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 the Practitioner's outstanding User 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 the Practitioner 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 the Practitioner's default shall not constitute a waiver, nor shall it affect the Practitioner's legal obligations hereunder.

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

- 12.1. Myndliff will endeavor to have the Service operate properly. However, as a service that relies on software, algorithms, third-party networks, and continuous internet connectivity, Myndliff 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 Myndliff receives notice of any failure or malfunction, or if Myndliff becomes aware of them independently, Myndliff 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 the Practitioner to certain information, symptoms, or brain assessments of the End User s, any Data provided to the Practitioner is for informational purposes only and does not constitute a diagnosis or treatment. The Practitioner remains responsible at all times for the diagnoses, treatment, and care of its End User s.**
- 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, THE BUSINESS ASSOCIATE AGREEMENT, ANY USE OF, OR THE INABILITY TO USE THE SERVICES AND/OR THE OPTIONAL TRAINING (IF APPLICABLE), THEIR FEATURES, OR THE OUTPUT DATA, ANY RELIANCE UPON THE DATA OR THE SERVICES OR THE OPTIONAL TRAINING'S FATURES, OR ANY ERROR, INCOMPLETENESS, INCORRECTNESS OR INACCURACY OF THE SERVICES 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 BUSINESS ASSOCIATE AGREEMENT, THE SERVICE, THE OPTIONAL TRAINING (IF APPLICABLE) OR THE DATA, SHALL BE LIMITED TO THE FEES THE PRACTITIONER 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 THE PRACTITIONER "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.** If you have purchased Optional Training and have already accessed, viewed, or utilized such Optional Training or any part thereof, you have no right to cancel your order.
- 13.2.** Any Optional Training may only be purchased and selected for your own account and benefit, are offered for your own use, and you may not offer them to any third party without Myndlift's prior written consent.
- 13.3.** The Optional Training does not constitute medical advice and is provided for informative purposes only.
- 13.4.** We may 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 toward Myndlift's employees and/or representatives who provide the Optional Training; or (iii) if you are in breach of these terms and conditions.
- 13.5.** 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 the Practitioner and Myndliff 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 Myndliff shall have the right to engage any subcontractors for the execution of its obligations under these Terms at its sole discretion.

**15. CHANGES:**

Myndliff may, at any time and without prior notice, change the layout, design, scope, features or availability of the Service but Myndliff will not adversely change the Service during a User Subscription cycle you have paid for.

**16. 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, Myndliff reserves the right to initiate proceedings against the Practitioner in any other competent court having general jurisdiction over the Practitioner.

No rights of the Practitioner under these Terms may be assigned or otherwise transferred by the Practitioner, in whole or in part, without the express written consent of Myndliff. Myndliff may assign any rights in, or delegate any obligations in, or subcontract, the Terms or any portion thereof without the Practitioner'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.

These Terms (and the User Subscription) 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 understandings whether written or oral. Nothing herein is intended to or shall operate to create a partnership between the parties, or authorize the Practitioner to act as agent for Myndliff, and the Practitioner may not act in the name of Myndliff or on its behalf or bind it in any way.

No default shall be caused by Myndlift and Myndlift shall not be responsible to the Practitioner 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' reasonable control.

## **Appendix A**

### **MYNDLIFT LIMITED PRODUCT WARRANTY**

The following limited warranty is provided by Myndlift Ltd. ("**Myndlift**") to the Practitioner, or the recipient designated by the Practitioner and specified in the Subscription Form (as applicable), in connection with the purchase of the 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 Practitioner. For the purpose of this Warranty, the "Hardware Components" shall have the meaning set forth in the Terms & Conditions.

1. **Warranty Description.** Myndlift warrants that:

1.1 Under normal use and service, the electrodes constituting part of the Hardware Components supplied to the Practitioner 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 the Practitioner or the recipient designated by the Practitioner and specified in the Subscription Form, except to the extent a longer period is required under applicable law (the "**Warranty Period**").

1.2 During the Warranty Period, Myndlift shall at its choice repair or replace any Hardware Under Warranty which fails to comply with the Warranty specified above in Section 1.1, if timely notified to Myndlift and at Myndlift's request is returned to Myndlift (pursuant to return shipping instructions provided by Myndlift) at the Practitioner's expense. Return of the repaired or replaced Hardware Under Warranty to the Practitioner'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 the Practitioner 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 determined by Myndlift.



2. Limitation on Warranties. Warranties and the Practitioner’s remedies hereunder are solely for the benefit of the Practitioner (or the recipient designated by the Practitioner and specified in the Subscription Form, if applicable) and shall not be extended to any other person whatsoever. 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:
- (vi) have been used with accessories other than the accessories provided by Myndlift with the Product;
  - (vii) 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);
  - (viii) have been used in a manner not in accordance with the instructions supplied by Myndlift, including, without limitation, under the Terms and Conditions;
  - (ix) have been subject to the opening of any sealed components without Myndlift prior written approval;
  - (x) have had changes made by someone other than Myndlift or its 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
  - (xi) 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 or service and/or hardware made available, shipped, or distributed by Myndlift to the Practitioner, 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 THE SOLE AND EXCLUSIVE REMEDY TO THE PRACTITIONER OR THE RECIPIENT DESIGNATED BY THE PRACTITIONER AND SPECIFIED IN THE SUBSCRIPTION FORM 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.

\* \* \* \*

## Appendix B

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this “**Agreement**”) is entered into by and between the purchaser designated on the applicable Subscription Form (as defined in the Terms) (“**Covered Entity**”) and Myndliff Ltd., an Israeli company, having its principal place of business at 150 Menachem Begin Rd., Tel Aviv, Israel (“**Business Associate**”), and is effective as of the date in which the Company approves the Covered Entity’s registration to the Platform (the “**Effective Date**”).

This Agreement is entered into pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, Publ. L. No. 111-5 (“**HITECH Act**”), and its implementing regulations, including 45 C.F.R. Parts 160 and 164, Subparts A and E (the “**Privacy Rule**”), Subparts A and C (the “**Security Rule**”), and Subpart D (the “**Breach Notification Rule**”) (collectively, and as may be amended from time to time, “**HIPAA**”). All terms used in this Agreement and not defined herein shall have the meaning set forth in the applicable definition under HIPAA.

1. **Scope.** As of the Effective Date, this Agreement applies to all present and future engagements between Covered Entity and Business Associate (including the Terms), pursuant to which Business Associate receives from or receives or creates on behalf of, Covered Entity, protected health information (each agreement, an “**Applicable Agreement**” and collectively, the “**Applicable Agreements**”). As of the Effective Date, this Agreement, in addition to standing on its own, automatically extends to and amends all Applicable Agreements in effect on the Effective Date. This Agreement shall be incorporated into all Applicable Agreements entered into by and between Covered Entity and Business Associate after the Effective Date.
2. **Use and Disclosure of Protected Health Information.** Business Associate may not use or disclose “**Protected Health Information**” (as defined in the Privacy Rule), received from, or received or created on behalf of, Covered Entity, except as follows:
  - a. Business Associate is permitted to use or disclose Protected Health Information as permitted or required by this Agreement or as required by law.
  - b. Business Associate is permitted to use or disclose Protected Health Information to perform functions, activities and services for, or on behalf of, Covered Entity pursuant to an Applicable Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
  - c. Business Associate is permitted to use or disclose Protected Health Information for business planning and development (a health care operations function) on behalf of the Covered Entity.
  - d. Business Associate is permitted to use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
  - e. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

- f. Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by *45 C.F.R. § 164.504(e)(2)(i)(B)*.
  - g. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and state authorities, consistent with *§ 164.502(j)(1)*.
3. **De-Identified Information**. Business Associate may de-identify Protected Health Information (“***De-identified Information***”), provided that the de-identification is in compliance with *45 C.F.R. §164.502(d)*, and any such De-identified Information meets the standard and implementation specifications for de-identification under *45 CFR §164.514(a)* or (b). Business Associate may use De-identified Information for any purpose.
4. **Safeguards**. Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of Protected Health Information received other than as permitted or required by this Agreement.
5. **Reporting of Disclosures of Protected Health Information**. Business Associate shall promptly report to Covered Entity any use or disclosure of Protected Health Information of which it becomes aware that is other than as provided for in an Applicable Agreement or this Agreement, subject to the requirements of the Breach Notification Rule.
6. **Agreement by Third Parties**. Business Associate shall ensure, to the extent required by law, that any of its agents, including, but not limited to, subcontractors, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agree to substantially the same restrictions and conditions that apply to Business Associate under this Agreement with respect to such Protected Health Information.
7. **Access to Protected Health Information**. Business Associate shall provide access, at the request of Covered Entity, to Protected Health Information in a designated record set (as defined in the Privacy Rule), to Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements of *45 C.F.R. § 164.524*.
8. **Amendment of Protected Health Information**. Business Associate agrees to amend Protected Health Information in a designated record set that Covered Entity directs or agrees to pursuant to *45 C.F.R. § 164.526* at the request of Covered Entity or an individual. Covered Entity shall notify Business Associate in writing of any amendment agreed to by Covered Entity with respect to any Protected Health Information.
9. **Accounting of Disclosures**. At the request of Covered Entity, Business Associate shall make available the information required to provide an accounting to an individual of disclosures of Protected Health Information about that individual, in accordance with *45 C.F.R. § 164.528*.
10. **Availability of Books and Records**. Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from, or created by Business Associate on behalf of Covered Entity, available to the Secretary of the Department of Health and Human Services (“***HHS***”) or any other officer or employee of HHS to whom the applicable authority has been delegated, as designated by HHS, for purposes of determining Covered Entity’s compliance with the Privacy Rule.
11. **Obligations of Covered Entity**. Covered Entity shall promptly notify Business Associate in writing of (a) any limitation(s) in its notice of privacy practices in accordance with *45 C.F.R. § 164.520*, to the extent that such

limitation may affect Business Associate's use or disclosure of Protected Health Information; (b) any changes in, or revocation of, permission by an individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information; (c) any amendments to Protected Health Information in a designated record set in accordance with 45 C.F.R. § 164.526; and (d) any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity except that Business Associate may use or disclose Protected Health Information for data aggregation or management and administrative activities of Business Associates.

12. **Termination.** In the event that Business Associate breaches any material provision contained in this Agreement, Covered Entity shall give Business Associate at least thirty (30) days' written notice to cure the breach. In the event that Business Associate fails to cure the breach within the specified period, Covered Entity may terminate this Agreement and/or any and all of the Applicable Agreements which relate to the breach.
13. **Return or Destruction of Protected Health Information upon Termination.** Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
  - a. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - b. Return to Covered Entity or destroy all other remaining Protected Health Information that the Business Associate still maintains in any form;
  - c. Continue to use appropriate safeguards and comply with the Security Rule with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;
  - d. Not use or disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out at Section 2 above which applied prior to termination; and
  - e. Return to Covered Entity or destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
14. **Effect.** The terms of this Agreement shall supersede any other conflicting or inconsistent terms in any and all Applicable Agreements to which this Agreement applies, including all exhibits or other attachments thereto and all documents incorporated therein by reference. Except as modified by this Agreement, all other terms of the Applicable Agreements shall remain in force and effect.
15. **Amendment.** If any of the regulations promulgated under HIPAA are amended or interpreted in a manner that renders this Agreement inconsistent therewith, the parties may amend this Agreement to the extent necessary to comply with such amendments or interpretations.

16. **No Third-Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended to confer, nor shall anything confer, upon any persons other than Covered Entity and Business Associate, and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.

17. **General Provisions.**

- a. This Agreement shall be governed by and construed and enforced in accordance with governing law specified in the Applicable Agreement and each of the parties hereto hereby consents to the dispute resolution mechanism specified in the Applicable Agreement.
- b. All notices or communications required or permitted pursuant to the terms of this Agreement shall be in writing and will be delivered in person or by means of certified or registered mail, postage paid, return receipt requested, to such Party at its address as set forth below, or such other person or address as such Party may specify by similar notice to the other party hereto, or by facsimile with a hard copy sent by mail with delivery on the next business day or by email with receipt confirmation. All such notices will be deemed given upon delivery or delivered by hand, on the third business day after deposit with the U.S. Postal Service, and on the first business day after sending if by facsimile.
- c. If any provision of this Agreement shall be held invalid or unenforceable, such invalidity or unenforceability shall attach only to such provision and shall not in any way affect or render invalid or unenforceable any other provision of this Agreement.
- d. The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provisions of this Agreement.
- e. This Agreement may be executed in any number of counterparts, all of which together shall constitute one and the same instrument.
- f. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither Party shall assign or delegate its rights, duties, or obligations under this Agreement, without the prior written consent of the other Party.
- g. In the performance of the duties and obligations of the Parties pursuant to this Agreement, each of the Parties shall at all times be acting and performing as an independent contractor, and nothing in this Agreement shall be construed or deemed to create a relationship of employer and employee, or partner, or joint venture, or principal and agent between the Parties.
- h. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.