



## Great Lakes NeuroTechnologies Inc. Terms & Conditions

Updated 23 February 2023

Go to <https://www.glneurotech.com/software-eula/> to view in web browser.

**IMPORTANT: BY USING YOUR GREAT LAKES NEUROTECHNOLOGIES INC. (GLNT) DEVICE, APP, AND/OR SERVICES YOU ARE AGREEING TO BE BOUND BY THE FOLLOWING TERMS:**

- A. END USER LICENSE AGREEMENT**
- B. NOTICES FROM GLNT**

These terms and conditions are subject to change at any time without notice. Contact your sales representative for more information. For the most up-to-date information and versions of our terms and conditions and privacy policy, please visit our website:

<https://www.glneurotech.com/>

<https://www.glneurotech.com/terms-and-conditions/>

<https://www.glneurotech.com/support/privacy-policy/>

<https://www.glneurotech.com/support/site-terms-of-use/>

This App, its use on your Device, the Services, and/or the Website, and their applications may be covered by one or more GLNT patents. Such patent notice is updated on a regular basis and is available at:

<https://www.glneurotech.com/patents/>

### **A. GLNT END USER LICENSE AGREEMENT**

#### **Single Use License**

This End User License Agreement (“**Agreement**”) sets forth the terms and conditions upon which you may download and/or use the Great Lakes NeuroTechnologies Inc. software application(s), the Great Lakes NeuroTechnologies Inc. website or portal (“**Website**”), all features and functionality of such software application(s) and Website, related services, all of the content available through such software application(s) and Website (i.e., everything on the Website, whether accessible online wirelessly or electronically or offline after, e.g., downloading and/or printing), and all updates, enhancements, and upgrades provided to



you (collectively, “**App**”) by Great Lakes NeuroTechnologies Inc. (hereinafter “**GLNT**”) and/or its authorized distributors. “You”, “your”, “yourself” means you, as an individual User of the Devices, App, and/or Services.

The term “User” refers to you as a GLNT Device, App, or Services user, regardless of the means by which you access the App. As a User, you may be: (1) a patient (“Patient User” or “Individual User”) or (2) an independent third party healthcare provider including, but not limited to, non-patient healthcare service provider, physician, physician assistants, nurse practitioners, nurses, paramedics, emergency care responders, other physician health plan, healthcare systems, healthcare facilities, or other providers of healthcare services, payer (including an employer-sponsored payer), pharmacy, disease management organization, case manager, or another individual who is involved in the management or care of the patient, including their employees and agents (collectively “Healthcare Provider(s)” or “Non-Patient User”).

**PLEASE READ THIS AGREEMENT CAREFULLY IN ITS ENTIRETY BEFORE USING THE APP. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, PLEASE DO NOT USE THE APP. THIS AGREEMENT CONTAINS WARRANTY DISCLAIMERS AND OTHER PROVISIONS THAT LIMIT GLNT’S LIABILITY TO YOU. BY USING THE APP, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT, THE PROVISIONS, DISCLOSURES, AND DISCLAIMERS SET FORTH IN THIS AGREEMENT ARE FAIR AND REASONABLE, YOUR AGREEMENT TO FOLLOW AND BE BOUND BY THIS AGREEMENT IS VOLUNTARY AND IS NOT THE RESULT OF FRAUD, DURESS, OR UNDUE INFLUENCE EXERCISED UPON YOU BY ANY PERSON OR ENTITY, AND THAT YOU DO, IN FACT, AGREE TO BE BOUND BY THE AGREEMENT. IF YOU HAVE NOT READ THE AGREEMENT, DO NOT UNDERSTAND OR AGREE TO BE BOUND BY THE AGREEMENT, OR**



**ARE NOT ABLE TO BE BOUND BY THE AGREEMENT (E.G., YOU ARE NOT OF LEGAL AGE TO ENTER INTO A BINDING CONTRACT OR DO NOT HAVE PROPER AUTHORITY TO ENTER INTO A BINDING CONTRACT), DO NOT USE THE APP.**

**BE AWARE THAT THE APP (INCLUDING THE WEBSITE, APP, AND SERVICES) IS NOT TO BE USED FOR EMERGENCIES AND GLNT DISCLAIMS ALL LIABILITY FOR USE OF THE APP IN CONNECTION WITH EMERGENCIES. IF YOU ARE A PATIENT OR INDIVIDUAL USER, PLEASE GO TO YOUR NEAREST HOSPITAL IN THE EVENT OF AN EMERGENCY. IF YOU ARE A HEALTHCARE PROVIDER(S), DO NOT USE THE APP TO COMMUNICATE WITH YOUR PATIENTS ABOUT EMERGENCY MEDICAL ISSUES.**

**GLNT PRODUCTS AND/OR SOFTWARE AND SERVICES IS/ARE NOT INTENDED FOR USE BY INDIVIDUALS UNDER 18 YEARS OLD UNLESS PRESCRIBED BY THE MINOR'S PHYSICIAN OR QUALIFIED MEDICAL OR HEALTHCARE PROVIDER AND IS AGREED TO BY THE MINOR'S PARENT OR LEGAL GUARDIAN.**

#### **1. In General**

The terms of this Agreement will govern the Device, App, and/or Services including, but not limited to, any software updates, enhancements, and upgrades that replace and/or supplement the original Device, App and/or Website, unless such upgrade is accompanied by a separate license and/or agreement in which case the terms of that license and/or agreement will govern. You agree to comply with all terms, conditions, and restrictions set forth in this Agreement. You acknowledge that any use of the Device, App, and/or Services not in compliance with this Agreement invalidates this license and/or agreement and may be prosecuted to the full extent of the law. By downloading and using this App, you represent



and warrant that you are at least 18 years old, have a valid prescription from, or are under the supervision of, a qualified medical or healthcare provider, and agree to the following terms and conditions.

## **2. Permitted Use and Restrictions**

a. **Grant of License and Reservations.** Subject to the terms of this Agreement, GLNT grants you a limited, non-exclusive, revocable, non-transferable, non-assignable, non-sub-licensable, personal, single-use license to install and use the Device, App, and/or Services and any future fixes, updates, enhancements, and upgrades provided to you solely for your personal use, or for Healthcare Provider(s), those provided in connection with your provision of medical care to patients including transmitting, accessing, managing, collecting, and displaying Personal Information (defined in clause 4 below) by and among authorized Healthcare Providers (defined above and in clause 5 below). This Device, App, and/or Service is licensed, not sold, to you by GLNT for use only under the terms of this Agreement. GLNT reserves all rights not expressly granted to you. No license is granted to any third party and you have no right to make available to anyone access to the Device, App and/or Services. You have no right to use the Device, App, and/or Services for the benefit of another, except if you are a Healthcare Provider(s) involved in the management or care of a patient, and you are using the Device, App and/or Services for the benefit of the patient. The rights granted in this Agreement are limited to GLNT's intellectual property rights in the Device, App, and/or Services, and do not include any other patents or intellectual property rights or applications of the Device, App, and/or Services not expressly granted hereunder.

**YOU MAY OWN THE MEDIA ON WHICH THE APP IS STORED, BUT GLNT RETAINS OWNERSHIP OF THE APP ITSELF, ALL DATA GENERATED BY THE DEVICE, APP, AND/OR WEBSITE THROUGH YOUR USE THEREOF, AND COPIES OF REPORTS GENERATED BY THE DEVICE, APP AND/OR WEBSITE THROUGH YOUR USE THEREOF, AS WELL AS COPYRIGHTS IN THE APP, ALL SUCH DATA, AND REPORTS TO THE EXTENT LEGALLY PERMISSIBLE BY LAW AND REGULATION.**



b. **Reverse Engineering.** Except as expressly set forth in this Agreement, you agree not to reverse engineer, de-compile, disassemble, alter, duplicate, modify, rent, lease, loan, sublicense, make copies, create derivative works from, distribute or provide others with the App, in whole or part, or transmit or communicate the App over a network or to any third party. You agree not to lease, loan, sublicense, distribute, or otherwise provide others access to or with any aspect of the App, except as expressly permitted in this Agreement. Further, you agree not to develop, sell, or distribute applications that are capable of launching, being launched from, or are otherwise integrated with, the App or content accessed through the App without GLNT's express written permission.

c. **Further Restrictions.** You agree to adhere to the following restrictions in use of the App:

- i. Except as expressly permitted in this Agreement, you may not modify or copy in any way any content you obtain from the App, including without limitation, the Website; distribute or transmit such content to any third party for commercial purposes; frame, scrape, or otherwise display any of the content of the App or Website on your own or any other website; use such content in any way that is competitive with GLNT or that disparages GLNT; mass distribute such content through electronic or other means; or make any unauthorized use of such content. Such modification, distribution, transmission, display, or use shall constitute a material breach of this Agreement and infringe GLNT's copyrights, patents, trademarks, trade secrets, or other intellectual property rights owned by or licensed to GLNT. If you download or print any content of the App or Website, you agree to maintain any and all patent, copyright, trademark notices and other notices or statements of proprietary rights appearing on such content and not to remove, obliterate or cancel from view any such notices or statements. GLNT has no right or authority to authorize you to access, use, download, print, copy, modify, display, distribute, or transmit any content of any other website that you may access from the App or Website, or from other third parties.
- ii. You have no right or license to use the App or Website for the benefit of another in an external service bureau or time-sharing arrangement or otherwise with a user not licensed by GLNT, except if you are a Non-Patient User involved in the management or care of a patient, and you are using the App for the benefit of your patient. Under limited circumstances, the App or Website may permit you to

create and upload text, information and content. You represent and warrant that you have the legal right to such text, information and content and that none of the text, information and content violates the copyright, patent, trademark, trade secret and/or other intellectual property of any other party or the privacy rights of you or your patient. GLNT reserves the right to remove any text, information or content uploaded by you that it determines infringes on any third party's copyrights, trademarks, trade secrets, or other intellectual property rights, or that GLNT otherwise determines is inappropriate.

- iii. In connection with your access to and use of the App or Website, you may not access or use any password-protected, secure, or non-public areas of the App and/or Website, except as specifically authorized in writing by GLNT; impersonate or misrepresent your affiliation with any person or entity; use any automated means to access or use the App or Website, including scripts, bots, scrapers, data miners, or similar software; attempt to or actually disrupt, impair, interfere with, alter, or modify the App and/or Website, or any information, data, or materials posted or displayed by GLNT; access data on the App and/or Website not intended for you; or attempt to probe, scan, or test the vulnerability of the App and/or Website or breach any implemented security or authentication measures, regardless of your motives or intent.
- iv. In connection with your access to and use of the App or Website, you agree to not transmit, access, or communicate any data that you do not have the right to transmit, access, or communicate under applicable Law (as defined in clause 15(c)(2) and clause 23(c) below), including the Health Insurance Portability and Accountability Act of 1996 as modified by the Health Information Technology for Economic and Clinical Health Act and all rules, regulations, and related laws and acts promulgated under and in connection therewith (collectively, "HIPAA"), under similar more stringent state laws, or under a contractual or fiduciary relationship.
- v. In connection with your access to and use of the App or Website, you agree to not infringe any patent, trademark, trade secret, copyright or other proprietary rights of any party.
- vi. In connection with your access to and use of the App or Website, you agree to not transmit or communicate any data that contains software viruses or any other computer code, files, or programs designed, intended, or likely to



interrupt, destroy or limit the functionality of any computer software or hardware or any telecommunications equipment.

- vii. In connection with your access to and use of the App or Website, you agree to not intentionally or unintentionally violate any applicable local, state, national or international Law, including laws relating to U.S. Securities and Exchange Commission and Food and Drug Administration rules and regulations, and any regulations, requirements, procedures or policies in force from time to time relating to the App and/or Website.
- viii. In connection with your access to and use of the App or Website, you agree to not transmit or communicate any data that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, invasive of another's privacy, hateful or racially, ethnically or otherwise objectionable.
- ix. In connection with your access to and use of the App or Website, you agree to not access or interact with the App or Website while driving or operating heavy machinery.
- x. In connection with your access to and use of the App or Website, you agree to not endanger yourself or others.
- xi. In connection with your access to and use of the App or Website, you agree to not for Healthcare Provider(s), impair your ability to provide medical treatment at the standard of care.

### **3. Product and Service**

Reference to any product or service on the App does not constitute an offer to sell or supply that product or service and does not mean that the product or service is available. PRICES AND AVAILABILITY OF THE PRODUCTS AND SERVICES IDENTIFIED ON THE APP, INCLUDING THE WEBSITE, ARE SUBJECT TO CHANGE WITHOUT NOTICE. The listing, description of, or reference to, a product or service on the App does not imply that we endorse that product or service or that the owner of such product or service endorses the App.

### **4. Personal Information**

You acknowledge and agree that the App may be used to transmit, collect, access, manage, and display Personal Information by and among you and authorized Healthcare Providers, and their employees and contractors. You acknowledge and agree that Personal Information related to your monitoring and treatment may be stored and used, to the extent allowed by



law and/or regulation, by GLNT and/or its licensees and service providers in connection with providing the App and/or Website and related services. You acknowledge and agree that the Personal Information stored by GLNT shall not serve as the system of record for you, your personal representative, any health care provider, any business associate of a health care provider, or any affiliates of the foregoing. **“Personal Information”** means, collectively, personal and demographic information, identifying information, information and data related to the provision of health care to you, your health status, medical records, and related information and documents, including consent to treatment forms, authorization to disclose medical information forms, Medicare forms, Medicaid forms, living wills, Directives to Physicians and Family or Surrogates, Medical Powers of Attorney, Out-of-Hospital Do-Not-Resuscitate Orders, Declarations of Mental Health Treatment, images, reports, and lab and test results, medical treatments provided to you by Healthcare Providers, and other “protected health information,” as defined under HIPAA, GDPR, and similar terms as defined by state, national, or international Law. You agree that your provision and use of all Personal Information will be in compliance with HIPAA, GDPR, and all other applicable Laws.

## **5. Medical Advice and Treatment**

**GLNT DOES NOT PROVIDE MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT.** You acknowledge and agree that the App and/or Website is merely a monitoring tool for patient engagement, and/or a conduit of information related to patients and the provision of healthcare to patients by independent third party healthcare providers including yourself, physicians, physician assistants, nurses, paramedics, emergency care responders, other physician extenders, healthcare systems, healthcare facilities, or other providers of healthcare services (collectively, “Healthcare Provider(s)”). You acknowledge and agree that the Healthcare Provider(s) are solely responsible for and will have complete authority, responsibility, supervision, and control over the provision of all medical services, advice, instructions, treatment decisions, and other professional health care services performed, and that all diagnoses, treatments, procedures, and other professional health care services will be provided and performed exclusively by or under the supervision of Healthcare Providers as they, in their sole discretion, deem appropriate. You further acknowledge and agree that GLNT does not provide or endorse any medical advice on or through the App and no information obtained through the App can be so construed or used. GLNT will have and exercise absolutely no control, authority, or supervision over the provision of any medical services or other professional health care services. The use of the App, all text, graphics,





images, audio content, audiovisual content, data, other materials and any other information provided on or entered into or made available through the App, including all healthcare related information, whether provided by you, Healthcare Providers, or other third parties (collectively, "Content") is solely your responsibility. GLNT will make all reasonable efforts in accordance with applicable laws and agreements to safeguard the integrity and availability of the Content. Further, when using the App, information may be transmitted over a medium that may be beyond the control and jurisdiction of GLNT and its suppliers. **ACCORDINGLY, GLNT ASSUMES NO LIABILITY FOR OR RELATING TO THE DELAY, FAILURE, INTERRUPTION, OR CORRUPTION OF ANY DATA OR OTHER INFORMATION TRANSMITTED IN CONNECTION WITH USE OF THE APP THAT IS REASONABLY DETERMINED TO BE BEYOND GLNT'S CONTROL.** Accordingly, you acknowledge and agree that you or your Healthcare Provider(s) are solely responsible for all medical services, advice, instructions, diagnoses, treatments, procedures, and other services provided and/or received in connection with using the App or otherwise.

#### **6. Third Party Technology**

Any and all third party technology provided, made available, linked to, or otherwise accessible through or in association with the App ("**Third Party Technology**") is provided solely as a convenience to you and is not under the control of GLNT. GLNT does not endorse, recommend, or otherwise make any representations or warranties with respect to any Third Party Technology. GLNT does not have any responsibility or liability to you for any Third Party Technology which you access and you use at your own risk. Further, you agree to comply with any and all terms and conditions applicable to the use of Third Party Technology and otherwise ensure that you have obtained all rights, licenses, and clearances that may be necessary to use such Third Party Technology.

#### **7. Third Party Websites**

This App may contain links to other independent third party websites ("**Linked Websites**"). These Linked Websites are provided solely as a convenience to our visitors. Such Linked Websites are not under the control of GLNT, and GLNT is not responsible for and does not endorse the content of such Linked Websites, including any information or materials contained on such Linked Websites. GLNT does not have any responsibility or liability for any information, data, communications or materials available on such third-party sites. You therefore access these Linked Websites at your own risk.

## **8. Collection of Information**

You grant GLNT the perpetual, non-exclusive, worldwide, royalty-free license to use, copy, print, display, reproduce, modify, publish, post, transmit, distribute, and preserve any transmittal, communication, Personal Information and/or Content provided by you or Healthcare Provider(s) through the Device, App and/or Website, or any other service offered on or through the Device, App, and/or Website, and data related to your use of the Device, App, and/or Website. This license may only be revoked if required by law or regulation, and, if required to be revoked, such revocation must be made in writing to the address below. Upon revocation, you agree to immediately discontinue use of the Device, App, software, or Service. Further, you agree and understand that revocation does not preclude GLNT's use of information, data, or Content from the Device, App, software, or Service in anonymized form. GLNT may disclose any such information and Content to GLNT's licensees, Healthcare Provider(s), service providers, clients, researchers, and other third parties in accordance with applicable Law, agreements, and the Privacy Policy. Further, GLNT may also use or disclose such data if required to do so by Law or GLNT determines that such use or disclosure is reasonably necessary to (1) comply with legal process, (2) enforce this Agreement, (3) respond to claims that any such data violates the rights of others, or (4) protect the rights, property, or personal safety of GLNT, its employees, and users of the App and/or Website. For further information regarding your privacy, please review our Privacy Policy, which is incorporated into this Agreement by reference. Notwithstanding the foregoing, the Privacy Policy may be changed from time to time without amending this Agreement. To the extent that there is a conflict between the Privacy Policy and this Agreement, this Agreement will control with respect to your use of any GLNT Device, App and/or Service; the Privacy Policy controls with respect to the collection, use, disclosure and disposal of your information. For the most up-to-date version of this Agreement and its Terms and Conditions, as well as the Privacy Policy, please visit our website (address provided at the top of this agreement).

## **9. Authorized Use**

Except as expressly set forth in this Agreement, you will protect the confidentiality of the App, and will not distribute or otherwise make available the App, or any portion of the App, in any form to any third party. Any rights you may possess in the App expire upon expiration or termination of this Agreement. You will employ the security measures necessary to



prevent unauthorized users from accessing the App including your user ID(s) and password(s) (“**Login Information**”). You are solely responsible for the maintenance and protection of your Login Information. You accept responsibility for, and will be liable for all access to the App in connection with your Login Information. Without the prior written consent of GLNT, you will not utilize the services of any third party to assist you in using the App. Further, you will be responsible for all activities that occur under or in connection with your account and your use of the App.

#### **10. Export Law Assurances**

You will not use or otherwise export or re-export this App except as authorized by United States law and the laws of the jurisdiction in which the App was obtained. In particular, but without limitation, the App will not be exported or re-exported (1) into (or to a national or resident of) any U.S. embargoed countries, or (2) to anyone on the U.S. Treasury Department’s list of Specially Designated Nationals or the U.S. Department of Commerce Denied Persons’ List or Entity List. By using the App, you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list. You also agree that you will not use the App for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of missiles, nuclear, chemical, or biological weapons.

#### **11. Territory**

Presently, the App is available in many regions around the world. You understand and acknowledge that you may not sign up for, access or attempt to access or use the App from countries where the app is not approved. GLNT may use technologies to verify your compliance. You agree to abide by United States and other applicable laws and regulations and not to transfer, by electronic transmission or otherwise, any content or software subject to restrictions under such laws to a national destination or person prohibited under such laws.

#### **12. Trademarks**

Trademarks, service marks, graphics and logos used in connection with the App are the trademarks of their respective owners. Great Lakes NeuroTechnologies™, Kinesia™, and KinesiaU™ and all other trademarks related to the Device, App, and/or Services are



trademarks of GLNT. You are not granted any right or license with respect to any of the trademarks mentioned above and any use of such trademarks.

### **13. Copyright Infringement**

GLNT respects copyright and other laws. GLNT requires all App users to comply with copyright and other laws. GLNT does not, by the supply of the App, authorize you to infringe the copyright or other rights of GLNT or third parties. As a condition to use the App, you agree that you must not use the App to infringe upon the intellectual property or other rights of others in any way. The unauthorized reproduction, distribution, modification, public display, communication to the public or public performance of copyrighted works is an infringement of copyright. You are entirely responsible for your conduct and for ensuring that it complies with all applicable copyright and data-protection laws. In the event you fail to comply with laws regarding copyrights or other intellectual property rights, data protection and privacy, you may be exposed to civil and criminal liability, including possible fines and jail time.

### **14. Ownership and Title**

All title to and the rights in the App and Website, including ownership rights to patents (registrations, renewals, and pending applications), copyrights, trademarks, service marks, domain names, trade dress, trade secrets, GLNT's or third party other technology, any derivatives of and all goodwill associated with the foregoing is the exclusive property of GLNT and/or such third parties. Without limitation of the foregoing, we assert ownership of a copyright in the entire App system, including without limitation, the Website, as a collective work and/or compilation, and in the selection, co-ordination and arrangement of the information and content in the App. You may not publish, distribute, extract, re-utilize, or reproduce any part of the App in any material form (including photocopying or storing it in any medium by electronic means) other than in accordance with the limited use license set out in this Agreement or as permitted by the United States Copyright Act. Except as expressly provided in these Terms of Use and the copyright notice, we grant no rights to you under any patents, copyrights, trademarks, trade secrets or any other proprietary rights. Notwithstanding the foregoing, GLNT does not own the original Personal Information that Users input into the App, or information belonging to third parties.

This App, its use on your Device, the Services, and/or the Website, and their applications



may be covered by one or more GLNT patents. Such patent notice is updated on a regular basis and is available at:

<https://www.glneurotech.com/patents/>

## **15. Representations & Warranties**

### **a. Patient User Representations and Warranties**

If you are a Patient User, you represent and warrant that:

1. You are acting on behalf of yourself personally and that you will use the App solely for management of your personal health condition(s);
2. You will input accurate information about yourself. If you discover any inaccurate information in the App regarding you or your condition, you agree to take all reasonable steps necessary to correct such inaccurate information;
3. You understand how a Non-Patient User may use the App for your care and you have read the representations and warranties for a Non-Patient User in the section below;
4. Clinical treatment and medications prescribed by your healthcare provider and the service coverage under your health plan shall be determined independent of, and without input from, the App and/or GLNT;
5. It is your responsibility to use to utilize the Device, App, the Website, and/or information available on the Device, App, and/or the Website according to this Agreement and as prescribed by your Healthcare Provider(s), and GLNT is not responsible if you fail to use the Device, App, and/or Services as prescribed, instructed, or otherwise according to the Agreement and User Manual or Instructions;
6. The App is designed to help you monitor your medical condition, but you, with the guidance of your Healthcare Provider(s), are responsible for your treatment and care. The content provided by the App does not constitute medical advice or a substitute for seeing your Healthcare Provider(s). GLNT is not a medical organization. Always consult with your doctor before starting, stopping or changing any course of treatment, therapy, diet, fitness, or other such course of action or program, or if you experience any pain or discomfort. GLNT cannot guarantee any health or symptom results or improvements. Any information about food, medications or exercise found in our database and/or delivered by the app is provided solely as a convenience to you and may not have been verified, investigated or reviewed by GLNT. GLNT cannot guarantee that such information provided in our database and/or app is accurate, reliable or complete; and



7. If you experience any serious problem or need immediate medical assistance, you shall immediately call your Healthcare Provider(s) or 911 for emergency help.

b. Non-Patient User Representations and Warranties

If you are a Non-Patient User, you represent and warrant that:

1. You are, or are employed by, a licensed healthcare professional or other organization involved in the management or care of patients;
2. You are acting on behalf of yourself or your employer to treat patients who are under your care for the prescribed condition(s);
3. You are authorized to accept the Agreement, including these Terms of Use, on behalf of yourself and your employer;
4. You are participating voluntarily to support the provision of care to your patients, and that GLNT is not responsible for any of the following:
  - o whether or not you log onto or access the App to review any data associated with regard to your patients;
  - o obtaining or retrieving patient or other data from the App;
  - o any treatment, treatment decisions, modification to treatment plans or diagnosis, or any other decision within your scope of practice or under an agreement with a patient that you provide, whether or not based on data obtained from the App;
  - o your decision to provide appointment, medication, reminders, analysis, diagnoses, or any other information through the App; and
  - o your compliance with HIPAA, or any other federal, state, or international law;
5. The App is to be used only for non-emergency issues.

c. In addition to the other representations and warranties contained in this Agreement, you further represent, warrant, and covenant to GLNT the following:

1. All information you provide to GLNT as part of the registration process or otherwise will be truthful, accurate and complete, irrespective of any independent verification or other determination made by GLNT;
2. You, your practice, and all goods and services provided in connection with your use of the App will comply with all applicable international, national, federal, state, and local laws, regulations, ordinances, and judicial decisions in courts and tribunals of competent jurisdiction within the United States, as applicable (collectively, "**Law**");



3. You are legally authorized in accordance with applicable Law to provide any and all Personal Information that you provide to the App for all uses contemplated under this Agreement;

4. This Agreement has been duly and validly authorized, accepted, agreed to, and delivered by you (or your authorized representative) and constitutes your legal, valid, and binding obligation, enforceable against you in accordance with this Agreement. You represent that you have full power, capacity and authority to enter into this Agreement. If you are accepting on behalf of your employer or an entity, you represent that you have full legal authority to bind your employer or such entity to this Agreement; and

5. The performance by you of this Agreement and your use of the App does not and will not conflict with or violate (1) any law, rule, regulation, order, judgment, decree, agreement, instrument, or obligation applicable to you, or (2) if you are an entity, any provision of your organizational or governing documents.

#### **16. Disclaimer of Warranties**

**THE DEVICE, APP, AND/OR WEBSITE, AND ANY THIRD PARTY TECHNOLOGY, ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT, AND IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, GLNT, ITS LICENSORS, AND SUPPLIERS MAKE NO WARRANTY, REPRESENTATION, OR GUARANTY:**

**(1) AS TO THE SEQUENCE, ACCURACY, TIMELINESS, RELEVANCE, OR COMPLETENESS OF THE DEVICE, APP, AND/OR WEBSITE;**

**(2) AS TO ANY INFORMATION OFFERED OR PROVIDED WITHIN OR THROUGH THE APP REGARDING ACQUIRED DATA, TREATMENT OF MEDICAL CONDITIONS, ACTIONS, DIAGNOSES,**



**PROCEDURES, APPLICATION OF MEDICATION, OR OTHER PROVISION OF HEALTHCARE SERVICES;**

**(3) THAT THE DEVICE, APP, AND/OR WEBSITE MAY BE RELIED UPON FOR ANY REASON, THAT THE USE OF THE DEVICE, APP, AND/OR WEBSITE WILL BE UNINTERRUPTED OR ERROR FREE. FURTHER, YOUR USE OF THE DEVICE, APP, AND/OR WEBSITE, AND ANY THIRD PARTY TECHNOLOGY IS AT YOUR OWN RISK. GLNT DOES NOT WARRANT THAT THE DEVICE, APP, AND/OR WEBSITE, OR THIRD PARTY TECHNOLOGY WILL MEET YOUR SPECIFIC REQUIREMENTS. TO THE EXTENT THAT GLNT MAY NOT DISCLAIM ANY WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.**

**17. Limitation of Liability**

**EXCEPT WHERE PROHIBITED BY LAW, UNDER NO CIRCUMSTANCES WILL GLNT BE LIABLE TO YOU OR ANY OTHER PERSON FOR DIRECT, CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, COSTS, EXPENSES OR LOSSES, OR LOST PROFITS IN CONNECTION WITH THE DEVICE, APP, AND/OR WEBSITE OR OTHERWISE RELATED TO THIS AGREEMENT. THE PROVISIONS OF THIS SECTION WILL APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE, CLAIM, LIABILITY, COST, EXPENSE, OR LOSS, WHETHER IN CONTRACT, STATUTE, TORT (INCLUDING NEGLIGENCE), FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, AND EVEN IF ADVISED OF**





**THE LIKELIHOOD OF SUCH DAMAGES. GLNT WILL NOT BE LIABLE FOR ANY FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT BECAUSE OF CIRCUMSTANCES BEYOND ITS CONTROL, WHICH CIRCUMSTANCES INCLUDE NATURAL DISASTER, TERRORISM, THIRD PARTY LABOR DISPUTES, WAR, DECLARATIONS OF GOVERNMENTS, TRANSPORTATION DELAYS, FAILURE OF HARDWARE, EQUIPMENT, OR TELECOMMUNICATIONS FAILURE. GLNT WILL NOT BE LIABLE FOR ANY FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT BECAUSE OF YOUR MISUSE OF THE DEVICE, APP, AND/OR WEBSITE BY YOU OR ANY OTHER PERSON. THIS SECTION WILL BE GIVEN FULL EFFECT EVEN IN THE EVENT THAT ANY EXCLUSIVE REMEDY PROVIDED HAS FAILED OF ITS ESSENTIAL PURPOSE. FURTHER, IN NO EVENT WILL GLNT BE LIABLE TO YOU OR ANYONE ELSE FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF ANY USE OR MISUSE OF ANY THIRD PARTY TECHNOLOGY. THE PARTIES ACKNOWLEDGE THAT THE TERMS OF THIS SECTION REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT THE PARTIES WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS OF LIABILITY. IN NO EVENT SHALL THE LIABILITY OF GLNT FOR ANY LOSS RELATED TO USE OR INABILITY TO USE THE APP EXCEED \$5.00 U.S.**

**18. Indemnification**

**YOU WILL INDEMNIFY, DEFEND, AND HOLD INDEMNITEES (AS DEFINED BELOW) HARMLESS FROM AND AGAINST ANY AND ALL**



**CLAIMS AND LOSSES ARISING FROM OR ATTRIBUTABLE TO (1) YOUR UNAUTHORIZED, IMPROPER, OR ANY OTHER MISUSE OF THE DEVICE, APP, AND/OR WEBSITE; (2) YOUR BREACH OF ANY OF YOUR REPRESENTATIONS, WARRANTIES, COVENANTS, OR OTHER AGREEMENTS MADE UNDER THIS AGREEMENT; (3) ANY CLAIMS BY OR DISPUTES RELATED TO YOUR USE OF THE DEVICE, APP, AND/OR WEBSITE; (4) ANY CONTENT YOU PROVIDE TO THE DEVICE, APP, AND/OR WEBSITE OR OTHERWISE TRANSMIT USING THE DEVICE, APP, AND/OR WEBSITE; AND (5) BREACH OF CONFIDENTIALITY RELATED TO YOUR USE OF THE DEVICE, APP, AND/OR WEBSITE.**

- a. **Procedures.** The Indemnitee will give you written notice of any Claim for which indemnification is sought. However, failure to provide such notice will not relieve you from your liability or obligations under this Agreement, except to the extent you are materially prejudiced as a direct result of such failure. The Indemnitee will cooperate with you at your expense in connection with the defense and settlement of the Claim. You may not settle any indemnified Claim in a manner that adversely affects the Indemnitee without its prior written consent. Further, the Indemnitee may participate in the defense of the Claim through counsel of its own choosing at its own cost and expense. If you fail to promptly assume the defense and employ counsel reasonably satisfactory to Indemnitee, or the Indemnitee has been advised by counsel that there exist actual or potential conflicting interests between you or your counsel and such Indemnitee, the Indemnitee may employ separate counsel, in addition to local counsel, to represent or defend such Indemnitee in such action or proceeding, and you agree to pay the fees and disbursements of such separate counsel as incurred. To the extent indemnification requires the payment of monies owed, such indemnification will occur as soon as reasonably possible after the determination of monies owed, and payment to the Indemnitee will be made within 30 days of a final determination of monies owed. Your obligations under this



Section are in addition to any rights that any Indemnitee may have at common law or otherwise.

b. **Defined Terms.**

- i. **"Claim"** means each and every claim, request, accusation, allegation, assertion, complaint, petition, demand, suit, action, proceeding, and cause of action of every kind and description.
- ii. **"Indemnitee"** means GLNT, its affiliates, and its and their respective officers, directors, shareholders, managers, members, agents, employees, representatives, successors, and assigns.
- iii. **"Loss"** means each and every liability, loss, damage, and injury (including injury or damage to any property right, and injury, damage, or death to any Person), wound, wrong, hurt, harm, expense, deficiency, diminution in value, obligation, expenditure and disbursement of any kind or nature (including all fees, costs, and expenses of investigation, travel expenses, and value of time expended by personnel), settlement, fine, fee, cost, cost of court, and all expenses of litigation (including reasonable attorneys' fees) incident to any of the foregoing.

**19. Release**

**IN THE EVENT THAT YOU HAVE A DISPUTE WITH ONE OR MORE USERS OF THE APP OR HEALTHCARE PROVIDER(S) FOR ANY REASON, YOU RELEASE GLNT (AND ITS OFFICERS, DIRECTORS, MANAGERS, MEMBERS, AGENTS, SUBSIDIARIES, REPRESENTATIVES, AND EMPLOYEES) FROM ALL CLAIMS, DEMANDS AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE §1542, WHICH PROVIDES: "A GENERAL RELEASE**



**DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”**

## **20. Term**

Unless otherwise terminated by GLNT as provided for in this Agreement, this Agreement will remain in effect for so long as GLNT licenses the use of the App to you.

## **21. Termination**

GLNT may, in its sole discretion and without prior notice, terminate your access to the App for violations of this Agreement or other agreements or guidelines, which may be associated with your use of the App, or if GLNT deems it necessary in its sole discretion. Further, you may terminate, or request that GLNT terminate your access to the App. In any such event, you must destroy all copies of the App and all of its component parts. Failure to abide by this Agreement is a material breach of this Agreement for which GLNT may pursue all rights and remedies it has pursuant to this Agreement, and any other rights and remedies it may have at law or in equity. You also agree that any violation by you of this Agreement will constitute an unlawful and unfair business practice and will cause irreparable harm to GLNT, for which monetary damages would be inadequate, and you consent to GLNT obtaining any injunctive or equitable relief that GLNT deems necessary or appropriate in such circumstances without the need to post a bond or satisfy any similar requirements. These remedies are in addition to any other remedies GLNT may have at law or in equity.

## **22. U.S. Government End Users**

The App and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

### **23. General Provisions**

The parties agree that:

a. Entire Agreement. This Agreement, the Privacy Policy, and any other terms of use, or other guidelines (collectively, “**Other Terms**”) provided by GLNT through or in connection with the App contain the entire understanding of the parties with respect to the subject matter of this Agreement and supersede all previous verbal and written agreements between the parties concerning the subject matter of this Agreement. To the extent that any Other Terms conflict with any provision of this Agreement, this Agreement will control. The App is the property of GLNT. GLNT reserves the right to change, add or remove portions of this Agreement or the App at any time and at its sole discretion. Your continued use of the App following the posting or delivery to you of any changes means that you accept and agree to such changes.

b. Assignment. This Agreement, and any rights or obligations in this Agreement will not be assigned by you. Any attempt to assign or transfer this Agreement other than in accordance with this provision will be null and void. Subject to the forgoing, this Agreement and its terms and provisions inure to the benefit of and are binding upon the parties and their respective successors, heirs, personal representatives, and assigns.

c. Governing Law/Waiver of Trial by Jury.

i. You agree that all matters relating to your access to or use of the App, including all disputes, will be governed by the laws of the United States and by the laws of the State of Ohio without regard to its conflicts of laws provisions. You agree to the personal jurisdiction by and venue in the state and federal courts in Cuyahoga County, Ohio, and waive any objection to such jurisdiction or venue. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If for any reason a court of competent jurisdiction finds any provision, or portion of any provision, to be unenforceable, the remainder of this Agreement will continue in full force and effect.

ii. **EXCEPT WHERE PROHIBITED BY LAW, THE PARTIES EXPRESSLY WAIVE TRIAL BY JURY IN ANY JUDICIAL**



**PROCEEDING INVOLVING ANY DISPUTE, CONTROVERSY, OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

d. Notices. All notices, requests, or consents sent to GLNT that are required or permitted under this Agreement must be in writing (including electronic form) and must be delivered to the address designated below in a notice served in the manner provided for below. Each notice, request, consent, or other communication will be given and will be effective: (1) if delivered by hand, when so delivered; (2) if delivered by nationally recognized overnight courier service or sent by United States Express Mail, upon confirmation of delivery; (3) if delivered by certified or registered mail, on the third following day after deposit with the United States Postal App; or (4) if delivered by facsimile, upon confirmation of successful transmission, and if delivered by email, upon confirmation of receipt by the other party in writing by return email.

Great Lakes NeuroTechnologies Inc.  
6100 Rockside Woods Blvd. North, Suite 415  
Cleveland, Ohio 44131

e. Severability. The provisions of this Agreement are severable. The invalidity, in whole or in part, of any provision of this Agreement will not affect the validity or enforceability of any other of its provisions. If one or more provisions of this Agreement are declared invalid or unenforceable, the remaining provisions will remain in full force and effect and will be construed in the broadest possible manner to effectuate the purposes of this Agreement. The parties further agree to replace such void or unenforceable provisions of this Agreement with valid and enforceable provisions that will achieve, to the extent possible, the economic, business, and other purposes of the void or unenforceable provisions.

f. Captions. The headings and captions of this Agreement are inserted for reference convenience and do not define, limit, or describe the scope or intent of this Agreement or any particular section, paragraph, or provision of this Agreement. Unless otherwise expressly provided, the words "include(s)," "included," or "including" do not limit the preceding words or terms. Pronouns will refer to the masculine, feminine, neuter, singular, or plural as the context will require.



g. Waiver. The failure or delay of GLNT to exercise or enforce any rights or provision of this Agreement does not constitute a waiver of such right or provision.

h. Survival. All provisions which must survive in order to give effect to their meaning will survive any expiration or termination of this Agreement, including without limitation, Sections 2(b), 16, 17, 18 and 19 and all of your representations, warranties and indemnification obligations, which will survive any expiration or termination of this Agreement indefinitely.

## **B. NOTICES FROM GLNT**

If GLNT needs to contact you regarding your product or account, you consent to receive such notices by email. You agree that any such notices that GLNT sends you will satisfy any legal communication requirements.

Last Updated 23 February 2023.