

MySleep~Service Terms of Use

This Terms of Use (these “Terms”) is a legally binding contract between you and MySleep, LLC, and its affiliates (collectively “MySleep,” “we,” or “us”) regarding your use of a MySleep monitor kit (the “Equipment”), the associated services (including, but not limited to, MySleep’s ambulatory cardiac monitoring platform and home sleep testing), and the platform and associated web-based sites and applications made available and operated by us that reference or link to these Terms (together with the Equipment, the “Service” or “Services”).

PLEASE READ THE FOLLOWING TERMS CAREFULLY. BY USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS, AND YOU ACKNOWLEDGE THAT, EXCEPT AS STATED OTHERWISE IN THESE TERMS, INFORMATION YOU PROVIDE OR THAT WE COLLECT ABOUT YOU WILL BE PROCESSED AS DESCRIBED IN THE [MySLEEP NOTICE OF PRIVACY PRACTICES](#) (the “MySleepNPP”). If you do not agree to the Terms, then you do not have our permission to use the Service.

NO MEDICAL ADVICE. THE SERVICE DOES NOT PROVIDE MEDICAL ADVICE. THE SERVICE DOES NOT PROVIDE INTERPRETATIONS OR ANY CLINICAL SUGGESTIONS. THE SERVICE MAY CONTAIN GENERAL INFORMATION OR CONTENT RELATED TO REMOTE CARDIAC MONITORING AND OTHER HEALTH CARE TOPICS. ANY SUCH INFORMATION IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND IS NOT AND SHOULD NOT BE INTERPRETED AS MEDICAL ADVICE OR AS A SUBSTITUTE FOR CONSULTATION WITH A PHYSICIAN OR OTHER QUALIFIED HEALTH CARE PROFESSIONAL. YOU SHOULD ALWAYS CONSULT WITH A DOCTOR OR OTHER HEALTH CARE PROFESSIONAL FOR MEDICAL ADVICE OR INFORMATION ABOUT DIAGNOSIS AND TREATMENT.

YOU SHOULD SEEK EMERGENCY HELP OR FOLLOW UP CARE WHEN RECOMMENDED BY YOUR PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL OR WHEN OTHERWISE NEEDED. ALWAYS SEEK THE ADVICE OF A PHYSICIAN OR OTHER QUALIFIED HEALTH CARE PROFESSIONAL CONCERNING QUESTIONS YOU HAVE REGARDING A MEDICAL CONDITION AND BEFORE STOPPING, STARTING, OR MODIFYING ANY TREATMENT PLANS. YOU SHOULD NOT DISREGARD OR DELAY TO SEEK MEDICAL ADVICE BASED ON ANYTHING THAT APPEARS OR DOES NOT APPEAR IN THE SERVICE. IF YOU BELIEVE YOU HAVE AN EMERGENCY, CALL 9-1-1 IMMEDIATELY!

IMPORTANT INFORMATION ABOUT DISPUTE RESOLUTION

These Terms provide that all disputes between you and MySleep with respect to your use of the Service will be resolved by BINDING ARBITRATION, to the fullest extent permitted under applicable law. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under these Terms, except for matters that may be taken to small claims court, to the fullest extent permitted under

applicable law. Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury, and your claims cannot be brought as a class action, to the fullest extent permitted under applicable law. Please review Section 21 (“Dispute Resolution and Arbitration”) for the details regarding your agreement to arbitrate any disputes with MySleep.

OTHER TERMS

1. Applicability of Terms; Service Overview.

a. **Applicability.** These Terms apply only to your use of the Service, not to other MySleep applications, websites, or programs. Specifically, these Terms and the MySleepNPP described below do not apply to the MySleep application or your use thereof.

b. **Service Overview.** The Service provides remote cardiac monitoring as prescribed by your physician. You understand and agree that the Service does not provide medical advice and you should consult with your physician or other qualified health care professional with respect to any remote cardiac monitoring or other treatment activity. To the fullest extent permitted by law, you assume all risk and MySleep is not responsible for any harm to you or others that may occur from your use of the Service. You may not access or use the Service for any other purpose. You are solely responsible for any information, images, videos, or other content or materials you upload to or transmit through the Service (“Communications Data”).

2. **Eligibility.** You must be at least 18 years old to use the Service. By agreeing to these Terms, you represent and warrant to us that: (a) you are an individual who is at least 18 years old; (b) you have not previously been suspended or removed from the Service; (c) your registration and your use of the Service is in compliance with all applicable laws and regulations; and (d) you have read the MySleepNPP, as further described in Section 11 below. In these Terms, “you” shall mean the person using the Service.

3. Licenses

a. **Limited License.** Subject to your ongoing compliance with these Terms, MySleep grants you a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Service for your personal, non-commercial use for lawful purposes. No other implied license or right is granted to you under these Terms.

b. **License Restrictions.** Except and solely to the extent permitted by applicable law notwithstanding these restrictions, you may not at any time, directly or indirectly, and may not permit any other person to: (i) reproduce, distribute, publicly display, or publicly perform the Service or any part thereof; (ii) reverse engineer, decompile, or make modifications to the Service or any part thereof; or (iii) interfere

with or circumvent any feature of the Service or any part thereof, including any security or access control mechanism. If you are prohibited under applicable law from using the Service, you may not use it.

c. **Reservation of Rights.** MySleep reserves all rights not expressly granted to you in these Terms. Except for the limited rights and licenses expressly granted under these Terms, nothing in these Terms grants, by implication, waiver, estoppel, or otherwise, to you or any third party any intellectual property rights or other right, title, or interest in or to MySleep's intellectual property.

d. **Open Source Software.** The Service may include or incorporate third-party software components that are generally available free of charge under licenses granting recipients broad rights to copy, modify, and distribute such components ("Open Source Components"). Although the Service is provided to you subject to these Terms, nothing in these Terms will be deemed to prevent or otherwise restrict you from obtaining such Open Source Components under the applicable third-party licenses or to limit your use of such Open Source Components thereunder.

4. **Consent to Communications.** By providing us with your contact information and using the Service, you agree to receive communications, including via email and phone calls (including text messages and calls made using an auto dialer or prerecorded voice message), and push notifications from or on behalf of MySleep using the Service at the email address or telephone number you provided even if that number is on a National or State Do Not Call List. These calls and messages may be for informational purposes, such as to provide you with the information or consultation you requested. Standard text messaging and telephone minute charges applied by your cell phone carrier will apply.

IF YOU WISH TO OPT OUT OF MARKETING EMAILS FROM US, YOU CAN UNSUBSCRIBE BY FOLLOWING THE UNSUBSCRIBE OPTIONS IN THE MARKETING EMAIL ITSELF. You understand and agree that you may continue to receive communications while MySleep processes your opt-out request, and you may also receive a communication confirming the receipt of your opt-out request.

5. **Notifications and Automatic Alerts.** Under some circumstances, MySleep may present you with notifications, prompts with links to additional information, or suggested actions based on MySleep's analysis of your Communications Data and other information you have provided to MySleep. MySleep makes no representations or warranties about the accuracy, reliability, completeness, or timeliness of any push notifications. You accept that any reliance on these notifications will be at your own risk, and MySleep disclaims all liability arising from your use of them or reliance upon them. You agree that MySleep may send notifications to your mobile device for Service-related or marketing purposes, if notifications are enabled, provided that we do so in accordance with the MySleepNPP. You may turn off push notifications through your application settings.

6. Return of Equipment. You understand that you are responsible for returning the Equipment to MySleep using the Equipment return method included in the Equipment packaging (or as otherwise instructed) and immediately upon the conclusion of Your Equipment wear time (the “End of Equipment Wear”). The End of Equipment Wear is either as prescribed by your physician or because of any other reason for the End of Equipment Wear (e.g., Equipment malfunction). You understand that if you do not return the Equipment immediately upon the End of Equipment Wear, you may be billed for the cost of the Equipment.

7. Assignment of Benefits and Patient Financial Responsibility

a. Assignment of Benefits. By using the Service you authorize and request that payment of benefits by your insurance company(s) be made directly to MySleep for the Services furnished to you. You understand that your insurance company makes no guarantee of payment and may cover none or only a portion of the total bill. You further understand that upon acceptance of the Services from MySleep, you assume responsibility for any deductible, copay, or other balance not covered by your insurance company. Should any insurance payment be made directly to you and/or the primary insured for monies due on the account, you agree that you will immediately pay over those funds to MySleep. You hereby assign directly to MySleep all of your rights in and to the benefits for Services by your insurance company, including the right to bill for, collect, and retain all payment associated with the benefits for Services rendered to you by MySleep which may include release of any medical or other information to your insurance company in order to determine the benefits payable for the services rendered by MySleep or your Provider. You also hereby designate, authorize and appoint MySleep and its agents as your designated authorized representative for the limited purpose of receiving benefits for the Services rendered by MySleep. You agree to reasonably participate and assist MySleep and its agents with any appeal process necessary to collect payment for the Services rendered to you.

b. Patient Financial Responsibility. You acknowledge that it is your responsibility to understand whether the Services are covered under your medical insurance policy and/or coverage. You agree that you are responsible for paying the rate of the Services, including any charges that your insurance company does not cover such as a deductible and maximum out of pocket amounts. You understand that you will receive a bill (a “Patient Bill”) for any outstanding financial liability for the Services for which you are liable. Such Patient Bill is rendered subsequent to MySleep receiving an explanation of payment (or similar documentation) from your insurance company. Deductibles, co-pays, non-covered services, and other relevant information will be detailed on the Patient Bill, which is due upon receipt or as otherwise indicated in the Patient Bill. If payment is not received as required by the Patient Bill, you understand that you may be denied the Services until payment is paid in full. If you are concerned about your ability to pay or have questions about the Patient Bill, you may contact MySleep at [\(888\) 324-7781](tel:8883247781) to see if you qualify for MySleep’s patient assistance program. You acknowledge that failure to meet your financial obligations under this Section 7 may result in your account being turned over to a collection agency.

8. Prohibited Conduct. By using the Service, you agree not to, directly or indirectly, and may not permit any other person to:

- use or access the Service (i) from a jurisdiction where such use or access is not authorized, (ii) for any illegal purpose, or (iii) in violation of any local, state, national, or international law;
- conduct activities that may be harmful to others or that could damage MySleep's reputation;
- violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third-party intellectual property right, or violating any third-party privacy right;
- post, upload, or distribute marketing or advertising links or content, or any user content or other content that is unlawful, defamatory, libelous, inaccurate, or that a reasonable person could deem to be objectionable, profane, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate;
- use scrapers, robots, or other data-gathering devices not provided by MySleep or through the Service;
- interfere with security-related features of the Service;
- interfere with the operation of the Service or any user's enjoyment of the Service, including by: (i) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (ii) making any unsolicited offer or advertisement to another user of the Service; (iii) attempting to collect personal information, Communications Data, or other information about another user or third party without their consent; or (iv) interfering with or disrupting any network, equipment, or server connected to or used to provide the Service, or violating any regulation, policy, or procedure of any such network, equipment, or server;
- perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation or accreditation, or falsifying the information you provide to us;
- modify, translate, or create derivative works, adaptations or compilations of, or based on, the Service or part thereof, or use, copy, or reproduce the Service or any part thereof other than as expressly permitted in these Terms;
- use the Service during any activity that may distract you from safely using the Service; for example, using the Service while driving or operating machinery;
- assign, sublicense, lease, sell, grant a security interest in, or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 13) or any right or ability to view, access, or use any Material; or
- attempt to do any of the acts described in this Section 8, or assist or permit any person in engaging in any of the acts described in this Section 8.

9. Third-Party Services and Linked Websites. Websites and services provided by third parties are not under our control, and we are not responsible for any third-party services. The Service may also contain

links to third-party websites. Linked websites are not under our control, and we are not responsible for them or their content.

10. Termination of Use; Discontinuation and Modification of the Service. If you violate any provision of these Terms, and to the extent permitted under applicable law, your permission from us to use the Service will terminate automatically. In addition, MySleep may in its sole discretion suspend or terminate your access to the Service at any time if you violate any provision of these Terms, if we no longer provide any part of the Service, or for any reason or no reason, with or without notice. We also reserve the right to modify or discontinue the Service at any time (including by limiting or discontinuing certain features of the Service), temporarily or permanently, without notice to you. To the fullest extent permitted under applicable law, we will have no liability whatsoever on account of any change to the Service or any suspension or termination of your access to or use of the Service. Upon the termination of any aspect of the Service, or these Terms for any reason, MySleep may at its option delete any data (including, but not limited to, Communications Data) you submitted through the Service.

11. Privacy Policy; Third-Party Services; Additional Terms

a. Privacy Policy. Please read the MySleep NPP carefully for information relating to our collection, use, storage and disclosure of your personal information. By accessing or using the Service, you explicitly consent to the collection, hosting, use, disclosure, and other processing or handling of your personal information (including sharing data with third-party providers) as described in the MySleep NPP.

b. Additional Terms. Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the "Additional Terms"), such as end-user license agreements for any downloadable software applications, our informed consent forms, if applicable, or rules that are applicable to a particular feature or content on the Service, subject to Section 13. All Additional Terms are incorporated by this reference into, and made a part of, these Terms.

12. Modification of these Terms. We reserve the right, at our discretion, to change these Terms on a going-forward basis at any time. Please check these Terms periodically for changes. If a change to these Terms materially modifies your rights or obligations, we will notify you of the modified Terms by email to the address you provided in your user profile and/or in a notification in the Service or on our website. Material modifications will be effective upon your acceptance of such modified Terms or upon your continued use of the Service after we send or post our notification of the changes, whichever is earlier. Immaterial modifications are effective upon publication. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

13. Ownership; Proprietary Rights. The Service is owned and operated by MySleep. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Service (“Materials”) provided by MySleep are protected by intellectual property and other laws. All Materials included in the Service are the property of MySleep or our third-party licensors. Except as expressly authorized by MySleep, use of the Materials is strictly prohibited. If you use our Materials in an unauthorized way, your Limited License will terminate automatically and you may be in violation of applicable laws (such as copyright and trademark laws). MySleep reserves all rights to the Materials not granted expressly in these Terms.

14. Feedback. If you choose to provide input or suggestions regarding your experience with the Service (“Feedback”), then you hereby grant MySleep an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit such Feedback in any manner and for any purpose, including to improve the Service and create other products and services.

15. Indemnity. To the fullest extent permitted under applicable law, you are responsible for your use of the Service, and you will defend and indemnify MySleep and its officers, directors, employees, consultants, affiliates, subsidiaries, and agents (together, the “MySleep Entities”) from and against every claim, liability, damage, loss, and expense, including reasonable attorneys’ fees and costs, arising out of or in any way connected with: (a) your access to, use of, or alleged use of, the Service; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; (d) any dispute or issue between you and any third party; and (e) fraud, intentional misconduct, criminal acts, gross negligence, or negligence committed by you. To the fullest extent permitted under applicable law, we reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of that claim.

16. Disclaimers; No Warranties. THE SERVICE AND ALL MATERIALS, PRODUCTS, AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. MYSLEEP ENTITIES DISCLAIM, AND YOU HEREBY EXPRESSLY WAIVE, ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, RELATING TO THE SERVICE AND ALL MATERIALS, PRODUCTS, AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE; AND (C) ANY WARRANTY AS TO WHETHER THE COMMUNICATIONS DATA OR OTHER INFORMATION AVAILABLE THROUGH OR TRANSMITTED BY THE SERVICE IS TRUE, COMPLETE OR ACCURATE. THE MYSLEEP ENTITIES DO NOT WARRANT THAT THE SERVICE OR ANY PORTION OF THE SERVICE, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICE, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND DO NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM MYSLEEPOR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF THE MYSLEEPENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN THESE TERMS. YOU ASSUME ALL RISK FOR ANY HARM OR DAMAGE THAT MAY RESULT TO YOU FROM YOUR USE OF OR ACCESS TO THE SERVICE AND ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE. YOU UNDERSTAND AND AGREE THAT YOU USE THE SERVICE, AND USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN MATERIALS OR CONTENT THROUGH THE SERVICE AND ANY ASSOCIATED SITES OR SERVICES, AT YOUR OWN DISCRETION AND RISK, AND THAT YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE), OR THE LOSS OF DATA THAT RESULTS FROM THE USE OF THE SERVICE OR THE DOWNLOAD OR USE OF THAT MATERIAL OR CONTENT.

THE ABOVE PARAGRAPHS APPLY TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW. SOME JURISDICTIONS MAY PROHIBIT A DISCLAIMER OF WARRANTIES, IN PARTICULAR A DISCLAIMER OF WARRANTIES PROVIDED OR IMPLIED BY LAW, AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

17. Limitation of Liability. IN NO EVENT WILL THE MYSLEEPENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS, GOODWILL, REPUTATION, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO THESE TERMS OR YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE THE SERVICE OR ANY MATERIALS, PRODUCTS, OR CONTENT AVAILABLE ON OR THROUGH THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY MYSLEEPENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

THE AGGREGATE LIABILITY OF THE MYSLEEPENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR YOUR USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE, PRODUCTS SOLD THROUGH THE SERVICE, OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO \$100, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. ACCORDINGLY, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. FURTHERMORE, NOTHING IN THESE TERMS LIMITS OR EXCLUDES ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED BY LAW.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL

OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 17 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

18. Force Majeure. To the fullest extent permitted under applicable law, MySleep will be excused from performance under these Terms for any period that it is prevented from or delayed in performing any obligations pursuant to these Terms, in whole or in part, as a result of a Force Majeure Event. For purposes of this section, "Force Majeure Event" means an event or series of events caused by or resulting from any of the following: (a) weather conditions or other elements of nature or acts of God; (b) acts of war, acts of terrorism, insurrection, riots, civil disorders or rebellion; (c) quarantines or embargoes, (d) labor strikes; (e) telecommunications, network, computer, server, or Internet disruption or downtime; (f) unauthorized access to MySleep's information technology systems by third parties; or (g) other causes beyond the reasonable control of MySleep.

19. Governing Law and Venue. These Terms and your use of the Service are governed by the laws of the State of California, USA, without regard to conflict of laws principles. If a lawsuit or court proceeding is permitted under these Terms, then you and MySleep agree to submit to the exclusive jurisdiction of the state courts and federal courts located within San Francisco, California, for the purpose of litigating any dispute, and you hereby consent to the personal jurisdiction and venue thereof. We operate the Service from our offices in the United States, and we make no representation that Materials included in the Service are appropriate or available for use in other locations.

20. General. These Terms, together with the MySleepNPP and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and MySleep regarding your use of the Service. Except as expressly permitted above, these Terms may be amended only by a written agreement signed by authorized representatives of all parties to these Terms. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect. Upon termination of these Terms, the "NO MEDICAL ADVICE" section, and Sections 3, 6, 8-10, and 12-25, along with any other accompanying agreements, will survive, and to the extent we continue to process information about you, we will do so in accordance with the MySleepNPP.

21. Dispute Resolution and Arbitration

a. Generally. In the interest of resolving disputes between you and MySleep in the most expedient and cost effective manner, you and MySleep agree that every dispute arising in connection with these Terms will be resolved by binding arbitration, to the fullest extent permitted under applicable law. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND MYSLEEP ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW.

b. Exceptions. Despite the provisions of Section 21(a), nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (i) bring an individual action in small claims court; (ii) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (iii) seek injunctive relief in a court of law; or (iv) to file suit in a court of law to address an intellectual property infringement claim.

c. Arbitrator. To the fullest extent permitted under applicable law, any arbitration between you and MySleep will be settled under the Federal Arbitration Act, and any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in California, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The JAMS Rules and filing forms are available online at <https://www.jamsadr.com/adr-rules-procedures/>, or by contacting MySleep.

d. Notice; Process. A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if such other party has not provided a current physical address, then by electronic mail ("Notice"). MySleep's address for Notice is 699 8th Street, Suite 600, San Francisco, CA 94103. The Notice must: (i) describe the nature and basis of the claim or dispute; and (ii) set forth the specific relief sought ("Demand"). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice is received, you or MySleep may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or MySleep must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any.

e. Fees. If you commence arbitration in accordance with these Terms, MySleep will reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000, in which case the payment of any fees will be decided by the JAMS Rules. Any arbitration hearing will take place at a location to be agreed upon in California but if the claim is for \$10,000 or less, you may choose whether the arbitration will be conducted: (i) solely on the basis of documents submitted to the arbitrator; (ii) through a non-appearance based telephone hearing; or (iii) by an in-person hearing as established by the JAMS Rules in the county (or parish) of your billing address. If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the JAMS Rules. In that case, you agree to reimburse MySleep for all monies previously disbursed by it that are otherwise your obligation to pay under the Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

f. No Class Actions. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, YOU AND MYSLEEP AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and MySleep agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

g. Modifications to this Arbitration Provision. If MySleep makes any future change to this arbitration provision, other than a change to MySleep's address for Notice, you may reject the change by sending us written notice within 30 days of the change to MySleep's address for Notice, in which case your access to the Service will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

h. Opt-Out Procedure. You can choose to reject this Arbitration Agreement by mailing us a written opt-out notice ("Opt-Out Notice") in accordance with the terms of this section. For new users, the Opt-Out Notice must be postmarked no later than 30 days after the date you use the Service for the first time. You must mail the Opt-Out Notice to MySleep, 699 8th Street, Suite 600, San Francisco, CA 94103. The Opt-Out Notice must state that you do not agree to the arbitration agreement and must include your name, address, phone number, and the email address(es) used to log in to the Service to which the opt-out applies. You must sign the Opt-Out Notice for it to be effective. This procedure is the only way you can opt out of the arbitration agreement. If you opt out of the arbitration agreement, MySleep will likewise not be bound by these arbitration provisions. All other terms of these Terms will continue to apply. Opting out of the arbitration agreement has no effect on any previous, other, or future arbitration agreements that you may have with us. MySleep users who accepted a previous version of these Terms

that included an arbitration agreement, and who did not timely opt out of that arbitration agreement, remain bound by the last arbitration agreement that they accepted. Upon receipt of a valid Opt-Out Notice, MySleep will provide the opting out user with a copy of the arbitration agreement from the last version of the Terms that the user accepted, if any exists.

i. Enforceability. If Section 21(f) is found to be unenforceable or if the entirety of this Section 21 is found to be unenforceable, then the entirety of this Section 21 (except this Section 21(i)) will be null and void and, in that case, the parties agree that the exclusive jurisdiction and venue described in Section 19 will govern any action arising out of or related to these Terms.

j. Claims. To the fullest extent permitted under applicable law, no action arising out of, in connection with, or relating to these Terms shall be brought by you more than one (1) year after the accrual of the cause of action. This period shall not be extended for any reason, except by the written consent of both parties. All statutes or provisions of law which would toll or otherwise affect the running of the period of limitation are hereby waived, and no such statute or provision of law shall operate to extend the period limited in this paragraph, to the fullest extent permitted under applicable law.

22. Consent to Electronic Communications. By using the Service, you consent to receiving certain electronic communications from us as further described in MySleepNPP. Please read the MySleepNPP to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

23. Export. You may not use the Service if you are the subject of U.S. sanctions or of sanctions consistent with U.S. law imposed by the governments of the country where you are using the Services. You must comply with all U.S. or other export and re-export restrictions that may apply to goods, software, technology, and services.

24. Contact Information. The Service is offered by MySleep. You may contact us by emailing us at info@mysleep.live, or calling customer care at [\(888\) 324-7781](tel:8883247781).

25. Consumer Protection Notice. Please note that, if you are a consumer, the limitations in these Terms are intended to be only as broad and inclusive as is permitted by the laws of your state of residence. If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding the Service or to receive further information regarding use of the Service.

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