

Terms of Use

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1. Proprietary Rights.

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2. User Conduct – General.

In using this Site, you agree:

- a. not to disrupt or interfere with the security of, or otherwise abuse, the Site, or any services, system resources, accounts, servers or networks connected to or accessible through the Site or affiliated or linked Web sites;
- b. not to disrupt or interfere with any other user's enjoyment of the Site or affiliated or linked Web sites;
- c. not to upload, post, or otherwise transmit through or on this Site any viruses or other harmful, disruptive or destructive files;
- d. not to use or attempt to use another's account, service or system without authorization from Atlas, or create or use a false identity on this Site;
- e. not to transmit through or on this Site spam, chain letters, junk mail or any other type of unsolicited mass email to people or entities who have not agreed to be part of such mailings;
- f. not to divulge your username and password to others either on or off the Site;
- g. not to attempt to obtain unauthorized access to the Secure Sites; and
- h. not use this Site to seek, provide, or obtain specific medical advice, medical opinion, diagnosis or treatment as applied to a patient's particular condition or situation.

In addition, you agree that you are solely responsible for actions and communications undertaken or transmitted under your account, and that you will comply with all applicable local, state, national, and international laws and regulations, including but not limited to United States export restrictions, that relate to your use of or activities on this Site. This Site is controlled and operated in the United States. If you are in a jurisdiction that restricts you from accessing this Site, do not access or use this Site. Atlas makes no representation that the Site is appropriate or available for use outside the United States.

3. User Conduct – Bulletin Boards.

The Secure Sites may include bulletin boards, which allow feedback to Atlas and real-time interaction between users. Atlas does not control the messages, information or files delivered to bulletin boards. It is a condition of your use of the bulletin boards and the Secure Sites that you do not:

- a. restrict or inhibit any other user from using and enjoying the bulletin boards;
- b. post or transmit any unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, pornographic, profane or indecent information of any kind, including without limitation any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any local, state, national or international law;
- c. post or transmit any information, software or other material which violates or infringes upon the rights of others, including material which is an invasion of privacy or publicity rights or which is protected by copyright, trademark or other proprietary right, or derivative works with respect thereto, without first obtaining permission from the owner or right holder;
- d. post or transmit any information, software or other material, which contains a virus or other harmful component;
- e. post, transmit or in any way exploit any information, software or other material for commercial purposes, or which contains advertising;

By accessing the Secure Sites, you acknowledge and agree that Atlas has no obligation to monitor bulletin boards. Atlas reserves the right but not the obligation to remove any materials it deems objectionable, in its sole discretion and without any reference to you. You agree to hold harmless Atlas and its affiliates and parties with whom Atlas has contracted for purposes of hosting or maintaining this Site from all claims based upon communications made or materials posted by others or the use by third parties of this Site.

You expressly agree that you will not discuss or refer to any particular patient, any particular patient's medical condition or any other information that could identify a particular patient.

4. Online Communications On and Through the Site.

Except as otherwise provided in section 5 below, you agree that any communications you transmit to anyone through the Site or copyrighted works you post on the Site, including, without limitation, questions, comments, suggestions, ideas, plans, notes, drawings, configurations, specifications, purchase orders, quotes or requests for quotes, performance data, account information, or other material, data, or information (collectively, "Information"), are non-confidential and upon transmission of such Information to Atlas via email or other means you grant to Atlas an irrevocable, non-exclusive, royalty-free, sublicensable, world wide license (including but not limited to a copyright license) to use such Information in any media for any purpose.

5. Privacy Policy.

You acknowledge and agree that Atlas may use the data collected in the course of our relationship for the purposes identified in our Privacy Policy, which is incorporated by reference as if fully set forth in these TOU.

6. Customer Secure Site.

Only Atlas Customers are allowed access to the Atlas Customer Secure Site. The terms of this Section 6 apply to Customers accessing the Customer Secure Site.

Access to the Customer Secure Site is subject to these TOU and the terms of your software and/or services agreement (your "Agreement"). You agree that the Customer Secure Site contains Confidential Information as defined in your Agreement and that you will treat such Confidential Information in accordance with the terms of your Agreement. By posting messages or uploading files or templates through the Customer Secure Site, you are granting Atlas a royalty-free, perpetual, non-exclusive, unrestricted, worldwide license to:

- a. use, copy, sublicense, adapt, and transmit; and
- b. sublicense to third parties the unrestricted right to exercise any of the foregoing rights granted. This includes the right to exploit any proprietary rights in such templates, files, or messages, including but not limited to rights under copyright, trademark, servicemark or patent laws under any relevant jurisdiction. Files or templates you download from the Customer Secure Site are not warranted by Atlas and are not guaranteed to be accurate or up-to-date.

7. Business Alliance Program Secure Site.

Only Atlas Business Alliance Partners ("BAPs") are allowed access to the Atlas Business Alliance Program Secure Site. The terms of this Section 7 apply to BAPs accessing the Business Alliance Program Secure Site.

Access to the Business Alliance Program Secure Site is subject to these TOU and the terms of your Business Alliance Program Agreement (your "Agreement"). You agree that you are accessing the Business Alliance

Program Secure Site solely for the purpose of carrying out your duties under the program. You agree that the Business Alliance Program Secure Site contains Confidential Information as defined in your Agreement. You agree that documents, files, or other materials downloaded from the Business Alliance Program Secure Site are not warranted by Atlas. You are responsible for periodically returning to the Business Alliance Program Secure Site to ensure that you are using the most current documents.

8. Links and Third-Party Content.

Links to Other Web Sites. This Site may from time to time contain links to other Web sites. These links are provided as a convenience and do not constitute an endorsement, sponsorship, or recommendation by Atlas of — or responsibility for — the linked Web sites or any content, services, or products available on or through such sites.

Links from Other Web Sites. All links to this Site must be approved in writing by Atlas, except that Atlas consents to links in which:

- a. the link is a text-only link containing only the title of the home page of this Site;
- b. the link “points” only to the home page of the Site and not to deeper pages;
- c. the link, when activated by a user, displays this home page of the Site full-screen and not within a “frame” on the linked Web site, and
- d. the appearance, position, and other aspects of the link does not i. create the false appearance that an entity or its activities or products are associated with or sponsored by Atlas or its affiliates, or ii. be such as to damage or dilute the goodwill associated with the name and trademarks of Atlas or its affiliates. Atlas reserves the right to revoke this consent to link at any time in its sole discretion.

Third-Party Content. This Site may from time to time contain material, data, or information provided, posted, or offered by third parties, including but not limited to advertisements or postings in online community discussions. You agree that neither Atlas nor its affiliates shall have any liability whatsoever to you for any such third-party material, data, or information.

9. Disclaimers.

THIS SITE AND THE CONTENT AVAILABLE THROUGH IT ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. YOU EXPRESSLY AGREE THAT USE OF THIS SITE AND/OR ITS CONTENT IS AT YOUR SOLE RISK.

TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, ATLAS AND ITS AFFILIATES DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

YOU EXPRESSLY AGREE THAT USE OF THIS SITE, INCLUDING ALL CONTENT, DATA, OR SOFTWARE DISTRIBUTED BY, DOWNLOADED OR ACCESSED FROM OR THROUGH THE SITE, IS AT YOUR SOLE RISK. YOU UNDERSTAND AND AGREE THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR BUSINESS, YOUR COMPUTER SYSTEM, OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH CONTENT, DATA, AND/OR SOFTWARE. YOU ACKNOWLEDGE THAT ATLAS DOES NOT CONTROL INFORMATION, PRODUCTS, OR SERVICES OFFERED BY THIRD PARTIES THROUGH THE SITE. EXCEPT AS OTHERWISE AGREED

IN WRITING, ATLAS AND ITS AFFILIATES ASSUME NO RESPONSIBILITY FOR AND MAKE NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY, CURRENCY, COMPLETENESS, RELIABILITY OR USEFULNESS OF ANY ADVICE, OPINION, STATEMENT, OR OTHER CONTENT OR OF ANY PRODUCTS OR SERVICES DISTRIBUTED OR MADE AVAILABLE BY THIRD PARTIES THROUGH THE SITE.

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10. Limitation of Liability.

UNDER NO CIRCUMSTANCES, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, SHALL ATLAS OR ITS PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR SUPPLIERS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING FROM OR IN CONNECTION WITH THE USE OF OR THE INABILITY TO USE THIS SITE OR ANY CONTENT CONTAINED ON THE SITE, OR RESULTING FROM UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA, OR OTHER INFORMATION THAT IS SENT OR RECEIVED OR NOT SENT OR RECEIVED, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLES, EVEN IF ATLAS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES ACKNOWLEDGE THAT THIS IS A REASONABLE ALLOCATION OF RISK.

11. General.

Applicable Law. These TOU shall be governed by and construed in accordance with the laws of the State of Georgia, and the federal laws of the United States of America, without giving effect to its conflict of laws provisions. You agree to submit to the personal and exclusive jurisdiction of the state or federal courts located within the State of Georgia.

12. Other.

These TOU constitute the entire agreement between you and Atlas governing your use of the Site. Should any provision in these TOU be found invalid or unenforceable for any reason, then that provision shall be deemed

severable from the terms and shall not affect the validity or enforceability of the remaining provisions. You agree that any claim arising out of or related to the terms or your use of the Site must be filed within one year after it arose or be permanently barred.

Updated July 1, 2013

Master Subscription Agreement

THIS MASTER SUBSCRIPTION AGREEMENT (“AGREEMENT”) GOVERNS YOUR PURCHASE AND ONGOING USE OF THOSE SERVICES.

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

You may not access the Services if You are Our direct competitor, except with Our prior written consent. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement was last updated on June __, 2013. It is effective between You and Us as of the date of You accepting this Agreement.

Table of Contents

1. Definitions
2. Disclaimers
3. Purchased Services
4. Use of the Services
5. Third-Party Providers
6. Fees and Payment for Purchased Services
7. Proprietary Rights
8. Confidentiality
9. Warranties and Disclaimers
10. Mutual Indemnification
11. Limitation of Liability
12. Term and Termination
13. Who You Are Contracting With, Notices, Governing Law and Jurisdiction
14. General Provisions

1. DEFINITIONS

“**Acceptable Use Policy**” or “**AUP**” means the acceptable use policy found on www.atlas.md as may be changed from time to time at Our sole discretion. Amendments to the AUP are effective upon posting the same to www.atlas.md. You should frequently check Our website for changes to Our AUP.

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. “**Control**,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Content**” means mean all system master files, templates, and reports that constitute a part of the Services, and the electronic documents, files, data, forms, and other materials contained in such master files and templates, including those from Atlas’ Content library, whether or not they are subsequently modified by You, and any such Content created after the Effective Date by or for You in accordance with the terms of this Agreement or any related agreement. Content does not include patient specific health information or data.

“**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

“**Order Form**” means the ordering documents for purchases hereunder, including addenda thereto, that are entered into between You and Us from time to time. Order Forms shall be deemed incorporated herein by reference.

“**Privacy Policy**” means the privacy policy found on www.atlas.md. Your privacy is important to Us. Please read this policy carefully for information relating to Our collection, use, and disclosure of your personal information.

“**Purchased Services**” means Services that You or Your Affiliates purchase under an Order Form.

“**Services**” means the online, Web-based applications and platform provided by Us via www.atlas.md and/or other designated websites as described in the User Guide, that are ordered by You under an Order Form, including associated offline components but excluding Third Party Applications.

“**SLA**” means the service level agreement that guarantees 99.9% availability of the Services and explains Your sole remedy for Our failure to deliver such availability.

“**Third-Party Applications**” means online, Web-based applications and offline software products that are provided by third parties, interoperate with the Services, and are identified as third-party applications.

“**User Guide**” means the online user guide for the Services, accessible via www.atlas.md, as updated from time to time.

“**Users**” means individuals who are authorized by You to use the Services, for whom subscriptions to a Service have been purchased, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users may include but are not limited to Your employees, consultants, contractors and agents; or third parties with which You transact business.

“**We**,” “**Us**” or “**Our**” means the Atlas CRM, LLC.

“**You**” or “**Your**” means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity. “**Your Data**” means all electronic data or information submitted by You to the Purchased Services.

2. DISCLAIMERS

- 2.1. Third Party Databases; Data. Atlas shall not be liable for any specific settings or databases embedded within the Services. Atlas does not warrant the accuracy of codes or other data contained in the Services or any third party database incorporated into the Services. The clinical information contained in the Services, including that

contained in the Content, or any third party database incorporated into the Services is intended as a supplement to, and not a substitute for, the knowledge, expertise, skill, and judgment of physicians or other healthcare professionals. The absence of a warning for a given drug or drug combination shall not be construed to indicate that the drug or drug combination is safe, appropriate, or effective in any given patient. Billing codes, including without limitation ICD, CPT, and E&M codes, which might be suggested by the Services are merely suggestions based upon the amount of documentation completed, and such codes are not intended to be a substitute for the healthcare professional's judgment. Client is responsible for ensuring that billing codes entered into the Content are appropriate for the level of documentation completed. Any hard copy documents or images that are scanned and saved as files within the Services, and any digital images imported as files into the Services, are to be used for documentation purposes only and not for diagnostic purposes. Atlas shall not be liable for the content, accuracy, clarity, or resolution of any scanned images or digital images.

- 2.2. **Professional Duty.** You acknowledge that the professional duty to the patient in providing healthcare services lies solely with the healthcare professional providing such services. You take full responsibility for the use of information provided by the Services or any third party databases incorporated into the Services in patient care and acknowledges that the use of the Services or any third party databases incorporated into the Services is in no way intended to replace, or serve as a substitute for, professional judgment. Atlas does not assume any responsibility for Your actions which may result in any liability or damages due to malpractice, failure to warn, negligence, or any other basis. You shall ensure that all healthcare professionals using the Services are aware of the limitations on the use of the Services.
- 2.3. **General.** NEITHER ATLAS NOR ITS LICENSORS WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ANY SERVICES, CONTENT, OR SERVICES WILL MEET YOUR REQUIREMENTS. EXCEPT AS SET FORTH ABOVE, ATLAS AND ITS LICENSORS SPECIFICALLY DISCLAIM ALL WARRANTIES WITH RESPECT TO THE SERVICES, THE DOCUMENTATION, THE CONTENT, AND/OR ANY MATERIALS OR SERVICES FURNISHED TO CLIENT UNDER THIS AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. THERE IS NO WARRANTY AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SERVICES, DOCUMENTATION, OR SERVICES PROVIDED HEREUNDER.
- 2.4. **Content.** CONTENT PROVIDED AT DEPLOYMENT, VIA ATLAS' CONTENT LIBRARY, OR OTHERWISE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. YOU EXPRESSLY AGREE THAT USE OF THE CONTENT IS AT YOUR SOLE RISK. THE CONTENT MAY CONTAIN CONTENT UPLOADED BY USERS, AND SUCH CONTENT HAS NOT BEEN REVIEWED BY ATLAS. YOU UNDERSTAND AND AGREE THAT YOU ARE SOLELY RESPONSIBLE FOR VERIFYING THE ACCURACY OF CONTENT, INCLUDING, BUT NOT LIMITED TO, ANY MEDICAL INFORMATION, DRUG AND DOSING INFORMATION, AND PROPER BILLING CODES CONTAINED IN THE CONTENT. ATLAS AND ITS AFFILIATES ASSUME NO RESPONSIBILITY FOR AND MAKE NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY, CURRENCY, COMPLETENESS, RELIABILITY, OR USEFULNESS OF ANY CONTENT.

3. PURCHASED SERVICES

- 3.1. **Provision of Purchased Services.** Provision of Purchased Services. We shall make the Purchased Services available to You pursuant to this Agreement and the relevant Order Forms during a subscription term. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.
- 3.2. **User Subscriptions.** Unless otherwise specified in the applicable Order Form, (i) Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the subscription term at the same pricing as that for the pre-existing subscriptions, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services.

4. USE OF THE SERVICES

- 4.1. **Our Responsibilities.** We shall provide to You: (i) basic support for the Purchased Services at no additional charge, and/or upgraded support if purchased separately; (ii) user guides for the Services, troubleshooting for use of the Services, online best practices training, and Atlas “U” webinars; (iii) emergency 800 telephone help desk support for one technical support contact with a 1-hour response time M-F 8:00 a.m. to 5:00 p.m. CST; (iv) end user email support and the ability to log help desk requests with a 4-hour response time M-F 8:00 a.m. to 5:00 p.m. CST; and (v) the Purchased Services only in accordance with Our Privacy Policy and applicable laws and government regulations. We shall also (use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which We shall give at least 8 hours notice via the Purchased Services and which We shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. CST Monday), or (ii) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), or Internet service provider failures or delays.
- 4.2. **Your Responsibilities.** You shall (i) be responsible for Users’ compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of Your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with the User Guide, Acceptable Use Policy and applicable laws and government regulations. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.
- 4.3. **System Requirements.** The following minimum hardware and software requirements are necessary for delivery of the Services: (i) internet Access via LAN or wireless by Cable Modem, DSL, Satellite, etc. (High Speed internet access is recommended); and (ii) web browser such as Internet Explorer 10, Firefox 22, Acrobat Reader XI, Active X (11.x). The following applications are helpful but optional: MS Excel, Adobe Acrobat, MS Exchange, Apple iPhone, Android, and Windows Mobile device.
- 4.4. **Training.** We shall provide in relation to Purchased Services on-site or Webex training (as determined solely by Us) on a time and material basis for You and your staff. You shall be responsible for expenses (e.g., transportation, lodging, food, etc...) related to on-site training. Training will be provided at times that are mutually agreeable.
- 4.5. **Usage Limitations.** Services may be subject to other limitations, such as, for example, limits on disk storage space, on the number of calls You are permitted to make against Our application programming interface, and, for Services that enable You to provide public websites, on the number of page views by visitors to those websites. Any such limitations are specified in the User Guide. The Services provide real-time information to enable You to monitor Your compliance with such limitations.

5. THIRD-PARTY PROVIDERS

- 5.1. **Acquisition of Third-Party Products and Services.** We may offer Third-Party Applications for sale under Order Forms. Any other acquisition by You of third-party products or services, including but not limited to Third-Party Applications and implementation, customization and other consulting services, and any exchange of data between You and any third-party provider, is solely between You and the applicable third-party provider. We do not warrant or support third-party products or services, whether or not they are designated by Us as “certified” or otherwise, except as specified in an Order Form. No purchase of third-party products or services is required to use the Services.
- 5.2. **Third-Party Applications and Your Data.** If You install or enable Third-Party Applications for use with Services, You acknowledge that We may allow providers of those Third-Party Applications to access Your Data as required for the interoperation of such Third-Party Applications with the Services. We shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by Third-

Party Application providers. The Services shall allow You to restrict such access by restricting Users from installing or enabling such Third-Party Applications for use with the Services.

- 5.3. **Google Services.** Service features that interoperate with Google services depend on the continuing availability of the Google API and program for use with the Services. If Google Inc. ceases to make the Google API or program available on reasonable terms for the Services, We may cease providing such Service features without entitling You to any refund, credit, or other compensation.

6. FEES AND PAYMENT FOR PURCHASED SERVICES

- 6.1. **User Fees.** You shall pay all fees specified in all Order Forms hereunder. Except as otherwise specified herein or in an Order Form, (i) fees are quoted and payable in United States dollars (ii) fees are based on services purchased and not actual usage, (iii) payment obligations are non-cancelable and fees paid are non-refundable, and (iv) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form. User subscription fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof; therefore, fees for User subscriptions added in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the subscription term.
- 6.2. **Invoicing and Payment.** You will provide Us with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Us. If You provide credit card information to Us, You authorize Us to charge such credit for all Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth in Section 12.2 (Term of Purchased User Subscriptions). Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card, We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for maintaining complete and accurate billing and contact information in the Services.
- 6.3. **Overdue Charges.** If any charges are not received from You by the due date, then at Our discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 6.2 (Invoicing and Payment).
- 6.4. **Suspension of Service and Acceleration.** If any amount owing by You under this or any other agreement for Our services is 30 or more days overdue (or 10 or more days overdue in the case of amounts You have authorized Us to charge to Your credit card), We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full.
- 6.5. **Payment Disputes.** We shall not exercise Our rights under Section 6.3 (Overdue Charges) or 6.4 (Suspension of Service and Acceleration) if the applicable charges are under reasonable and good-faith dispute and You are cooperating diligently to resolve the dispute.
- 6.6. **Taxes.** Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, “**Taxes**”). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against it based on Our income, property and employees.

7. PROPRIETARY RIGHTS

- 7.1. **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.
- 7.2. You shall not (i) permit any third party to access the Services except as permitted herein or in an Order Form, (ii) create derivative works based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.
- 7.3. **Ownership of Your Data.** As between Us and You, You exclusively own all rights, title and interest in and to all of Your Data.
- 7.4. **Suggestions.** We shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Services.
- 7.5. **Federal Government End Use Provisions.** We provide the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Us to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

8. CONFIDENTIALITY

- 8.1. **Definition of Confidential Information.** As used herein, “**Confidential Information**” means all confidential information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.
- 8.2. **Protection of Confidential Information.** Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.
- 8.3. **Protection of Your Data.** Without limiting the above, We shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 7.5 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services or prevent or address service or technical problems, or at Your request in connection with customer support matters.

- 8.4. **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

9. WARRANTIES AND DISCLAIMERS

- 9.1. **90-Day Money Back Guarantee.** If You are not completely satisfied with the Services, You shall be entitled to terminate the Agreement in the first 90 days of use of the Services and receive a refund of all fees paid by You for the Services.
- 9.2. **Our Warranties.** We warrant that (i) the Services shall perform materially in accordance with the User Guide, and (ii) subject to Section 5.3 (Google Services), the functionality of the Services will not be materially decreased during a subscription term. For any breach of either such warranty, Your exclusive remedy shall be as provided in Section 12.3 (Termination for Cause) and Section 12.4 (Refund or Payment upon Termination) below.
- 9.3. **Service Level Agreement.** We guarantee 99.9% availability of the Services as more specifically defined and set forth in the SLA. Your sole remedy for Our failure to deliver such availability is the Credits set forth SLA.
- 9.4. **Mutual Warranties.** Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) it will not transmit to the other party any Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party).
- 9.5. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

10. MUTUAL INDEMNIFICATION

- 10.1. **Indemnification by Us.** We shall defend You against any claim, demand, suit, or proceeding (“**Claim**”) made or brought against You by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify You for any damages finally awarded against, and for reasonable attorney's fees incurred by, You in connection with any such Claim; provided, that You (a) promptly give Us written notice of the Claim; (b) give Us sole control of the defense and settlement of the Claim (provided that We may not settle any Claim unless the settlement unconditionally releases You of all liability); and (c) provide to Us all reasonable assistance, at Our expense.
- 10.2. **Indemnification by You.** You shall indemnify, defend and hold Atlas, and its members, officers, employees and agents (“Indemnitees”) harmless against all actions, claims and demands (including the cost of investigating, defending or settling any action, claim or demand including but not limited to reasonable attorneys' fees and litigation costs)(a “**Claim**”) which may be made, threatened to be made, or instituted against the Indemnitees arising out of or related to: (a) Your breach of the Agreement; (b) any dispute between You or a User and a third party regarding access or ownership of patient information; (c) Your Data, or Your use of the Services in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law; (d) any medical malpractice claim, tort claim, statutory claim or other claim against the Indemnitees arising out of the Agreement; or (e) Your negligence, and shall indemnify Us for any damages finally awarded against, and for reasonable attorney's fees incurred by, Us in connection with any such Claim; provided, that We (a) promptly give You written notice of the Claim; (b) give You sole control of the defense and settlement of the Claim (provided that You may not settle any Claim unless the settlement unconditionally release Us of all liability); and (c) provide to You all reasonable assistance, at Our expense.

- 10.3. **Exclusive Remedy.** This Section 10 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this Section.

11. LIMITATION OF LIABILITY

- 11.1. **Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY YOU HEREUNDER OR, WITH RESPECT TO ANY SINGLE INCIDENT, THE LESSER OF \$100,000 OR THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 6 (FEES AND PAYMENT FOR PURCHASED SERVICES).
- 11.2. **Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

12. TERM AND TERMINATION

- 12.1. **Term of Agreement.** This Agreement commences on the date You accept it and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated.
- 12.2. **Term of Purchased User Subscriptions.** User subscriptions purchased by You commence on the start date specified in the applicable Order Form and continue for the subscription term specified therein.
- 12.3. **Termination.** Either party may terminate this Agreement upon 60 days written notice to the other party. A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 12.4. **Refund or Payment upon Termination.** Upon any termination for cause by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by Us, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.
- 12.5. **Return of Your Data.** Upon request by You made within 30 days after the effective date of termination of a Purchased Services subscription, We will make available to You for download a file of Your Data in _____ format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.
- 12.6. **Surviving Provisions.** Section 6 (Fees and Payment for Purchased Services), 7 (Proprietary Rights), 8 (Confidentiality), 9.3 (Disclaimer), 10 (Mutual Indemnification), 11 (Limitation of Liability), 12.4 (Refund or Payment upon Termination), 12.5 (Return of Your Data), 13 (Who You Are Contracting With, Notices, Governing Law and Jurisdiction) and 14 (General Provisions) shall survive any termination or expiration of this Agreement.

13. GOVERNING LAW AND JURISDICTION

- 13.1. **Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the State of Kansas, without reference to the rules governing conflicts of law. The parties agree that the exclusive venue as to any

dispute arising out of or related to this Agreement shall be the courts sitting in Wichita, Kansas, and the parties irrevocably consent to the jurisdiction of such courts. Notwithstanding the foregoing, either party may seek temporary equitable relief, provided that the dispute is then submitted to a court sitting in Wichita, Kansas, or enforce any judgment of such court, in any court of competent jurisdiction.

- 13.2. **Waiver of Jury Trial.** Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.
- 13.3. **Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Notices to You shall be addressed to the system administrator designated by You for Your relevant Services account, and in the case of billing-related notices, to the relevant billing contact designated by You.

14. GENERAL PROVISIONS

- 14.1. **Priority of Terms.** This Agreement shall govern the parties' relationship with respect to all Services and/or Services. Unless this Agreement otherwise specifies, when in conflict the terms of the following documents shall prevail in the following order: (1) this Agreement, including without limitation, the Acceptable Use Policy, (2) the Order Form applicable to the Services, (3) any exhibits, specifications, or other documents attached and incorporated into any Order Form, and (4) any other documents referenced in the Agreement.
- 14.2. **Export Compliance.** Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing, (i) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) You shall not permit Users to access or use Services in violation of any U.S. export embargo, prohibition or restriction.
- 14.3. **Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- 14.4. **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.
- 14.5. **Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.
- 14.6. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- 14.7. **Attorney Fees.** You shall pay on demand all of Our reasonable attorney fees and other costs incurred by Us to collect any fees or charges due Us under this Agreement following Your breach of Section 6.2 (Invoicing and Payment).
- 14.8. **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. In the event of such a termination, We shall refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

- 14.9. **Entire Agreement.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.