



## Atlas MSA (*Master Service Agreement*)

This Atlas Cloud Technologies Inc. Master Services Agreement (the “*Agreement*”) is between Atlas Cloud Technologies, Inc. d.b.a Atlas, a corporation existing under the laws of the state of Washington, (“*Atlas*”) and you (the “*Client*”). Together Atlas Technologies and *CLIENT* may be referred to in this Agreement as “*Party*” or “*Parties.*” This Agreement will be effective on date of terms acceptance (the “*Effective Date*”).

This Agreement consists of:

- The following terms and conditions;
- Any applicable Addenda;
- Any applicable SOWs; and

Any other exhibits.

The laws of the State of Washington govern this Agreement. This Agreement supersedes all prior and contemporaneous communications, whether written or oral, regarding the subject matter covered in this Agreement. In the event of a conflict between any parts of this Agreement not resolved expressly by its terms, the following order of precedence will apply: 1) This Agreement; and 2) a signed SOW, except to the extent that this Agreement or the SOW expressly provides a section of the SOW to take precedence over any section of this Agreement. This Agreement may be modified only by a written agreement signed by duly authorized representatives of both Parties. No CLIENT purchase order terms (“PO terms”) shall supersede the terms and conditions of this Agreement, and if any CLIENT PO terms conflict with this Agreement, said PO terms are null and void between the Parties.

**Notices may be provided either by electronic or physical mail. The person(s) identified above will receive notices on behalf of their Party. Each Party may change the persons to whom notices will be sent by giving notice to the other in writing.**

**The Parties may execute this Agreement in any number of counterparts. Each counterpart will be deemed an original and all counterparts will constitute one agreement binding on both Parties. Facsimile or electronic signatures will be considered binding for all purposes.**

### **SECTION 1: Definitions**

**1.1 “Affiliate”** means any legal entity that owns, is owned by, or is commonly owned with a Party. “Own” means having more than 50% ownership or the right to direct the management of the entity;

**1.2 “Claim(s)”** means all third-party claims, actions, demands, proceedings, damages, costs and liabilities of any kind;

**1.3 “Deliverables”** means all IP or other work product developed by Atlas (or a Subcontractor, Subsidiary, or Authorized Agent of Atlas) for CLIENT under a SOW or as part of the Services;

**1.4 “Excluded License”** means any software license requiring, as a condition of use, modification and/or distribution that the software or other software combined and/or distributed with it be (a) disclosed or distributed in source code form; (b) licensed for the purpose of making derivative works; or (c) redistributable at no charge.



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**1.5 “Intellectual Property” or “IP”** means all intellectual property rights throughout the world, whether existing under statute or at common law or equity, now or perpetually hereafter in force or recognized, including:

**1.5.1** Copyrights, trade secrets, trademarks and service marks, patents, inventions, designs, logos and trade dress, “moral rights, “mask works, publicity rights, and privacy rights; and

**1.5.2** Any application or right to apply for any of the rights referred to in Section 1, and all renewals, extensions and restorations.

**1.6 “CLIENT Materials”** means any tangible or intangible materials (including hardware, software, source code, documentation, methodologies, know how, processes, techniques, ideas, concepts, technologies, and data) which are provided by or on behalf of CLIENT to Atlas to perform the Services. CLIENT Materials include any modifications to, or derivative works of, the foregoing materials, the Trademarks and any data entered into any Atlas database as part of the Services. CLIENT Materials do not include:

**1.6.1** Any software products obtained by Atlas outside of this Agreement; or

**1.6.2** Any Atlas IP.

**1.7 “Services”** means the services specified in a SOW or otherwise performed by Atlas under this Agreement;

**1.8 “SOW(s)”** means any of the following which describe Services and/or Deliverables ordered under this Agreement:

**1.8.1** Electronic statement(s) of work signed, electronically or otherwise, by the Parties; or

**1.8.2** Written agreement(s) signed by authorized representatives of both Parties expressly referencing this Agreement.

**1.9 “Subcontractor(s)”** means a third-party to whom Atlas delegates one or more of its obligations under this Agreement or any Atlas Affiliate, Subsidiary, or Authorized Agent that is not contracting directly with CLIENT;

**1.10 “Trademarks”** means the specific trademarks, service marks and logos identified and provided by CLIENT under a SOW; and

**1.11 “Atlas IP”** means:

**1.11.1** Atlas’s pre-existing or independently developed proprietary tools, processes or IP; and

**1.11.2** Any modifications to or derivative works of the foregoing that Atlas creates as a part of the Services, to the extent such modifications or derivative works have no functionality separate from Atlas IP.

## **SECTION 2: Scope and requirements**

**2.1** Scope of Services to be described in SOW. The Parties will describe the Services in one or more SOW. This Agreement applies to each SOW. The Parties may agree to change a SOW in writing and signed by both Parties.

**2.2** Acceptance of Deliverables. CLIENT will evaluate each Deliverable and will accept or reject it within 15 business days after receipt, or as otherwise agreed. If CLIENT does not accept or reject a Deliverable within this period, the Deliverable will be deemed accepted unless otherwise agreed. Atlas will have 15 business days to fix any Deliverable after receiving notice



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from CLIENT. If Atlas does not fix the Deliverable, Client may either reject the Deliverable without further obligation or work with Atlas to resolve the issue.

### **2.3 Atlas Personnel and Subcontracting**

**2.3.1** Selection, training and removal. Atlas will recruit, select, and train its personnel according to the requirements of the applicable SOW.

**2.3.2** Limits on use of Subcontractors. Atlas will not subcontract any Services to any third-party without CLIENT's prior written consent. If CLIENT approves the use of a Subcontractor, or if Atlas uses a Subcontractor without the prior written permission of CLIENT, Atlas will:

**2.3.2.1** Remain obligated under this Agreement for the performance of the Services;

**2.3.2.2** Require each Subcontractor to agree in writing to the terms of this Agreement for the work performed by the Subcontractor, Subsidiary or Authorized Agent;

**2.3.2.3** Require each Subcontractor to agree in writing that CLIENT is an intended third-party beneficiary of its agreement with Atlas; and

**2.3.2.4** Pay all amounts due to Subcontractor.

**2.4** Atlas to provide equipment and technology. Unless otherwise agreed in a SOW, Atlas will provide the appropriate equipment, software, and other items required to perform the Services at its own expense. Atlas will ensure that its equipment, software, and systems are compatible with CLIENT's equipment, software, and systems as necessary to perform the Services.

### **SECTION 3: Ownership and use of IP**

**3.1** Ownership of pre-existing IP. Each Party will own and retain all rights to its pre-existing IP and any IP developed outside of the Services performed under this Agreement.

**3.2** Atlas's use of CLIENT Materials

**3.2.1** License to use CLIENT Materials.

**3.2.1.1** CLIENT grants Atlas a nonexclusive, revocable license to copy, use and distribute any CLIENT Materials provided to it to the extent necessary to perform the Services. CLIENT or its suppliers retain all other interest in CLIENT Materials and related IP. Atlas has no right to sublicense the right to use CLIENT Materials, except as necessary to any approved Subcontractor.

**3.2.1.2** If the CLIENT Materials come with a separate license, the terms of that license will also apply. Those other license terms control in the case of any conflict with this Agreement.

**3.2.1.3** Atlas will insure and take all reasonable precautions to protect the CLIENT Materials against loss, damage, theft, or disappearance.

**3.2.2** Termination of license and return of CLIENT Materials. CLIENT may revoke the license to CLIENT Materials at any time for any reasonable business reason. The license will terminate automatically on the earlier of the expiration or termination of:

**3.2.2.1** This Agreement; or

**3.2.2.2** The applicable SOW.

Atlas will promptly return any CLIENT Materials on request or termination of Atlas's license.

**3.2.3** Additional provisions. With respect to Atlas's use of CLIENT Materials:



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**3.2.3.1** Atlas will not modify, reverse engineer, decompile, or disassemble CLIENT Materials except as allowed by CLIENT to perform Services;

**3.2.3.2** Atlas will leave in place, and not alter or obscure, all proprietary notices and licenses contained in CLIENT Materials;

**3.2.3.3** CLIENT is not obligated to provide technical support, maintenance or updates for CLIENT Materials;

**3.2.3.4** All CLIENT Materials are provided “as-is “without warranty of any kind; and

**3.2.3.5** Atlas assumes the risk of loss, damage, unauthorized access or use, or theft or disappearance of CLIENT Materials in Atlas’s (or Subcontractors’) care, custody or control.

**3.3 Atlas’s use of non-CLIENT IP.** Atlas will obtain CLIENT’s express written consent before using any Atlas IP or third-party IP in a manner that would:

**3.3.1** Cause it to be included in any Deliverables;

**3.3.2** Alter or affect CLIENT’s ownership interests in any Deliverables; or

**3.3.3** Be required for the Deliverables to be used, modified or distributed by CLIENT.

**3.4** If CLIENT permits Atlas to use any Atlas IP or Atlas IP is incorporated into any Deliverable without CLIENT’s permission, then Atlas will continue to own the Atlas IP and upon request, Atlas will remove the Atlas IP from the Deliverable. Atlas grants CLIENT a worldwide, nonexclusive, royalty-free, fully paid up right and license, under all current and future IP, to:

**3.4.1** Make, use, reproduce, format, modify, and create derivative works of the applicable Atlas IP;

**3.4.2** Publicly perform or display, import, broadcast, transmit, distribute, license, offer to sell and sell, rent, lease or lend copies of the applicable Atlas IP and derivative works thereof;

**3.4.3** Combine the Atlas IP and/or derivative works thereof with any software, firmware, hardware and/or services; and

**3.4.4** Sublicense to third parties the foregoing rights, including the right to sublicense to further third parties.

If Atlas intends to use any third-party IP in a manner described above, then Atlas will also obtain all necessary rights in the third-party IP to make the grant of rights provided in Sections 3(d)(1) to 3(d)(4) above.

**3.5 Ownership of Deliverables**

**3.5.1** Ownership of IP Rights in Deliverables. All Deliverables are “work made for hire “for CLIENT under applicable copyright law subject to:

**3.5.1.1** Atlas’s retention of its rights in any Atlas IP as provided in this Section 3; and

**3.5.1.2** Any third-party’s retention of its rights in any IP licensed to CLIENT under that Section 3.3 Atlas’s use of non-CLIENT IP.

To the extent any Deliverables do not qualify as a work made for hire, Atlas assigns all right, title and interest in and to the Deliverables, including all IP rights, to CLIENT. Atlas waives, and agrees not to assert, any moral rights that may exist in Deliverables.

**3.5.2** Atlas’s assistance. At CLIENT’s request and expense, Atlas will sign documents and take any other action reasonably necessary to evidence, perfect, or protect CLIENT’s rights in the Deliverables. Atlas will cooperate with CLIENT in the filing and prosecution of any copyright,



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trademark or patent applications that CLIENT may choose to file on Deliverables. Atlas will not challenge, oppose or interfere with any CLIENT applications relating to Deliverables or file any applications on its own behalf.

### **SECTION 4: Atlas compensation**

#### **4.1 CLIENT's payment of Fees.**

**4.1.1** CLIENT will pay Atlas fees set forth in each SOW ("Fees"). CLIENT will be responsible for all expenses incurred related to the project unless otherwise agreed and stated in a SOW.

**4.1.2** Unless otherwise agreed in a SOW, after CLIENT accepts the Services and receives a proper and undisputed invoice, it will pay the Fees and approved expenses net fifteen (15) days.

**4.1.3** CLIENT will make all payments in United States currency to Atlas via payment link provided by Atlas, check or ACH electronic payment to Atlas's financial institution along with any associated fees related to the payment transaction in such an instance one is associated with the transactional preference defined by the CLIENT.

**4.2 Disputed Amounts.** CLIENT may dispute the amount of an invoice (each, a "Disputed Amount") by providing oral or written notice within five (5) business days of the date the applicable invoice was sent. Neither the failure to provide notice nor payment of an invoice is a waiver of any claim or right. CLIENT will have ten (10) business days from the date a dispute is resolved to pay Atlas.

**4.3 Taxes.** The amounts to be paid by CLIENT to Atlas may include taxes, including without limitation, any sales, use or value added taxes it owes due to this Agreement and which the law requires Atlas to collect from CLIENT. CLIENT is not liable for any taxes that Atlas is legally obligated to pay, including without limitation, net income or gross receipts taxes, franchise taxes, and property taxes. Despite any other provision in this Agreement, this section will govern the treatment of all taxes relating to this Agreement.

**4.4 Services and Fees.** CLIENT will agree to the following fees, including but not limited to:

**4.4.1** Advanced and Custom services as provided by Atlas without limitation to and such as, Application Development, SEO (Search Engine Optimization), Consulting, Project Management, etc.: Will incur a standard rate of one-hundred and fifty dollars (\$150.00) per hour with no upper limit on hours.

**4.4.2** All other Atlas Services: Standard Rates as determined above will remain the default unless otherwise agreed upon by both parties in writing; or unless the Client has an existing service, support subscription that remains in good standing for services.

### **SECTION 5: Term and termination**

**5.1 Term.** This Agreement commences on the Effective Date and will continue for a period of two (2) years (the "Term") unless it is:

**5.1.1** Terminated earlier according to its terms;

**5.1.2** Any SOW extends beyond the Term, in which case the SOW and this Agreement are coterminous with the term of the last SOW; or

**5.1.3** Extended by a written and signed amendment.



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**5.2 Termination for Convenience.** Without prejudice to any other remedies, either Party may terminate this Agreement, or any SOW, at any time without cause by giving thirty (30) days' written notice to the other Party. If CLIENT terminates for convenience, its only obligation is to pay for:

**5.2.1** Services or Deliverables it accepts before the effective date of termination; or

**5.2.2** Services performed, where CLIENT retains the benefit after the effective date of termination.

**5.3 Termination for cause.** Either Party may terminate this Agreement or any SOW on the other Party's material breach of this Agreement or a SOW. The nonbreaching Party must give thirty (30) calendar days written notice and the opportunity to cure the breach. Either Party may immediately terminate this Agreement on written notice of a breach of Section 6 Confidentiality, Privacy and Data Protection, and Publicity of this Agreement.

**5.4 Effect of termination.** Each party will return the Confidential Information and property of the other within ten (10) calendar days of the effective date of termination of this Agreement or any SOW unless otherwise instructed. Atlas will deliver to CLIENT any affected Deliverables in progress and all data and materials related to them. Atlas will assist CLIENT with a post-termination transition at CLIENT's request, at a rate no greater than that set forth in any SOW for comparable services. Atlas's assistance will not exceed thirty (30) calendar days.

**5.5 Survival.** The provisions of this Agreement which, by their terms, require performance after the termination or expiration of this Agreement, or have application to events that may occur after the termination or expiration of this Agreement, will survive the termination or expiration of this Agreement. All indemnity obligations and any applicable indemnification procedures will be deemed to survive the termination or expiration of this Agreement.

**SECTION 6: Confidentiality, Privacy and Data Protection, and Publicity**

**6.1 Confidentiality.**

**6.1.1 Existing NDA.** The information shared under this Agreement is confidential information subject to the nondisclosure agreement ("NDA") between the Parties dated August 5, 2024. If the Parties do not have an existing NDA or if the existing NDA is terminated or otherwise ceases to be in effect, Section 6.1.2 Confidential Information will apply.

**6.1.2 Confidential Information.** At all times during the Term, and for five years thereafter, the Parties will hold in strictest confidence, and will not use or disclose to any third-party, any of the other Party's Confidential Information. The term "Confidential Information" means all non-public information that a Party designates, either in writing or orally, as being confidential, or which, under the circumstances of disclosure ought to be treated as confidential. Confidential Information includes information relating to:

**6.1.2.1** A Party's released or unreleased products;

**6.1.2.2** Marketing or promotion of a Party's product;

**6.1.2.3** A Party's Business policies or practices;

**6.1.2.4** A Party's customers or suppliers; and

**6.1.2.5** Information received from others that a Party is obligated to treat as confidential.

**6.1.2.6** The existence and terms of this Agreement; and



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**6.1.2.7** Information provided by CLIENT under this Agreement or obtained or created by Atlas during providing the Services, including:

- Information contained in any reports provided to CLIENT;
- Any electronic or written correspondence between the Parties;
- CLIENT customer lists, customer information and Personal Information, regardless of the source; and
- Transactional, sales and marketing information related to the Services.

If a Party has any questions as to what comprises the other Party's Confidential Information, the Parties will consult with each other. A Party's Confidential Information does not include information that was known to that Party prior to the other Party's disclosure, or information that becomes publicly available through no fault of either Party.

**6.1.3 Security Procedures.** Atlas will employ security procedures to prevent disclosure of CLIENT's Confidential Information (including Personal Information as defined in 6.2 Privacy and Data Protection) to unauthorized third parties. Atlas's security procedures must include risk assessment and controls for:

- 6.1.3.1** System access,
- 6.1.3.2** System and application development and maintenance,
- 6.1.3.3** Change management,
- 6.1.3.4** Asset classification and control,
- 6.1.3.5** Incident response, physical and environmental security,
- 6.1.3.6** Disaster recovery/business continuity, and
- 6.1.3.7** Employee training.

## **6.2 Privacy and Data Protection**

"Personal Information" means any information provided by CLIENT or collected by Atlas in connection with this Agreement

**6.2.1** That identifies or can be used to identify, contact, or locate the person to whom such information pertains; or

**6.2.1.1** From which identification or contact information of an individual person can be derived. Personal Information includes, but is not limited to: name, address, phone number, fax number, e-mail address, social security number or other government-issued identifier, and credit card information. Additionally, if any other information (e.g., a personal profile, unique identifier, biometric information, and/or IP address) is associated or combined with Personal Information, then such information is also Personal Information.

If Atlas collects or accesses any Personal Information as part of performing the Services, Atlas agrees to comply with all applicable requirements as provided by CLIENT.

**6.3 Publicity.** Neither Party will issue any press releases that relate to the other Party or this Agreement.

## **SECTION 7: Representations and warranties**

### **Atlas represents and warrants:**

**7.1** Atlas has full rights and authority to enter into and perform according to this Agreement;



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**7.2** Atlas's performance will not violate any agreement or obligation between Atlas and any third-party;

**7.3** The Deliverables and any Atlas IP or third-party IP provided to CLIENT under this Agreement will not be subject to license terms that seek to require any CLIENT product, service, or documentation incorporating or derived from the Deliverables or any Atlas IP or third-party IP licensed to CLIENT hereunder, or any CLIENT IP, to be licensed or shared with any third-party;

**7.4** The Services will be performed professionally and be of high grade, nature and quality;

**7.5** The Services, the Deliverables and any Atlas IP or third-party IP provided to CLIENT under this Agreement will not:

**7.5.1** To the best of Atlas's knowledge, infringe any patent, copyright, trademark, trade secret or other proprietary right of any third-party; or

**7.5.2** Contain any viruses or other malicious code that will degrade or infect any Deliverables, product, service, or any other software or CLIENT's network or systems;

**7.6** EXCEPT AS SET FORTH IN THIS SECTION 7 (REPRESENTATIONS AND WARRANTIES), THE SERVICES AND THE DELIVERABLES ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY LAW, ATLAS DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING BY A COURSE OF DEALING, USAGE OR TRADE PRACTICE OR COURSE OF PERFORMANCE.

## **SECTION 8: Indemnification and other remedies**

**8.1 Indemnification.** The Parties will defend, indemnify, and hold each Party, its Affiliates, and their respective successors, directors, officers, employees, and agents harmless from and against all Claims to the extent that such Claims arise out of or relate to:

**8.1.1** Any breach of any representation or warranty contained in Section 7(a) or 7(b) by Atlas or its Subcontractors;

**8.1.2** The negligent or willful acts or omissions of a Party or its Subcontractors resulting in any bodily injury or death to any person or loss, disappearance or damage to tangible or intangible property;

**8.1.3** A Party's (or its Subcontractor's) infringement, misuse or misappropriation of any third-party IP rights;

**8.1.4** Breach of any obligations under Section 6 (Confidentiality, privacy and data protection, and Publicity); or

**8.1.5** A Party's (or its Subcontractor's) failure to comply with applicable laws, rules or regulations.

However, neither Party will have liability under this Section 8 (Indemnification) to the comparative extent that Claims result from the negligent or willful acts of an indemnified Party; or a Party's compliance with the express instructions of the other Party.

**8.2 Indemnification Procedures.** The indemnified Party will:

**8.2.1** Provide the indemnifying Party with reasonably prompt notice of Claims;



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**8.2.2** Allow indemnifying Party through mutually acceptable counsel to answer and defend Claims; and

**8.2.3** Provide the indemnifying Party with reasonable information and assistance to help the indemnifying Party defend Claims at the indemnifying Party's expense.

Any indemnified Party will have the right to employ separate counsel and participate in the defense of any Claim at its own expense.

**8.3 Acknowledgment of fault and settling Claims.** Neither Party will stipulate, admit, or acknowledge any fault or liability on the part of the other without prior written consent. The indemnifying Party will not settle any Claim or publicize any settlement without the other Party's prior written consent.

**8.4 Other remedies.** In addition, if use of the Deliverables as contemplated by this Agreement is enjoined or threatened to be enjoined, Atlas, at its expense, will notify CLIENT and immediately:

**8.4.1** Procure for CLIENT the right to continued use of the Deliverables according to this Agreement, or

**8.4.2** Replace or modify the Deliverables, in as much as they do not infringe and meet the requirements of this Agreement to CLIENT's satisfaction.

**SECTION 9: Limitations of liability**

**9.1** SUBJECT TO SECTION 9(b) BELOW, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF DATA, REVENUE, AND/OR PROFITS), WHETHER FORESEEABLE OR UNFORESEEABLE, ARISING OUT OF THIS AGREEMENT REGARDLESS OF WHETHER THE LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES OR OTHERWISE, AND EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. ADDITIONALLY, NEITHER PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY WILL EXCEED THE ACTUAL FEES PAID BY CLIENT IN THE 12-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE.

**9.2** THE LIMITATIONS ON LIABILITY SET FORTH IN SECTION 9(a) DO NOT APPLY TO LIABILITY ARISING FROM:

**9.2.1** A PARTY'S DUTY TO INDEMNIFY THE OTHER FOR THIRD-PARTY CLAIMS UNDER THIS AGREEMENT;

**9.2.2** A BREACH OF A PARTY'S OBLIGATIONS UNDER SECTION 6 (CONFIDENTIALITY, PRIVACY AND DATA PROTECTION, AND PUBLICITY);

**9.2.3** ANY INFRINGEMENT, MISUSE OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS; OR

**9.2.4** FRAUD.

**SECTION 10: Insurance**

Atlas will maintain sufficient insurance coverage to meet obligations created by this Agreement and by law. Atlas will purchase and maintain professional liability/errors and omissions



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insurance if the Services it performs create exposures generally covered by such a policy. The policy will remain in effect for 12 months after termination or expiration of this Agreement or fulfillment of a SOW. Upon request, Atlas will provide CLIENT with proof of the insurance coverage required by this section.

**SECTION 11: Reports and records**

**11.1 Reports.** Any reports Atlas provides to CLIENT shall be accurate, complete and timely. Atlas will correct any error or omission in any report within five days after becoming aware of the error or omission.

**11.2 Record Retention.** During the Term and for two (2) years thereafter, Atlas will keep all usual and proper records and books of account relating to the Services and all quality and performance reports related to the Services or the Deliverables (“Records”). Atlas will maintain any documentation required by CLIENT in connection with the United States Sarbanes-Oxley Act of 2002.

**SECTION 12: Miscellaneous**

**12.1 Relationship.** The Parties are independent contractors. This Agreement does not create an exclusive relationship between the Parties. Atlas employees and Subcontractors are not CLIENT’s employees.

**12.2 Governing law; jurisdiction.** The laws of the State of Washington govern this Agreement. If federal jurisdiction exists, the Parties consent to exclusive jurisdiction and venue in the federal courts in King County, Washington. If not, the Parties consent to exclusive jurisdiction and venue in the Superior Court of Kittitas County, Washington. If either Party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing Party will be entitled to recover its reasonable attorneys’ fees, costs, and other expenses, including the costs and fees incurred on appeal or in a bankruptcy or similar action.

**12.3 No Waiver.** A Party’s delay or failure to exercise any right or remedy will not result in a waiver of that or any other right or remedy.

**12.4 Assignment.** CLIENT will not sell, assign, transfer, pledge or encumber this Agreement or any right, or delegate any duty or obligation under this Agreement, by assignment or operation of law, without Atlas’s prior written consent. Atlas will not unreasonably withhold such consent. CLIENT will be deemed to have assigned this Agreement if CLIENT engages in a change of control transaction. Atlas may assign this Agreement to any of its Affiliates. This Agreement will inure to the benefit of and bind all permitted successors, assigns, receivers and trustees of each Party.

**12.5 Force Majeure.** Neither Party will be liable for failure to perform any obligation under this Agreement to the extent such failure is caused by a force majeure event (including acts of God, natural disasters, war, civil disturbance, action by governmental entity, strike and other causes beyond the party’s reasonable control). The Party affected by the force majeure event will provide notice to the other Party within a commercially reasonable time and will use its best efforts to resume performance. Obligations not performed due to a force majeure event will be performed as soon as reasonably possible when the force majeure event concludes.



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**12.6 Severability.** If any court of competent jurisdiction determines that any provision of this Agreement is illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect.