

Acceptance

LICENSEE DESIRES TO LICENSE FROM INSIGHTATLAST, LLC THE RIGHT TO USE THE APPLICATION SOFTWARE AS OUTLINED IN THE PURCHASE AGREEMENT, AND THE RIGHT TO MODIFY AND ENHANCE THE APPLICATION SOFTWARE FOR ITS OWN USE. LICENSEE ACCEPTS AND AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT BY INSTALLING, USING, OR COPYING THE SOFTWARE PRODUCT. IF LICENSEE DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, LICENSEE MUST NOT INSTALL, USE, OR COPY THE SOFTWARE PRODUCT.

Definitions

“Application Software”. “Application Software” shall mean the mobile workforce management system written and developed by InsightAtlas and comprised of separate software modules that include, the *SOSMobile Server*, *SOSScheduler*, *SOSDispatch*, *SOSRemote/ SOSRemoteTouch* and the *SOSMonitor*. The system is collectively and in part known as *SOSMobile*, and includes the machine language, program instructions, object code and source code, including the user interface, system control, and the interface to the LICENSEE’s system and all Improvements to such Application Software.

“Deliverables”. “Deliverables” shall mean the Application Software and Improvements thereof developed by InsightAtlas and delivered to LICENSEE.

“Technical Information”. “Technical Information” shall mean, the complete source code, compiler instructions, flow charts, schematics, specifications, and all related documentation of the Application Software in the possession of InsightAtlas at the Effective Date of Purchase Agreement and to be developed for LICENSEE pursuant to that Agreement.

“Improvements”. “Improvements” shall mean any modifications to or derivative works created from the Licensed Technology including error corrections, updates, enhancements and new releases, whether created by InsightAtlas or LICENSEE.

“Licensed Products”. “Licensed Products” shall mean any and all products which employ or are produced by use of the Licensed Technology.

“Documentation”. “Documentation” shall mean the system and user manuals provided by InsightAtlas with the Licensed Technology, if any.

License Grant License. InsightAtlas hereby grants to LICENSEE a perpetual, non-exclusive, limited license to use the Application Software as set forth in the Purchase Agreement.

Restrictions. LICENSEE shall not copy, duplicate, reproduce, license or sublicense the Application Software, or transfer or convey the Application Software or any right in the Application Software to anyone else without the prior written consent of InsightAtlas; provided that LICENSEE may make an unlimited number of copies of the Application Software for test, backup or archival purposes. LICENSEE may choose to modify and enhance the Application Software for its own use, but doing so may violate the Software warranty.

Warranties

Warranty of Title. InsightAtlas hereby represents and warrants to LICENSEE that InsightAtlas is the owner of the Application Software or otherwise has the right to grant to LICENSEE the rights set forth in this Agreement. In the event of any breach or threatened breach of the foregoing representation and warranty, LICENSEE’s sole remedy shall be to require InsightAtlas to either: i) procure, at InsightAtlas’s expense, the right to use the Application Software, ii) replace the Application Software or any part thereof that is in breach and replace it with Application Software of comparable functionality that does not cause any breach, or iii) refund to LICENSEE the full amount of the license fee upon the return of the Software and all copies thereof to InsightAtlas.

Warranty of Functionality. Commencing upon Final Acceptance and for a period of ninety (90) days thereafter, InsightAtlas represents and warrants that the Application Software was written by InsightAtlas and will perform in all material respects in accordance with the Software Specifications, and the specifications for any Improvements to such Deliverable. Should any nonconformity be detected by LICENSEE within such ninety-day period and identified in writing to InsightAtlas within such period or 30 days thereafter, InsightAtlas shall, at its sole expense, promptly correct such nonconformity. InsightAtlas shall have a reasonable time to correct such a nonconformity. InsightAtlas’s sole obligation under this warranty is to use reasonable efforts to correct a reproducible defect or nonconformance.

The warranty does not apply to any (a) Deliverable that has been modified; (b) Deliverable installed or used on any hardware or operating system not authorized by InsightAtlas; (c) version of the Deliverable other than the then-current release; (d) Deliverable used with software programs not described in the Deliverable specifications; (e) errors caused by the hardware or operating systems.

During the Warranty Period, InsightAtlas shall provide to LICENSEE any new, corrected or enhanced version of the Application Software as created by InsightAtlas. Such enhancement shall include all modifications to the Application Software which increase the speed, efficiency or ease of use of the Application Software, or add additional capabilities or functionality to the Application Software, but shall not include any substantially new or rewritten version of the Application Software. After expiration of the Warranty Period, LICENSEE may opt to purchase Extended Support maintenance as outlined in the Purchase Agreement.

Exclusive Remedies. InsightAtlas's sole obligation and LICENSEE's exclusive remedy with respect to breach of warranty shall be limited to correction of the reported defect, replacement of the Deliverable with a conforming Deliverable or, if neither of such alternatives is, in InsightAtlas's opinion, commercially feasible, refund to LICENSEE a phase-dependent proportional amount of the refundable license fee paid by LICENSEE to InsightAtlas for the defective copy of the Deliverable. Disclaimer of Warranties. Except as expressly set forth in the foregoing sections, InsightAtlas does not make by virtue of this Agreement, and InsightAtlas hereby expressly disclaims any representation or warranty to LICENSEE or any end-user or third party with respect to any copy of the Core Software or Application Software licensed by LICENSEE pursuant to this Agreement, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

Limitation of Liability. InsightAtlas shall not be responsible for, and shall not pay, any amount of incidental, consequential or other indirect damages, whether based on lost revenue or otherwise, regardless of whether InsightAtlas was advised of the possibility of such losses in advance. In no event shall InsightAtlas's liability hereunder exceed the amount of license fees paid by LICENSEE, regardless of whether LICENSEE's claim is based on contract, tort, strict liability, product liability or otherwise.

Secrecy and Confidentiality

Confidential Information. Each party agrees not to disclose or make available to any third party or use other than in connection with this Agreement, any of the other party's Confidential Information to which the recipient gains access during the course of this Agreement. The disclosing party's "Confidential Information" shall mean any information or material which is proprietary (including, but not limited to, the Licensed Technology) to such party or designated as "Confidential" by such party. Confidential Information does not include the following: (1) information which is known by the recipient at the time of receipt from the disclosing party; (2) information which is now, or which hereafter becomes, generally known to the public through no fault of the recipient; or (3) information which is lawfully acquired from a third party without any obligation of confidentiality.

Information Disclosure Exceptions. Notwithstanding the provisions of the "Confidential Information" section, the recipient may make confidential information and material disclosed by the other party as provided in the "Confidential Information" section available to government agencies or regulatory bodies to the extent necessary to secure any statutory rights or to obtain approval to develop, test, or market products. Each party agrees to take any and all actions available to insure that such agencies or regulatory bodies treat such information and material as confidential.

Injunctive Relief. The parties agree that in the case of the breach of any provision of this "Secrecy and Confidentiality" article, the aggrieved party will suffer immediate and irreparable harm, and that immediate injunctive relief will therefore be appropriate.

Intellectual Property

Ownership. InsightAtlas retains all right, title and interest in and to the Licensed Technology and any Derived Technology. Derived Technology shall mean any translation (including translation into other computer languages), port, modification, correction, addition, extension, upgrade, improvement, compilation, abridgment, or other form in which an existing work may be recast, transformed or adapted for copyrightable or copyrighted material, (2) any improvement for patentable or patented material, and (3) any new material derived from existing material which is protected by trade secret.

ALL WORK PRODUCT PROVIDED BY INSIGHTATLAST TO LICENSEE IS NOT WORK-MADE-FOR-HIRE AND LICENSEE HAS NO RIGHTS IN SUCH WORK PRODUCT OTHER THAN WHAT IS EXPRESSLY GRANTED HEREIN.

Miscellaneous

Notice. Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services. If to InsightAtlas: InsightAtlas, LLC, 1 Elm Street, Milford, NH 03055. If to LICENSEE, to name and address provided on Purchase Agreement.

Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the state of New Hampshire.

No Assignment. Neither this Agreement nor any interest in this Agreement may be assigned by LICENSEE without the prior express written approval of InsightAtlas.

Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

Headings. Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.