



ares™ Software Subscriber Agreement and Order Form

Submit completed and signed order form to:

Missouri Library Network Corporation

8045 Big Bend Blvd., Suite 202

St. Louis, MO 63119

Fax 314-918-7727

support@mlnc.org

Subscriber Name: _____ OCLC Symbol: _____

Address: _____

City: _____ State: _____ Zip: _____

Primary Contact: _____ Email: _____

Phone: _____ Fax: _____

Billing Contact (If different from above) _____

Email: _____ Phone: _____ Fax: _____

Technical Contact (If different from above) _____

Email: _____ Phone: _____ Fax: _____

Payment Options and Library's Authorization

Invoice library per standard MLNC policies and procedures

Purchase order number (if required by library) _____

Authorizing Signature: _____

Title: _____ Date: _____

ares™ Software Pricing Options

Check library type and supply required FTE count

4-year college: 100% FTE count FTE count = _____

Community/Junior College: 50% FTE count FTE count = _____

Select	Subscription Levels	15% MLNC Discounted Price
<input type="checkbox"/>	Tier 1 (FTE to 3,000)	\$4,080 yearly
<input type="checkbox"/>	Tier 2 (FTE 3,001-11,999)	\$5,100 yearly
<input type="checkbox"/>	Tier 3 (FTE over 12,000)	\$6,800 yearly
<input checked="" type="checkbox"/>	Initial one-time Implementation* Fee	\$2,000 all tiers (required)
<input type="checkbox"/> YES <input type="checkbox"/> NO	Current OCLC ILLiad software user?	If yes, eligible for additional 5% discount on license fee

Select	Optional Services	15% MLNC Discounted Price
<input type="checkbox"/> YES <input type="checkbox"/> NO	Atlas Systems Server Hosting**	\$4,250 yearly all tiers

*The Implementation fee includes installation of the Ares Software on your local server, staff training, and basic customization assistance to help configure the system.

**With optional Server Hosting, Atlas Systems will host, maintain and support all hardware and software on their server.

Binding Agreement. By signing this Order Form below, the above-identified Subscriber hereby agrees to the terms of the Order Form, the attached General Terms and Conditions and Policy (the "Subscriber Agreement"), which constitutes a binding agreement between Subscriber and Atlas Systems, Inc., a Virginia corporation ("Atlas"). Subscriber represents, warrants and agrees that the person signing on behalf of Subscriber below has the full right, power and authority to bind Subscriber to the Subscriber Agreement and that facsimile and scanned signatures shall be effective as original signatures in binding Subscriber hereto.

Term and Termination. Unless earlier terminated in accordance with the General Terms and Conditions, the initial term of the Subscriber Agreement shall commence on the date the signed Order Form is received by the Missouri Library Network Corporation ("Effective Date") and shall continue for a period of one (1) year ("Initial Term"). Thereafter the Subscriber Agreement shall automatically renew on the anniversary of the Effective Date for successive renewal terms of one (1) year (each a "Renewal Term") in accordance with Section 9 of the General Terms and Conditions.

Notices. Unless otherwise permitted in the General Terms and Conditions, all notices required or permitted hereunder shall be in writing, and shall be delivered: (a) by personal delivery (including personal delivery by overnight messenger) to the party to be notified; (b) by confirmed facsimile; or (c) by registered or certified mail, return receipt requested, prepaid and addressed to the party to be notified at the address set forth in the Subscriber Agreement (or such other address as shall be given in writing by either party to the other). Notices shall be effective upon receipt. Notices to Subscriber shall be delivered to Subscriber at the address set forth above. Notices to Atlas shall be delivered to Atlas Systems, Inc., 5301 Providence Road, Suite 20, Virginia Beach, Virginia 23464, Fax (757) 467-7875, Attention: Contracts Administrator.

Understood and Agreed to by Subscriber:

Signature: _____
Name (Please Print): _____
Title: _____
Date: _____

General Terms and Conditions – *Retain for Your Records*

1. **License Grant.** Subject to the terms and conditions of the Subscriber Agreement, Atlas hereby grants to Subscriber, during the Initial Term and each Renewal Term, a nonexclusive, nontransferable, limited right and license (“License”), excluding the right to sublicense, to: (a) install and run one production instance of the ares™ Software (the “Software”) on one computer server at Subscriber’s site; (b) make a reasonable number of copies of the Software for use at Subscriber’s site for backup, training, testing and other non-production purposes; and (c) make a reasonable number of copies of the operation instructions, user manuals and other materials accompanying the Software (together, the “Documentation”) for use at Subscriber’s site in connection with the Software. Subscriber agrees that any copies of the Software and Documentation made by Subscriber shall include all copyright and proprietary rights notices embedded in the Software and Documentation and that Subscriber shall reproduce any such notices on the physical media on which the copies are stored. Subscriber may permit one or more of Subscriber’s employees authorized by Subscriber (“Permitted Users”) to access and use the installed Software and Documentation for its intended purpose as end users; provided, however, that under no circumstance shall Subscriber’s use of the Software exceed the limitations set forth in clauses (a) through (c) above. Atlas reserves all rights not expressly granted to Subscriber.
2. **Hosting Services.** For Subscribers that purchase the optional server hosting service (“SHS”), Atlas will provide the SHS described in this Subscriber Agreement in accordance with the terms hereof. Subscriber shall be responsible for all hardware, software and connectivity necessary to access the SHS. Atlas reserves the right to modify the SHS from time to time; provided that Subscriber may terminate the Subscriber Agreement within thirty (30) days following the implementation of any material change to the SHS that has a material adverse affect on the functionality of the SHS, if Atlas fails to correct the adverse effect in the thirty (30) days following Subscriber’s written notification to Atlas of such effect. Atlas, its affiliates or subcontractors may perform some or all of Atlas’s duties and/or obligations hereunder.
3. **Ownership of Software.** Atlas retains title to and ownership of the Software and Documentation and all copies thereof. The License is not a sale of the original Software or Documentation or any copy, and is limited by and subject to the scope of use and other restrictions set forth in the Subscriber Agreement. Subscriber acknowledges and agrees that, as between Subscriber and Atlas, Atlas retains the sole right, title and interest in and to the: (a) Software and Documentation, (b) all patents, copyrights, trade secrets, and other intellectual property rights with respect to the Software and Documentation, and (c) suggestions made by Subscriber for the Software, even if such suggestions are incorporated into subsequent versions of the Software.
4. **Scope of Use.** Subscriber shall not sell, rent, lease, distribute, license or sublicense the Software, or otherwise use the Software or SHS to provide timeshare, service bureau, application service provider or similar services to or for any other third party or disclose, provide access to or use of the Software or SHS to any third party or otherwise use the Software or SHS for any purpose other than processing electronic reserve requests of Subscriber’s patrons. Subscriber shall not permit any person or entity to access or use the Software or SHS in violation of the laws and regulations of the United States, including in violation of any export laws and regulations. Subscriber shall not (a) reverse engineer, decompile, modify or create derivative works from the Software; (b) seek to interface or connect the Software or SHS with any other computer software, system or service without prior written approval of Atlas; (d) remove any product identification or proprietary rights notices; (e) publish any performance or benchmark tests or analysis relating to the Software or SHS; or (f) otherwise use the Software, Documentation or SHS except as expressly permitted. Subscriber shall not disclose, distribute or permit access to or use of copies of the Software or Documentation, except on Subscriber’s behalf as permitted hereunder by Permitted Users. Subscriber shall not modify, adapt, translate, or create derivative works based on the Documentation without the prior written consent of Atlas.
5. **Services.** Atlas will provide Subscriber the implementation and support services set forth in the Subscriber Agreement, and if Subscriber purchases the optional server hosting service, Atlas will also provide Subscriber the SHS (collectively, the “Service(s)”).
6. **Subscriber Responsibilities.** Subscriber shall be responsible for all hardware and software necessary to install and use the Software. Subscriber shall also complete the ares™ Software Installation Wizard which is available on the Atlas webpage. For Subscribers that purchase SHS, Subscriber shall install and maintain the client software for the SHS and all additional client software as required by Atlas and Subscriber is responsible for establishing and maintaining its Internet connection necessary to access and use the SHS. All use of the Software and SHS must comply with the user policies established by Atlas from time to time and posted on the Atlas website located at URL: <http://www.atlas-sys.com/ares/policy> (the “Policy”). A current copy of the Policy is also attached to the Subscriber Agreement. Subscriber agrees the Policy is hereby incorporated into and made a part of the Subscriber Agreement by reference. Subscriber represents that it has read and agrees to be bound by the Policy and Subscriber agrees the Policy constitutes terms and conditions binding upon Subscriber. Subscriber further agrees that Atlas shall have the right within its sole discretion to amend the Policy from time to time, effective upon posting of the amended Policy at the URL referenced above or other notice to Subscriber, and such amendments shall be deemed to be incorporated into and made a part of this Subscriber Agreement by reference as well. Atlas reserves the right to terminate this Subscriber Agreement effective immediately upon notice to Subscriber in the event of a violation of the Policy or the Subscriber Agreement. At Atlas’ request, Subscriber agrees to defend, indemnify and hold Atlas harmless from any losses, damages, costs, liabilities or expenses resulting from any third party claim or allegation (“Claim”) arising out of, or relating to, use of the Software or SHS, including any Claim which, if true, would constitute a violation of the Policy or Agreement.
7. **Service Levels.** Except as otherwise provided in Section 8 below, for Subscribers that purchase SHS Atlas will use commercially reasonable efforts to make the SHS available in accordance with prevailing hosting industry standards, taking into account Subscriber’s workstations and the speed of their connection to the Atlas hardware (the “Technical Standards”). Atlas will use commercially reasonable efforts under the circumstances to remedy any interruptions or errors in the SHS (hereinafter “Defects”) and restore the SHS substantially in accordance with the Technical Standards. If the SHS fails to substantially conform to the Technical Standards over a continuous period of thirty (30) days after written notice to Atlas of such nonconformity, Subscriber may terminate the Subscriber Agreement, provided that the Defect is not caused or contributed to, directly or indirectly, by any act or omission of Subscriber or its Permitted Users, customers, affiliates, agents,

representatives, invitees, licensees or patrons, other than normal use of the SHS in accordance with the Policy. This Section 7 sets forth Subscriber's sole remedy for any claim relating to the SHS. Atlas's records and data shall be the basis for all service level calculations and determinations.

8. Technical Support. Atlas shall provide support to Subscriber personnel trained in the use of the Software only with respect to use and maintenance of the Software ("Atlas Support"). Atlas Support shall be available via telephone and email during the hours of 8:00 a.m. to 5:00 p.m., Eastern Time, Monday through Friday, excluding federal holidays ("Normal Support Hours").

9. Term and Termination. No later than forty-five (45) days prior to the expiration of the Initial Term and each Renewal Term, notice may be provided to Subscriber of any changes in fees or terms applicable to the upcoming Renewal Term (each, a "Renewal Notice"). Subscriber has the option to terminate the Subscriber Agreement effective at the end of the Initial Term or the then-current Renewal Term, as applicable, by providing Atlas written notice of termination no later than thirty (30) days prior to the end of the Initial Term or then-current Renewal Term. In the event Subscriber does not provide Atlas such written notice of termination, the Subscriber Agreement shall automatically renew for a Renewal Term upon the fees and terms, if any, set forth in the applicable Renewal Notice. Payment for the upcoming Renewal Term shall be made by Subscriber prior to expiration of the Initial Term or the then-current Renewal Term, as applicable. Each party may terminate this Subscriber Agreement for Cause. "Cause" shall mean a material breach by the other party of any material provision of this Subscriber Agreement, provided that written notice of the breach has been given to the breaching party, and the breach has not been cured within thirty (30) days after delivery of such notice. In addition, the Subscriber Agreement shall automatically terminate in the event that Subscriber ceases to do business in the normal course, becomes or is declared insolvent or bankrupt, is the subject of any proceeding relating to liquidation or insolvency which is not dismissed within thirty (30) days, or makes an assignment for the benefit of its creditors. In the event of termination of this Subscriber Agreement other than by Subscriber for Cause, Subscriber shall not be entitled to a refund of any fees paid to Atlas and shall be obligated to pay Atlas all fees otherwise due for the remainder of the then-current Initial Term or Renewal Term, as applicable. Upon any termination or expiration of the Subscriber Agreement, all of Subscriber's rights to use the Software and Documentation shall immediately cease, Subscriber shall promptly destroy all copies of the Software and Documentation, including modified copies, if any, and if Subscriber has purchased SHS, Atlas will return Subscriber Data in accordance with Section 17 hereof. Termination or expiration of the Subscriber Agreement shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination or expiration relieve Subscriber's obligation to pay all fees and amounts that have accrued or are otherwise owed by Subscriber under the Subscriber Agreement and nothing herein shall be construed to release either party from any obligation that matured or liability that accrued prior to the effective date of such expiration or termination. Sections 3, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23 and 24 hereof and all indemnification obligations shall survive the expiration or termination of the Subscriber Agreement.

10. Payment. Subscriber agrees to the fees for the License and Services set forth on the Order Form. All payments for fees shall be made in U.S. Dollars. All fees for the Initial Term shall be paid in advance upon execution of this Subscriber Agreement, except as otherwise set forth on the Order Form. Any additional charges, including, but not limited to, any early cancellation charges, accrued interest, and late fees, may be invoiced in arrears. All payments for fees other than annual fees are due within thirty (30) days of the invoice date. Amounts that are not paid in full when due will be subject to

interest charges of the lesser of one and one-half percent (1.5%) per month or the highest amount permitted by law, which interest shall accrue daily. If Subscriber does not give Atlas written notice of a dispute with respect to Atlas's fees, charges or taxes within fifteen (15) days of the date of an invoice, such invoice shall be deemed to be correct and binding on Subscriber. In the event Subscriber fails to pay an invoice within thirty (30) days of the invoice date, Atlas may issue a notice of default, and may immediately terminate this Subscriber Agreement upon written notice to Subscriber in the event Subscriber has not fully paid all invoices within seven (7) days of the default notice. Subscriber agrees to pay Atlas its reasonable costs and expenses, including attorney and collection agency fees, incurred in enforcing its rights under this Subscriber Agreement.

11. Audit. Subscriber agrees that Atlas may audit Subscriber's use of the SHS, Software and Documentation for compliance with the Subscriber Agreement at any time, upon reasonable notice. In the event that such audit reveals any use of the SHS, Software or Documentation by Subscriber other than in full compliance with the Subscriber Agreement, Subscriber shall reimburse Atlas for all reasonable costs and expenses related to such audit in addition to any other liabilities Subscriber may incur as a result of such non-compliance.

12. Taxes. Subscriber shall be liable for, pay and, to the extent applicable, reimburse Atlas for all local, state, federal and foreign taxes or similar assessments or charges (including any interest and penalties imposed thereon), arising out of this Subscriber Agreement and the transactions hereunder, excluding taxes based on the net income or gross receipts of Atlas. Atlas will have the right, at any time during any term of this Subscriber Agreement, to pass through and invoice to Subscriber any new or increased fees, assessments, taxes or other charges imposed on, or required to be collected by, Atlas or its subcontractors or agents by any governmental agency or its designee. In addition, Subscriber will pay and be solely responsible for all taxes, fees and charges levied directly upon it. If Subscriber provides Atlas with a duly authorized tax exemption certificate, Atlas will exempt Subscriber in accordance with the law, effective on the date Atlas receives the tax exemption certificate.

13. Disclaimer of Warranties. ATLAS (a) MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, SOFTWARE OR DOCUMENTATION, AND (b) DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ATLAS, ITS DEALERS, DISTRIBUTORS, AGENTS, OR EMPLOYEES SHALL CREATE A WARRANTY. Atlas does not warrant that the SHS, Software or Documentation will meet Subscriber's requirements, that Subscriber's use of the SHS or Software will be uninterrupted, or that the operation of the SHS or Software will be error-free. Further, Atlas does not warrant, guarantee, or make any representations regarding the results of the use of the SHS, Software or Documentation in terms or correctness, accuracy, reliability, currency, or otherwise. Atlas exercises no control over and accepts no responsibility for the content of the information passing through the SHS or Software. Atlas specifically denies any responsibility for the accuracy or quality of information obtained through the SHS or Software. Use of any information obtained via the SHS or Software is at Subscriber's risk. The entire risk as to the results and performance of the SHS, Software and Documentation is assumed by Subscriber.

14. Limitation of Damages. EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, IN NO EVENT SHALL EITHER PARTY OR ANY OF ATLAS' SUPPLIERS OR LICENSORS BE LIABLE FOR ANY

CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, OR INCIDENTAL DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS, LOST REVENUE, OR LOST DATA), NOR SHALL ATLAS' SUPPLIERS OR LICENSORS BE LIABLE FOR DIRECT DAMAGES TO THE EXTENT PERMITTED BY APPLICABLE LAW. IN NO EVENT SHALL ATLAS' AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT FOR ALL CLAIMS (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR OTHERWISE) EXCEED THE LESSER OF \$10,000 OR THE AMOUNTS ACTUALLY PAID TO ATLAS FOR THE SERVICES OR SOFTWARE GIVING RISE TO A CLAIM IN THE TWELVE MONTHS PRECEDING THE DATE OF SUCH CLAIM. Subscriber agrees and acknowledges that it is in a better position to foresee and evaluate any potential damage or loss it may suffer in connection with the Services, Software and Documentation and that the fees payable under this Subscriber Agreement have been calculated on the basis that Atlas shall exclude liability as provided in this Section.

15. Waiver of Jury Trial. EACH PARTY AGREES TO WAIVE AND HEREBY WAIVES THE RIGHT TO TRIAL BY JURY OF ANY ACTION, SUIT, PROCEEDING, DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THE AGREEMENT, SERVICES, SOFTWARE OR DOCUMENTATION.

16. Confidential Information. Subscriber shall protect as confidential, and shall not disclose to any third party without the Atlas' written consent, any information received from Atlas or otherwise discovered by Subscriber during the term of this Subscriber Agreement that would reasonably be considered proprietary or confidential to Atlas, including, but not limited to, the Software, Documentation, the pricing and terms of the Subscriber Agreement, and any information relating to Atlas', its suppliers' or licensors' technology, business affairs, marketing or sales plans, and any non-public information regarding the performance of the Services (collectively the "Confidential Information"). Subscriber shall use Confidential Information only for the purpose of this Subscriber Agreement and shall only disclose Confidential Information to its employees, subcontractors or advisors with a need to know for Subscriber to perform its obligations hereunder and under a similar obligation of confidentiality.

17. Data Ownership; Loss. All data created or transmitted by Subscriber and stored on Atlas servers as part of the SHS ("Subscriber Data") shall at all times be owned by Subscriber. Except as instructed by Subscriber directly or through instructions provided to the Software through Subscriber's and its Permitted Users use of the SHS, Atlas shall use commercially reasonable efforts to maintain the confidentiality of Subscriber Data, subject to any disclosures required by applicable law, rule or regulation or any governmental authority or agency. Upon termination or cancellation of this Subscriber Agreement for any reason, Atlas will return all Subscriber Data to Subscriber in the file format used by the Software. As a convenience for Subscriber, Atlas will perform periodic backups of Subscriber Data, but Atlas shall in no event be liable to Subscriber or any third party for loss, destruction or corruption of Subscriber Data. Subscriber agrees and acknowledges that it is in a better position to foresee and evaluate any potential damage or loss it may suffer in connection with loss of Subscriber Data and that the fees payable under this Subscriber Agreement have been calculated on the basis that Atlas shall exclude liability as provided in this Section.

18. SHS Security. All access to the SHS shall be controlled by user names and passwords issued by Atlas to Subscriber from time to time upon request by Subscriber. Each user name and password will be unique to each Permitted User that Subscriber authorizes to access the SHS. Subscriber is solely responsible for the security of the user names and passwords issued to

Subscriber's Permitted Users. Any access to the SHS using such user names and passwords will be deemed access by Subscriber, except where access is the result of unauthorized disclosure of user names and passwords by the negligent or willful act of Atlas. Upon request by Subscriber, Atlas will obtain (at Subscriber's sole cost and expense) and install a digital secured server certificate for Subscriber.

19. Software Security. In the event Subscriber does not purchase SHS, all access to and use of the Software shall be controlled by Subscriber through the use of unique user names and passwords issued by Subscriber to each Permitted User that Subscriber authorizes to access and use the Software. Subscriber is solely responsible for the security of the user names and passwords issued by Subscriber and limiting access to and use of the Software as required under the Subscriber Agreement. Any access to the Software using such user names and passwords will be deemed access by Subscriber.

20. Export Controls. The Software is subject to U.S. export control laws and regulations and Subscriber agrees to comply with all such applicable laws and regulations.

21. U.S. Government End Users. The Software and Documentation are "Commercial Items", as that term is defined at 48 C.F.R. § 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. § 12.212 or 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. § 12.212 or 48 C.F.R. § 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other licensees pursuant to the terms and conditions herein. Contractor/manufacturer is Atlas Systems, Inc., 5301 Providence Rd., Suite 20, Virginia Beach, VA 23464.

22. Force Majeure. Atlas shall not be deemed to be in default of any provision of this Subscriber Agreement or be liable for any delay or failure in performance due to force majeure, which shall include without limitation acts of God, earthquake, weather conditions, labor disputes, changes in law, regulation or government policy, riots, war, terrorism, fire, epidemics, acts or omissions of vendors or suppliers, equipment failures, transportation difficulties, malicious or criminal acts of third parties, or any other occurrences which are beyond Atlas' reasonable control.

23. Rules of Construction. Interpretation of the Subscriber Agreement shall be governed by the following rules of construction: (a) words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other gender as the context requires, (b) references to the terms Section, Order Form and Policy are references to the Sections of these General Terms and Conditions, the Order Form or Policy unless otherwise specified, (c) the word "including" and words of similar import shall mean "including, without limitation," (d) provisions shall apply, when appropriate, to successive events and transactions, (e) the headings contained herein are for reference purposes only and shall not affect in any way the meaning or interpretation of the Subscriber Agreement and (f) the Subscriber Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted. In the event of any conflict between the General Terms and Conditions and any other attachment to the Subscriber Agreement, the General Terms and Conditions shall prevail unless the attachment containing such conflicting provision specifically references the provision of the General Terms and Conditions to be superseded and expressly sets forth the parties' intent to supersede such provision of the General Terms and Conditions with the conflicting provision of the attachment, and such attachment is signed by both parties.

24. Miscellaneous. Atlas reserves the right to use Subscriber's name in its marketing and promotional materials and customer lists; however, otherwise neither party may use the other party's name, trademarks, trade names, or other proprietary identifying symbols, or issue any press release or public statement relating to this Subscriber Agreement without the prior written permission of the other party. No delay or omission by either party to exercise any right or power it has under the Subscriber Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach shall not be construed to be a waiver of any succeeding breach or of any other covenant. All waivers must be in writing and signed by the party waiving its rights. The relationship of the parties established by the Subscriber Agreement is solely that of independent contractors, and nothing contained in the Subscriber Agreement shall be construed to make either party an agent of the other for any purpose whatsoever. The parties agree that the Subscriber Agreement is for the benefit of the parties hereto and is not intended to confer any legal rights or benefits on any third party and that there are no third party beneficiaries to the Subscriber Agreement. This Subscriber Agreement shall be interpreted according to the laws of the Commonwealth of Virginia without regard to, or application of, choice of law rules or principles, except that both parties hereby waive their rights under, and hereby exclude application to the Subscriber Agreement of, Virginia's enactment of the Uniform Computer Information Transactions Act. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Subscriber Agreement. All actions, suits or other proceedings arising out of or relating in any way to this Subscriber Agreement shall be brought only in state and federal courts in the Commonwealth of Virginia. Each of the parties hereto hereby knowingly, voluntarily, intelligently, absolutely and irrevocably waives and agrees not to assert any objection it may now or hereafter have to the laying of venue of all actions, suits or proceedings arising out of or relating in any way to this Subscriber Agreement in state or federal courts in the Commonwealth of Virginia and irrevocably submits to the jurisdiction of such courts for such purposes. Each of the parties hereto hereby knowingly, voluntarily, intelligently, absolutely and irrevocably waives and agrees not to assert in any such action, suit or proceeding that it is not subject to the personal jurisdiction of such courts or that the action, suit or proceeding should be transferred to a different venue under forum non conveniens principles or statutes embodying such principles. Subscriber shall not transfer, assign or delegate Subscriber's rights or duties under the Subscriber Agreement without the prior written consent of Atlas, which shall be within Atlas's sole discretion; provided however, that Subscriber may assign Subscriber's rights in whole (but not in part) to any entity that acquires substantially all of Subscriber's stock or assets, or to the surviving corporation of any merger, consolidation or reorganization to which Subscriber is a party. No such assignment shall be effective unless Subscriber notifies Atlas of the assignment in writing and the assignee agrees in writing to abide by the terms of the Subscriber Agreement. Any assignment by Subscriber in violation of the foregoing shall be void. The provisions of this Subscriber Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns. This Subscriber Agreement sets forth the entire and exclusive agreement between the parties, superseding all prior or contemporaneous representations, proposals, quotes, agreements or understandings concerning the subject matter addressed herein. Except as otherwise set forth herein, no amendment to this Subscriber Agreement shall be valid unless in writing and signed by both parties.

ares™ Software Use Policy
(the “Policy”)

ares™ Software facilitates the electronic reserves process for Subscribers of Atlas Software, Inc. (“Atlas”) and their faculty, students and other library patrons (collectively, “Patron(s)”) (Subscriber and Patrons are referred to herein as “you” or “your”). This Policy establishes terms and conditions applicable to your use of ares™ Software. Use of ares™ Software is conditioned upon your acceptance of this Policy. Your continued use of ares™ Software constitutes your agreement to this Policy in its entirety. If you do not agree to the Policy, do not use ares™ Software.

1. If you post materials using ares™ Software, you represent and warrant that you either (a) own all rights (including copyrights) to the materials posted or (b) have obtained prior written consent from the owner(s) of all rights (including copyrights) to the materials posted, which consent permits the posting of such materials using ares™ Software (on Subscriber’s computer servers or computer servers owned or controlled by Atlas (“Atlas Servers”), if Subscriber has purchased server hosting services from Atlas) and the retrieval, reproduction and use of the materials.
2. If you access, retrieve, download or reproduce materials posted using ares™ Software or Atlas Servers, you represent and warrant that you have been granted permission by a Customer to do so and that all uses you make of the materials will be in compliance with all applicable laws, including copyright laws, and any other applicable restrictions.
3. You agree to not use or permit use of ares™ Software or Atlas Servers for any purpose that is unlawful or prohibited by this Policy.
4. You agree to not use ares™ Software or Atlas Servers to post any libelous, slanderous, defamatory, abusive, obscene, profane, sexually explicit, threatening, harmful or illegal material, material containing blatant expressions of bigotry, racism or hate, material encouraging violence or other conduct that would constitute a criminal offense, give rise to civil liability or violate any local, state, national or international law, or other objectionable material of any kind.
5. You agree to not post advertisements using ares™ Software or Atlas Servers, or use them for any commercial solicitations of any kind.
6. Atlas reserves the right to immediately, within its sole discretion and without prior notice, to remove any material posted to Atlas Servers and/or terminate your access to ares™ Software and Atlas Servers in the event of any violation of or failure to comply with this Policy or for any other reason. You hereby release, waive and relinquish any claim or cause of action against Atlas with respect to removal of any materials from Atlas Servers and/or termination of your access to ares™ Software or Atlas Servers.
7. If you believe materials posted to Atlas Servers infringe your copyright, or that materials have been improperly removed from Atlas Servers due to an allegation of copyright infringement, you may notify Atlas pursuant to its [Copyright Infringement Notification Policy](#).

Copyright Infringement Notification Policy

Atlas will not tolerate copyright infringement of any kind. Atlas does not, however, monitor materials posted for copyright infringement. If you believe that any material posted to an Atlas server or site infringes your copyright, you may seek to have the material removed by sending Atlas' designated agent **Dan Specht, 5301 Providence Rd., Suite 20, Virginia Beach, VA 23464, dspecht@atlas-sys.com, fax: 757-467-7875** ("Atlas Designated Agent") a written notification that includes the following information ("Infringement Notice"):

- a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works;
- identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Atlas to locate the material;
- information reasonably sufficient to permit Atlas to contact the complaining party, such as address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Upon receipt of a written notice complying with the above requirements, Atlas will act to remove or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity, and will take reasonable steps to notify the subscriber at whose direction the material is residing on an Atlas server or other Atlas site that it has removed or disabled access to the material. Such subscriber may seek to have Atlas replace the removed material or restore access to it by providing the Atlas Designated Agent a written notification that includes the following information:

- a physical or electronic signature of the subscriber;
- identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
- a statement under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;
- the subscriber's name, address, and telephone number, and a statement that the subscriber consents to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if the subscriber's address is outside the U.S., to the jurisdiction of the Federal District Court for the Eastern District of Virginia, and that subscriber will accept service of process from the person who provided the Infringement Notice or an agent of such person

Upon receipt of a notice meeting the above requirements, Atlas will provide a copy of the notice to the person who provided the Infringement Notice, and inform such person that Atlas will replace

the removed material or cease disabling access to it in 10 business days; and will replace the removed material and cease disabling access to it not less than 10, nor more than 14, business days following receipt of the counter notice, unless the Atlas Designated Agent first receives notice from the person who submitted the Infringement Notice that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the Atlas server or other Atlas site.