

Minimum Industry Safety Training Programme (“MIST”)

SOFTWARE TERMS & CONDITIONS

BACKGROUND:

These terms and conditions apply as between you, the Client (“Client”) and Atlas Knowledge Limited (“Atlas”) the provider of the Services and the owner of this Website. Your agreement to comply with and be bound by these terms and conditions and the grant of any and all licences required is deemed to occur upon your acceptance of these terms and conditions prior to your first use of the Services.

1. Definitions and Interpretation

1.1 In these terms and conditions, unless the context otherwise requires, the following expressions have the following meanings:

- “Access Period”** means the twelve (12) month period from the date on which the Customer purchases the software in relation to the Services. Each individual User will be given access to the Services during the Access Period.
- “Account”** means collectively the personal information, and or payment information and credentials used by Clients to access the Services through the Web Site;
- “Agreement”** means the binding agreement that shall come into effect between the Client and Atlas following the Client's acceptance of these terms and conditions and which shall incorporate these terms and conditions;
- “Content”** includes, but is not restricted to, the design, layout graphics, screen shots, audio content, media content, text, software, data compilations and any other form of information capable of being stored in a computer that appears on or forms part of the Website;
- “Fees”** means the sum of money paid by Clients to keep their Account active and to enable them to access the Services;
- “MIST”** means Minimum Industry Safety Training Programme;
- “Relevant Date”** means 1st August 2016;
- “Services”** means collectively the online facilities, tools, and e-learning services or information that Atlas makes available through the Website either now or in the future;

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“User / Users” means any individual User that has been authorised or otherwise permitted or allowed by the Client to access the Website and the Services;

“Website” means the website on which these terms and conditions appear www.mist-online.com and any sub-domains of that website unless expressly excluded by their own terms and conditions.

1.2 Unless the context otherwise requires, each reference in these terms and conditions to:

1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

1.2.3 a Clause or paragraph is a reference to a Clause of these terms and conditions.

1.3 The headings used in these terms and conditions are for convenience only and shall have no effect upon the interpretation of these terms and conditions.

1.4 Words imparting the singular number shall include the plural and vice versa.

1.5 References to any gender shall include any other gender.

2. Provision of Services

Atlas shall provide full support and maintenance, free of any additional charges, to correct latent defects, bugs or errors which have an adverse effect on the use or operation of the Services, and shall provide support services in accordance with the following agreed service levels: [MIST Service Level Agreement](#).

3. Access to Services

3.1 The Client represents and warrants that they have the authority to enter into the Agreement, to use the Services, and to perform any and all acts as may be necessary under these terms and conditions.

3.2 If the Client is unable to comply with the requirements of sub-Clause 3.1 they shall be prohibited from using the Services and must not accept these terms and conditions.

3.3 IT requirements - It should be noted that specific software drivers or plug-ins will be required to access the Website and the availability and quality of the Services will be dependent on the suitability of the Client’s or User’s Internet connection. The Client is therefore advised that there are minimum software and hardware requirements of which they have been duly made aware. Atlas will not be responsible for resolving any disputes and or technical problems arising over incompatibility issues in relation to the Services.

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Internet Connection




Minimum Requirements	
	512 Kbps broadband internet connection per user

Supported Web Browsers



Minimum	Recommended
Internet Explorer 9	Internet Explorer 10 or later
Google Chrome 23	Google Chrome 23 onwards
Firefox 18	Firefox 29 onwards
Safari 5 onwards	Safari 5 onwards




Computer Hardware / Operating Systems


 Tablet	Requirements
Window Surface Pro 2 or later	Running Windows 8 or later
Dell Pro	Running Window 8.1 or later
Apple iPad v3 or later	Running iOS 6 or later
Android tablet	Running Android 4.1 or later

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 Version 10.6 or 10.7	Requirements
Processor	An Intel Core 2 Duo, Core i3, Core i5, Core i7, or Xeon
RAM	At least 2GB of RAM
 Version 10.8	Requirements
Processor	64 bit Intel Core 2 Duo or later
RAM	At least 2GB of RAM
 Version 10.9	Requirements
Processor	64 bit Intel Core 2 Duo or later
RAM	At least 2GB of RAM

 Windows 7/10	Absolute minimum	Recommended
Processor	1 GHz	1.5 GHz or later
RAM	1 GB	2 GB or later
Screen resolution	1024 by 768px	1024 by 768px or later
Colour depth	16 bit	24 bit or later
Audio	Required (headphones or speakers)	Required (headphones or speakers)

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4. Fees and Purchasing Information

- 4.1 Ordering on the Website. Once the Client has clicked on the submit payment button, Atlas will treat the order as an offer by Client to purchase the Services subject to these terms and conditions. Atlas will then send an acknowledgement and e-mail receipt of the order detailing what services are being purchased and the number of individual Users. This is not an acceptance of the order.
- 4.2 Ordering via a separate Purchase Order. The services may be ordered by means of the Client issuing a Purchase Order to Atlas, detailing what services are being purchased and the number of individual Users. The acceptance by Atlas of such a purchase order does not constitute acceptance of any terms put forward by the Client and these Atlas terms and conditions will govern the provision of the Services.
- 4.3 Once the appropriate online payment has been validated, or the relevant purchase order received, the Client will be sent a confirmation e-mail giving details of all the registration and administrative information required to activate the Service and Atlas will set up a Client-specific Account.
- 4.4 The prices displayed on the website are in pounds sterling and are exclusive of VAT. Atlas reserves the right to refuse an order.
- 4.5 On acceptance of a purchase order, Atlas will issue the corresponding invoice which will have payment terms of 30 days.

5. Use of Services

- 5.1 Clients are permitted to use the Services only in accordance with these terms and conditions. Individual Users will be required to accept and comply with the [End User Terms](#) relevant to their use of the Services.
- 5.2 The Client may authorise such access to the Services as corresponds to the number of individual Users and Access Periods that have been contractually agreed with Atlas. In the event that the Client already holds MIST licences which were subject to separate agreement with Atlas and which have not been accessed by an Individual User by the Relevant Date, such licences shall continue to be accessible for a further period of twenty-four (24) months from the Relevant Date, following which they shall automatically expire.
- 5.3 Subject to any express agreement to the contrary, Clients may only access the Services through the normal means provided by Atlas. Clients may not engage in any conduct that may disrupt provision of the Services by Atlas.
- 5.4 Subject to any express agreement to the contrary, Clients may not reproduce, copy, duplicate, trade or resell the Services.
- 5.5 The Client shall not assign or sub-license this agreement or any of the rights, obligations, benefits or interests granted under the agreement.

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6. Intellectual Property

- 6.1 All Content included on the Website, including, but not limited to, text, graphics, logos, icons, images, sound clips, video clips, data compilations, page layout, underlying code and software is the property of Atlas, our affiliates or other relevant third parties. By accepting these terms and conditions the User acknowledges that such material is protected by applicable United Kingdom and International intellectual property and other laws.
- 6.2 Clients or individual Users may not reproduce, copy, distribute, store or in any other fashion re-use content material from the Website unless given express written permission to do so by Atlas. In addition, they are not permitted to rent, lease, sub-license, loan, copy, modify, adapt, merge, translate, reverse engineer, decompile, disassemble or create derivative works based on, the whole or any part of the content, save to the extent expressly permitted by Sections 50A, 50B and 50D of the Copyright Design and Patent Act 1988, as amended, and regulation 19 of the Copyright and Rights in Database Regulations 1997.

7. Links to Other Websites

This Website may provide links to other websites as part of the Services. Unless expressly stated, such websites are not under the control of Atlas or that of our affiliates. Atlas assumes no responsibility for the content of the websites and disclaims liability for any and all forms of loss or damage arising out of the use of them. The inclusion of a link to another website on this Website does not imply any endorsement of that website or of those in control of it.

8. Privacy

Use of the Website and the Services is governed by the Atlas [Website Data Protection Policy](#) which is incorporated into these terms and conditions by this reference.

9. Disclaimer of Warranties

- 9.1 Atlas makes no warranty or representation that the Website or the Services will meet Users' requirements, that they will be of satisfactory quality, that they will be fit for a particular purpose, that they will not infringe the rights of third parties, that they will be compatible with all systems, or that they will be secure.
- 9.2 Atlas shall use its best and reasonable endeavours to ensure that all information provided on the Website and the Services is accurate and up to date; however, Atlas makes no warranty or representation that this will always be the case. Atlas makes no guarantee of any specific results from the use of the Website or the Services.

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9.3 Whilst every effort has been made to ensure that all descriptions of Services available from Atlas correspond to the actual services available, Atlas is not responsible for any variations from these descriptions.

10. Availability of the Website and the Services

- 10.1 The Website and the Services are provided “as is” and on an “as available” basis. Atlas gives no warranty that the Website or the Services will be free of defects and / or faults. To the maximum extent permitted by law, Atlas provides no warranties (express or implied) of fitness for a particular purpose, accuracy of information, compatibility and satisfactory quality.
- 10.2 Atlas accepts no liability for any disruption or non-availability of the Website or the Services resulting from external causes including, but not limited to, ISP equipment failure, host equipment failure, communications network failure, power failure, natural events, acts of war, or legal restrictions and censorship.
- 10.3 Subject to providing written notice to the Customer, Atlas reserves the right to amend and update these terms and conditions relating to the Services.

11. Limitation of Liability

- 11.1 Atlas’s liability for any direct damages arising out of our breach of these terms and conditions shall be limited to the value of the Fees paid for the Services in relation to any one claim or series of related claims.
- 11.2 For all other direct or indirect loss or damage, foreseeable or otherwise, including any indirect, consequential, special or exemplary damages arising from the use of the Website, the Services or any information contained therein, to the maximum extent permitted by law, Atlas accepts no liability. Users should be aware that they use the Website, the Services and all relevant Content at their own risk.
- 11.3 Nothing in these terms and conditions excludes or restricts Atlas’s liability for death or personal injury resulting from any negligence or fraud on the part of Atlas.

12. Term and Termination

- 12.1 The term of the Agreement shall commence upon the Client's acceptance of these terms and conditions, either online or by confirmation of a purchase order by Atlas, and shall continue until terminated either by the Client or by Atlas in accordance with this Clause 12.
- 12.2 If a Client wishes to terminate the Agreement they may do so by:
 - 12.2.1 Closing their Account; [and / or]
 - 12.2.2 Informing Atlas in writing that they wish to terminate this Agreement.

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- 12.2.3 The Client will not be entitled to the refund of any unused Fees, being payments made for individual Users who have not yet registered for access to the Services at the date of termination.
- 12.3 Atlas reserves the right to terminate the Agreement, a Client's Account and or a User's access to the Services at any time for the following reasons:
 - 12.3.1 The Client has committed a material breach of these terms and conditions, unless such breach is capable of remedy, in which case the right to terminate immediately will be exercisable if the Client fails to remedy the breach within 14 days after a written notice to do so;
 - 12.3.2 The Client has indicated, expressly or impliedly, that they do not intend to or are unable to comply with these terms and conditions;
 - 12.3.3 Atlas is required to do so by law;
 - 12.3.4 It has become, in the opinion of Atlas, its affiliates or advisers, no longer commercially viable to continue providing the Services;
- 12.4 If Atlas terminates a Client's Account as a result of the Client's breach of these terms and conditions the Client will not be entitled to any refund.
- 12.5 If Atlas terminates a Client's Account for any other reason, the Client will be refunded any remaining balance of their unused Fees, by reference to payments made for individual Users who have not yet registered for access to the Services.
- 12.6 In the event that Atlas terminates a Client or User's Account, the Client or User will cease to have access to the Services from the date of termination.
- 12.7 In the event that the Agreement is terminated, the Client's and relevant User's Accounts will be closed and their access to the Services suspended.
- 12.8 Upon termination of the Agreement, the Client shall cease to be bound by all obligations set out in these terms and conditions with the exception of those expressly stated to survive the termination of the Agreement.

13. No Waiver

In the event that either the Client or Atlas fails to exercise any right or remedy contained in these terms and conditions, this shall not be construed as a waiver of that right or remedy.

14. Assignment

Users may not assign, transfer, sub-contract, or in any other manner make over to any third party the benefit and/or burden of this Agreement without the prior written consent of Atlas, such consent not to be unreasonably withheld.

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15. Severance

In the event that any of these terms are found to be unlawful, invalid or otherwise unenforceable, that term is to be deemed severed from these terms and conditions and shall not affect the validity and enforceability of the remaining terms and conditions. This term shall apply only within jurisdictions where a particular term is illegal.

16. Entire Agreement

These terms and conditions embody and set forth the entire Agreement and understanding between the Parties and supersede all prior oral or written agreements, understandings or arrangements relating to the subject matter of the Agreement. Neither the Client nor Atlas shall be entitled to rely on any agreement, understanding or arrangement not expressly set forth in these terms and conditions, save for any representation made fraudulently.

17. Notices

All notices / communications shall be sent to Atlas either by post to our premises or by e-mail at the respective addresses given below. Such notice will be deemed received 3 days after posting if sent by first class post, the day of sending if the e-mail is received in full on a business day and on the next business day if the e-mail is sent on a weekend or public holiday.

Atlas Knowledge Ltd

Aberdeen Energy Park
Claymore Drive
Bridge of Don
Aberdeen AB23 8GD

Attention: Harry van der Vossen

Tel: +44 (0)1224 708430 Fax: +44 (0)1224 708431

E- mail: harryvandervossen@atlasknowledge.com

18. Law and Jurisdiction

18.1 These terms and conditions, the Agreement and all other aspects of the relationship between the Client and Atlas shall be governed by and construed in accordance with the Laws of Scotland.

18.2 Any dispute between the Client and Atlas relating to these terms and conditions, the Agreement and all other aspects of the relationship shall fall within the exclusive jurisdiction of the courts of Scotland.

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