

Athelas, Inc.
Terms of Use

Effective Date: June 25, 2021

These Terms of Use (these “Terms of Use” “Terms”) apply to your access to and use of our websites and services that link to these Terms (the “Services”), including the Athelas Platform (the “Platform”). Please read these Terms carefully before using our Services. NOTE THAT THESE TERMS CONTAIN A MANDATORY ARBITRATION PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS AND LIMITS THE FORUM AND/OR REMEDIES AVAILABLE TO YOU IN THE EVENT OF CERTAIN DISPUTES. YOU CAN OPT-OUT OF THE ARBITRATION AGREEMENT BY CONTACTING OPT_OUT@ATHELAS.COM WITHIN 30 DAYS OF ACCEPTING THESE TERMS.

By clicking “I accept” or by accessing or using the Services provided by Athelas, Inc. (“Us” or “We” or “Athelas”), you agree to be bound by these Terms and all of the terms incorporated herein by reference. If you do not agree to these Terms, including the mandatory arbitration and class action waiver, you may not access or use the Services.

Athelas reserves the right to revise these Terms from time to time in our sole discretion. If we make changes to these Terms, we will provide notice of such changes, such as by sending an email notification, providing notice through the Services or updating the “Effective Date” date at the beginning of these Terms. By continuing to access or use the Services, you confirm your acceptance of the revised Terms and all of the terms incorporated herein by reference. We encourage you to review the Terms frequently to ensure that you understand the terms and conditions that apply when you access or use the Services. If you do not agree to the revised Terms, you may not access or use the Services.

What Are the Services?

The Services are intended to provide a convenient platform for (1) patients to use to track health data in real time and communicate that information to their healthcare provider(s), and (2) providers to use to proactively track and analyze their patients’ health condition(s) through pertinent health data, treatment and medication adherence, and outcomes. You (“You”) are either a “Provider User” or a “Patient User.”

You may access and use the Services only in accordance with these Terms, and You agree to comply with all applicable laws, rules, and regulations, including any other policies incorporated into these Terms, such as our Privacy Policy (athelas.com/privacy-policy).

Patient Users:

We do NOT guide medical decision-making

THE PLATFORM CANNOT AND IS NOT DESIGNED, INTENDED, OR APPROPRIATE TO REPLACE OR SUBSTANTIVELY IMPACT YOUR PROVIDER-PATIENT RELATIONSHIP WITH OTHER USERS OR TO ADDRESS SERIOUS, EMERGENT, OR LIFE-THREATENING MEDICAL CONDITIONS AND SHOULD NOT BE USED IN THOSE CIRCUMSTANCES.

If at any time You are concerned about the care or treatment You receive from healthcare professionals affiliated with the Services (“Providers”), please contact your healthcare provider. If You believe or suspect or someone else advises You that You have a serious or life-threatening condition, call 9-1-1 in areas where that service is available, or go to the nearest emergency room.

A PROVIDER’S USE OF OUR SERVICES TO DELIVER CARE TO YOU IS NOT AN ENDORSEMENT OR RECOMMENDATION OF SUCH PROVIDER BY ATHELAS. WE DO NOT PROVIDE MEDICAL ADVICE, AND WE ARE NOT RESPONSIBLE FOR OR IN CONTROL OF THE MEDICAL ADVICE PROVIDED TO YOU BY PROVIDERS, EVEN IF SUCH ADVICE IS PROVIDED THROUGH THE SERVICES.

We do not confirm the credentials of any Provider using the Services. We do not validate that any such persons are in good standing with their respective licensure board(s) or that they are using the Services in accordance with laws applicable to their scope of practice. It is Your responsibility to separately confirm that a Provider is in good standing with his or her respective licensing board(s) and to exercise whatever other due diligence You feel appropriate in selecting and maintaining Your choice of healthcare professionals.

Any healthcare advice provided by a Provider through the Services is based on the information You provide. If You do not provide complete and accurate information, the healthcare advice You receive may not be accurate or appropriate. Questions and information collected from You through the Services are designed for informational and/or research purposes and to identify potential patterns in symptomologies and treatments.

General information available through the Services about medical conditions, symptomology, available drugs, treatment options, or other general information such as educational articles and videos, if provided by Athelas, is provided for general educational purposes only. Never disregard, avoid, or delay in obtaining medical advice from a physician or other qualified healthcare professional because of something contained in the Services.

Devices

The Platform is intended to be used in association with certain monitoring devices provided to You (the “Devices”). The Services are intended to be used as directed by Your provider. Athelas does not guarantee a particular health outcome based on use of the Services. The Devices are provided to You through Athelas, but We do not manufacture one or more of the Devices and We therefore **do not offer and, and expressly disclaim all device or product warranties with respect to Devices we do not manufacture**. The manufacturer of Your Device(s) may or may not offer a warranty, and We are happy to assist You in accessing any applicable manufacturer warranties that may be available to You. Please contact us at support@athelas.com for this assistance. With regards to devices we do manufacture, our Warranty is limited to replacement of the device if it ceases working properly during the time in which you are receiving Services from Athelas.

Please also note, the Device(s) provided to you through Athelas are meant to be used exclusively with the Platform and shall not be connected to or used with any other app or software. You are not permitted to use or allow any third party to use the Devices other than in association with the Platform. In addition, You are not permitted to use any device other than the Device(s) with the Platform.

Lastly, the Devices provided to you are Athelas's property and are being loaned to you for the purpose of receiving Services from Athelas. If you violate these Terms, your provider ceases to authorize the receipt of the services, you ask Athelas to discontinue services, or you fail to use the Devices at the frequency and in the manner required by your provider, you will be required to, at Athelas sole discretion, either return, dispose of, or donate them in the manner instructed by Athelas.

Provider Users:

THE PLATFORM CANNOT AND IS NOT DESIGNED, INTENDED, OR APPROPRIATE TO REPLACE OR SUBSTANTIVELY IMPACT YOUR PROVIDER-PATIENT RELATIONSHIP WITH PATIENT USERS OR TO ADDRESS SERIOUS, EMERGENT, OR LIFE-THREATENING MEDICAL CONDITIONS AND SHOULD NOT BE USED IN THOSE CIRCUMSTANCES.

Who Is Eligible to Use The Services?

You must register to create an account ("User Account") and become a "Registered User" to use the Services. To register, You must create, or work with an Athelas representative to create, a username and provide Your name, Your email address, and other information specified in the registration form ("Registration Data"). You may change or correct information in Your account by contacting Athelas at support@athelas.com. You agree not to register for a User Account on behalf of an individual other than Yourself unless You are legally authorized to bind such person to these Terms. By registering another person, You hereby represent that You are legally authorized to do so.

By registering for an account and using the Services, **You represent and warrant:**

1. That You are at least 18 years old and are otherwise legally qualified to enter into and form contracts under applicable law;
2. Your Registration Data is true, accurate, current, and complete;
3. You will update Your Registration Data as needed to maintain its accuracy;
4. You are authorized to create a User Account (either for Yourself or another person);
5. You acknowledge and agree to the terms of the Privacy Policy (athelas.com/privacy-policy);
6. You are legally authorized to view information accessible through the Services;
7. If You are a Provider User, You are licensed to provide healthcare services through the Services; and
8. If You are a Patient User, You are physically located in the State you choose/have chosen as your current location. You acknowledge that your ability to access and use the Services is conditioned upon the truthfulness of this certification and that the Providers you access are relying upon this certification in order to interact with you. In the event that your certification is inaccurate, you agree to indemnify Us and the Providers you interact with from any resulting damages, costs or claims as set forth in the Indemnification Section below.

NOTE: THIS AGREEMENT IS VOID WHERE PROHIBITED BY LAW. DO NOT USE THE SERVICES WHERE PROHIBITED BY LAW. YOU UNDERSTAND THAT YOUR USE OF THE SERVICES MAY INVOLVE OR REQUIRE THE TRANSMISSION OF SIGNIFICANT AMOUNTS OF DATA. YOU ARE RESPONSIBLE FOR ALL DATA CHARGES THAT MAY BE CHARGED BY YOUR WIRELESS CARRIER OR INTERNET SERVICE PROVIDER OR THAT MAY OTHERWISE ARISE FROM YOUR USE OF THE SERVICES.

Provider Users: THE SERVICES ARE NOT INTENDED FOR EMERGENCY SITUATIONS. IN THE CASE OF AN EMERGENCY WITH ONE OF YOUR PATIENTS, YOU SHOULD CALL 911 OR DIRECT YOUR PATIENT TO CALL 911.

Who Owns the Services?

Athelas owns the Services, including all content and functionality You access through the Platform. Subject to Your compliance with these Terms, Athelas grants You a non-exclusive, non-sublicensable, revocable, non-transferable license to use the Services by accessing the Platform via user's computer and mobile device.

You may not use Athelas' name, trademarks, service marks, or logos, or those of third parties appearing on or affiliated with the Services in any advertising or publicity or to otherwise indicate Athelas' or such third party's sponsorship or affiliation with any product or service without express written permission from Athelas or such third party.

You own Your Personal Data (as defined in the Privacy Policy) (athelas.com/privacy-policy) and any other content You submit on or through the Services (collectively, "Content"). If You are entering someone else's information into the Platform, You represent and warrant that You have permission to do so. As a condition of providing You the Services, You grant to Athelas a perpetual, non-exclusive, fully paid and royalty-free, transferable, sublicensable, worldwide license to use Your Content for the purpose of providing the Services, subject to the restrictions in the Privacy Policy. You also agree to allow Us to de-identify and anonymize Your Content, in accordance with Our Privacy Policy, and to use or disclose such de-identified information for any legal purpose.

What Are You Prohibited From Doing?

You may use the Services only for lawful purposes and in accordance with these Terms, In addition, We impose certain restrictions on Your use of the Services, which are highlighted below.

While using the Services, You shall not:

1. provide false, misleading or inaccurate information to Us or any other user;
2. use the Services for any commercial purpose or the benefit of any third party or in any manner not permitted by these Terms;
3. impersonate or attempt to impersonate Us, one of Our employees, another user, or any other person or entity (including, without limitation, by using e-mail addresses or screen names associated with any of the foregoing);
4. use or attempt to use any manual process, engine, software, tool, agent, or other device or mechanism (including without limitation browsers, spiders, robots, avatars, or intelligent agents)

to harvest, monitor, or otherwise collect information from the Platform for any use, including without limitation, use on third-party websites, without Our consent;

5. use the Services in any manner that could disable, overburden, damage, or impair the Services or interfere with any other party's use of the Services, including their ability to use the Services;
6. access content or data not intended for You, or log onto a server or account that You are not authorized to access;
7. violate any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries);
8. attempt to probe, scan, or test the vulnerability of the Platform or any associated system or network, or breach security or authentication measures without proper authorization;
9. interfere or attempt to interfere with the use or functionality of the Platform by any other user, host or network, including, without limitation by means of submitting a virus, trojan horse, worm, logic bomb or other material which is malicious or technologically harmful, overloading, "flooding," "spamming," "mail bombing," or "crashing";
10. forge any TCP/IP packet header or any part of the header information in any e-mail or in any uploading or posting to, or transmission, display, performance or distribution by means of, the Platform;
11. post or transmit any unsolicited advertising, promotional materials, "junk mail", "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
12. post, upload, publish, submit or transmit any content that: (i) infringes, misappropriates or violates a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy; (ii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (iii) is fraudulent, false, misleading or deceptive; (iv) is defamatory, obscene, pornographic, vulgar or offensive; (v) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (vi) is violent or threatening or promotes violence or actions that are threatening to any person or entity; or (vii) promotes illegal or harmful activities or substances;
13. avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure implemented by Us, You, or any other third-party (including another user) to protect the Platform;
14. attempt to modify, reverse-engineer, decompile, disassemble or otherwise reduce or attempt to reduce to a human-perceivable form any of the source code used by Us in providing the Services. Any violation of this section may subject You to civil and/or criminal liability;
15. engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Services, or which, as determined by Us, may harm Us or users of the Services or expose them to liability, or otherwise interfere with or attempt to interfere with the proper working of the Platform; or

16. encourage or enable any other individual to do any of the above.

We are not obligated to monitor Your use of the Services, but We may do so to ensure Your compliance with these Terms, and to respond to law enforcement or other government agencies if and when We are required to. Athelas reserves the right to suspend or terminate Your use of the Services without notice to You if You partake in any of the prohibited uses described above.

How Should You Protect Your Login Information?

The Platform is designed to require users to create a username and password to access and use the Services. Your username and password are, collectively, Your “User Credentials.” You are solely responsible for (A) maintaining the strict confidentiality of Your User Credentials, (B) not allowing another person to use Your User Credentials to access the Services, (C) any and all damages or losses that may be incurred or suffered as a result of any activities that occur under Your User Credentials, regardless of whether You were aware of those activities. You agree to immediately notify Us in writing by email of any unauthorized use of Your User Credentials or any other compromise of the security of Your User Account.

WE WILL NOT BE LIABLE FOR ANY LOSS THAT YOU INCUR AS A RESULT OF SOMEONE ELSE USING YOUR PASSWORD, EITHER WITH OR WITHOUT YOUR KNOWLEDGE. WE ARE NOT AND SHALL NOT BE LIABLE FOR ANY HARM ARISING FROM OR RELATING TO THE THEFT OF YOUR USER CREDENTIALS AND/OR ANY RESULTING ACCESS TO YOUR PERSONAL DATA, YOUR DISCLOSURE OF YOUR USER CREDENTIALS, OR THE USE OF YOUR USER CREDENTIALS BY ANOTHER PERSON OR ENTITY REGARDLESS OF WHETHER YOU WERE AWARE OF SUCH USE.

You may be held liable for any losses incurred by Athelas and/or its affiliates, officers, directors, and representatives (“Company Representatives”) due to someone else’s use of Your account or password, regardless of whether You were aware of such use.

How Do We Protect Your Privacy?

We respect Your Privacy and take Our commitment to protect Your Privacy seriously. This commitment is reflected in the way We protect the information You provide to Us. Please see Our Privacy Policy for an explanation of the information that We collect from You and how We use Your information. By clicking “I Agree”, accessing or using the Services, or by downloading, viewing, or uploading any of Our content through the Services, You acknowledge and agree to the provisions of the Privacy Policy (athelas.com/privacy-policy) and affirm that the Privacy Policy is a part of these Terms.

Provider Users:

By using the Services and accepting these Terms, You acknowledge that We may share Your Personal Data with third parties, as described in the Privacy Policy, and will seek Your consent or other authorization before doing so where required by law.

Patient Users:

By using the Services and accepting these Terms, You acknowledge that We may share Your Personal Data with other users, including your Provider, as described in the Privacy Policy, and will seek Your consent or other authorization before doing so where required by law. You expressly acknowledge and

agree that We are neither responsible for nor liable to You or any third party for the treatment of Your Personal Data by any such individual or entity, including any collection, use, disclosure, storage, loss, theft, or misuse of Your Personal Data, whether or not such treatment violates applicable law or the third party's privacy practices.

Please be aware that Our Privacy Policy (athelas.com/privacy-policy) does not address how healthcare providers with whom You share information collected, generated, or stored via the Services may further use and disclose Your health information. Your healthcare provider's Notice of Privacy Practices should be publicly available and is usually located on their website. Our Privacy Policy does not apply to the collection, use, disclosure, or treatment of Your Personal Data directly by any provider, clinician, researcher, caregiver, or other healthcare professional and/or entity other than through the Services. You expressly acknowledge and agree that We are neither responsible for nor liable to You or any third party for the treatment of Your Personal Data by any such individual or entity, including any collection, use, disclosure, storage, loss, theft, or misuse of Your Personal Data, whether or not such treatment violates applicable law or the healthcare provider's Notice of Privacy Practices.

Computer Equipment and Internet Access

You are responsible for obtaining, installing, maintaining and operating all software, hardware, or other equipment (collectively, "Systems") necessary for You to access and use the Services. This includes, without limitation, obtaining internet services, using up to date web-browsers and the best commercially available encryption, antivirus, anti-spyware, and internet security software. You are responsible for the data security of the Systems used to access the Services and for the transmission and receipt of information using such Systems. We are not responsible for any errors or problems that arise from the malfunction or failure of the Internet or Your Systems.

THERE ARE ALWAYS CERTAIN SECURITY AND ACCESS AVAILABILITY RISKS ASSOCIATED WITH USING OPEN NETWORKS SUCH AS THE INTERNET, AND YOU EXPRESSLY ASSUME SUCH RISKS.

Calls, Texts, and Electronic Communication

By creating an Account, you also consent to receive electronic communications from Athelas (*e.g.*, via email or by posting notices to the Services). These communications may include notices about your Account (*e.g.*, payment authorizations, password changes and other transactional information) and are part of your relationship with us. You agree that any notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including, but not limited to, that such communications be in writing. You should maintain copies of electronic communications from us by printing a paper copy or saving an electronic copy. We may also send you promotional communications via email, including, but not limited to, newsletters, special offers, surveys and other news and information we think will be of interest to you. You may opt out of receiving these promotional emails at any time by following the unsubscribe instructions provided therein.

By providing your mobile phone number to us through the Services, you consent to receive calls or text messages at any such phone number sent by or on behalf of Athelas, including autodialed calls and/or text messages, for marketing, promotional, operational or informational purposes. You may opt out of marketing and promotional calls or messages by following the applicable unsubscribe instructions

provided to you. Following such opt-out, you may continue to receive calls or messages for a short period of time while Athelas processes your request. It is your responsibility to keep your account information, including your phone number, updated. Standard message and data rates applied by your mobile phone carrier may apply to the text messages we send you. Please contact your mobile phone carrier for details.

Third-Party Website

In the course of using the Services, You may be introduced to areas or features of the Services that allow You to access websites that do not belong to and are not controlled by Us (collectively, "Third-Party Sites"). If You choose to access one of these Third-Party Sites, You will leave Our Platform and be redirected to an environment owned and controlled an external third party. You acknowledge and agree that the Third-Party Sites may have different privacy policies, terms of use, user guides and/or business practices (collectively, "Third-Party Rules") than Us, and that Your use of such Third-Party Sites is governed exclusively by the respective Third-Party Rules. We provide links to Third-Party Sites to You as a convenience, and We do not verify, make any representations, or take responsibility for such Third-Party Sites, including, without limitation, the truthfulness, accuracy, quality, or completeness of the content, application, links displayed, and/or any other activities conducted on or through such Third-Party Sites.

YOU AGREE THAT WE WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY GOODS, SERVICES, BUSINESS PRACTICES, INFORMATION, RESOURCES, APPLICATIONS, AND OTHER CONTENT ("THIRD PARTY MATTERS") AVAILABLE ON OR THROUGH ANY THIRD-PARTY SITES OR THIRD-PARTY DEALINGS OR COMMUNICATIONS, OR FOR ANY HARM RELATED THERETO, OR FOR ANY DAMAGES OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH YOUR USE OR RELIANCE ON THE THIRD PARTY MATTERS. Any reference in the Services to any product, service, publication, institution, organization of any third-party entity, or individual does not constitute or imply Our endorsement or recommendation.

Third-Party Services

Certain features, aspects, products and services offered through the Services are provided, in whole or in part, by third parties ("Third-Party Services" as provided by "Third-Party Service Providers"). For example, if you opt to use our optional billing assistance feature, we use Third-Party Services to provide You with monthly submission of billing for reimbursement Athelas services.

If use of Third-Party Services may be subject to additional terms and conditions, You will receive a notification and have the opportunity to accept such terms and conditions. IF YOU DO NOT UNDERSTAND OR DO NOT AGREE TO BE BOUND BY THOSE ADDITIONAL TERMS AND CONDITIONS, DO NOT USE THE RELATED THIRD-PARTY SERVICES.

In the event of any inconsistency between terms of use relating to Third-Party Services and these Terms, those additional terms and conditions will control with respect to such Third-Party Services. Third-Party Service Providers may collect and use certain information about You, as specified in the Third-Party Service Providers' privacy policies. Prior to providing information to any Third-Party Service Provider, You should review their privacy policy. IF YOU DO NOT UNDERSTAND OR DO NOT AGREE TO THE TERMS OF A THIRD-PARTY SERVICE PROVIDER'S PRIVACY POLICY OR TERMS OF USE, YOU SHOULD NOT USE THE RELATED THIRD-PARTY SERVICES. WE WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE FOR ANY OF YOUR INFORMATION COLLECTED OR USED BY THIRD-PARTY SERVICE PROVIDERS.

Your Representations and Warranties

You represent and warrant that Your use of the Services will be in accordance with these Terms and all applicable laws, regulations, rules, and any Athelas policies and procedures We provide to You in writing. Specifically, **YOU REPRESENT AND WARRANT THAT YOU ARE LEGALLY AUTHORIZED TO SHARE PERSONAL DATA (BELONGING TO YOURSELF OR OTHERS ON WHOSE BEHALF YOU ARE SUBMITTING SUCH PERSONAL DATA) WITH US.**

Warranty Disclaimers & Limitation of Liability

NO WARRANTIES

THE SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. ATHELAS EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. ATHELAS MAKES NO WARRANTY THAT THE SERVICES OR MATERIALS WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. ATHELAS MAKES NO WARRANTY REGARDING THE QUALITY OF ANY PRODUCTS, APPLICATIONS, OR MATERIALS ACCESSED OR PURCHASED THROUGH THE SERVICES OR THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF THE SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM ATHELAS OR THROUGH THE APPLICATION OR MATERIALS, WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITHIN THE PLATFORM AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SERVICES, INCLUDING, WITHOUT LIMITATION, IF YOU ARE A PATIENT USER, PROVIDERS, CAREGIVERS, AND OTHER AUTHORIZED THIRD PARTIES, OR IF YOU ARE A PROVIDER USER, PATIENTS AND OTHER AUTHORIZED THIRD PARTIES.

WE CANNOT ALWAYS FORESEE OR ANTICIPATE TECHNICAL OR OTHER DIFFICULTIES THAT MAY RESULT IN FAILURE TO OBTAIN DATA OR LOSS OF DATA, PERSONALIZATION SETTINGS, OR OTHER SERVICE INTERRUPTIONS. WE THEREFORE WILL NOT ASSUME RESPONSIBILITY FOR THE TIMELINESS, ACCURACY, DELETION, NON-DELIVERY OR FAILURE TO STORE ANY USER DATA, COMMUNICATIONS, OR PERSONALIZATION SETTINGS. IT IS YOUR RESPONSIBILITY TO BACKUP ANY INFORMATION YOU ENTER INTO THE PLATFORM.

YOUR RESPONSIBILITY FOR LOSS OR DAMAGE

YOU AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. YOU WILL NOT HOLD ATHELAS OR ITS THIRD-PARTY SERVICE PROVIDERS, LICENSORS OR SUPPLIERS, AS APPLICABLE, RESPONSIBLE FOR ANY LOSS OR DAMAGE THAT RESULTS FROM YOUR ACCESS TO OR USE OF THE SERVICES, INCLUDING WITHOUT LIMITATION ANY LOSS OR DAMAGE TO ANY OF YOUR COMPUTERS, MOBILE DEVICES, OR DATA.

LIMITATION OF LIABILITY

YOU ACKNOWLEDGE AND AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE ENTIRE RISK ARISING OUT OF YOUR ACCESS TO AND USE OF THE SERVICES REMAINS WITH YOU. NEITHER

ATHELAS NOR ANY OTHER COMPANY REPRESENTATIVE INVOLVED IN CREATING, PRODUCING, MAINTAINING, OR DELIVERING THE SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA, LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE, OR THE COST OF SUBSTITUTE PRODUCTS OR APPLICATIONS, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES, OR FROM ANY COMMUNICATIONS, INTERACTIONS, OR MEETINGS WITH OTHER USERS OF THE SERVICES OR OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE AND MEDICAL MALPRACTICE), PRODUCT LIABILITY, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ATHELAS HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED IN MEETING ITS ESSENTIAL PURPOSE.

IF YOU ARE DISSATISFIED WITH THE SERVICES OR THESE TERMS, YOUR ONLY REMEDY IS TO DISCONTINUE USING THE SERVICES.

YOU ACKNOWLEDGE THAT IF YOU USE THE SERVICES DURING OR IN RELATION TO AN EMERGENT, SERIOUS, OR LIFE-THREATENING CONDITION, SUCH USE IS AT YOUR SOLE RISK. ATHELAS IS NOT LIABLE TO YOU OR ANY PERSON FOR ANY DECISION MADE OR ACTION TAKEN IN RELIANCE UPON INFORMATION OR GUIDANCE AVAILABLE THROUGH THE SERVICES. IF YOU ARE A PROVIDER USER, ATHELAS IS NOT LIABLE TO ANY USER OR PERSON FOR ANY HARM CAUSED BY YOUR NEGLIGENCE OR MISCONDUCT, WHETHER OR NOT RELYING UPON INFORMATION COLLECTED, GENERATED, OR STORED VIA THE SERVICES.

BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IN SUCH STATES, ATHELAS' LIABILITY IS LIMITED AND WARRANTIES ARE EXCLUDED TO THE GREATEST EXTENT PERMITTED BY LAW, BUT SHALL, IN NO EVENT, EXCEED THE LESSER OF \$5,000 or TWELVE (12) MONTHS OF FEES PAID TO ATHELAS. ANY CLAIM ARISING FROM THE USAGE OF THE SERVICES MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE OCCURRENCE OF THE EVENT FROM WHICH THE CLAIM AROSE.

Indemnification

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS ATHELAS AND COMPANY REPRESENTATIVES FROM ANY LIABILITY, LOSS, CLAIM, SUIT, DAMAGE, AND EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES) ARISING OUT OF OR IN ANY WAY CONNECTED WITH YOUR ACCESS TO OR USE OF THE SERVICES, YOUR VIOLATION OF THIS AGREEMENT, OR ANY NEGLIGENT OR WRONGFUL CONDUCT BY YOU OR RELATED TO YOUR ACCOUNT BY YOU OR ANY OTHER PERSON ACCESSING THE SERVICES THROUGH YOUR ACCOUNT, REGARDLESS OF WHETHER YOU WERE AWARE OF SUCH USE. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

Feedback and Who Owns It

We welcome and encourage You to provide feedback, comments, and suggestions for improvements to the Services (“Feedback”). You may submit Feedback by e-mailing Us at support@athelas.com. You acknowledge and agree that if You submit any Feedback to Us, You hereby grant to Us a non-exclusive, worldwide, perpetual, irrevocable, fully-paid, royalty-free, sub-licensable, and transferable license under any and all intellectual property rights that You own or control to use, copy, modify, create derivative works based upon, and otherwise exploit the Feedback for any purpose.

Termination of Your Account

If You breach any of these Terms, We may suspend or disable Your account or terminate Your access to the Services without prior notice to You. There may be other instances where We may need to terminate Your access to the Services that are not related to any of Your actions or inactions. We reserve the right to terminate Your access to and use of the Services at any time, with or without cause.

If You wish to terminate Your account, please contact Athelas at support@athelas.com, immediately discontinue Your use of the Services, and delete all files associated with the Services from Your computer or mobile device.

Dispute Resolution

PLEASE READ THIS SECTION CAREFULLY AS IT AFFECTS YOUR RIGHTS

Most user concerns can be resolved quickly and to Your satisfaction by emailing support at support@athelas.com. In the unlikely event that Our support team is unable to resolve a complaint You may have (or if We have not been able to resolve a dispute with You after attempting to do so informally), including but not limited to any alleged breach of these Terms, You and agree to resolve the dispute through binding arbitration in Santa Clara County, California before a single arbitrator, in accordance with the rules and procedures of JAMS and the laws of Delaware without reference to its conflict of law provisions. Arbitration, which is often less expensive, faster, and less formal than a lawsuit in court, uses a neutral arbitrator instead of a judge or jury. Arbitrators can award the same damages and relief that a court can award, and may, but do not have to, award legal fees, arbitrator’s fees and costs and other costs incurred by the party that does not win the dispute.

Any arbitration under these Terms will take place on an individual basis; **class arbitrations and class actions are not permitted**. Any arbitration will be strictly confidential and neither party will disclose to any person (other than necessary to carry out the arbitration) the existence of the dispute or any aspect of the dispute.

This agreement to arbitrate will not preclude You or Athelas from seeking provisional remedies in aid of arbitration, including without limitation orders to stay a court action, compel arbitration or confirm an arbitral award, from a court of competent jurisdiction. Furthermore, this agreement to arbitrate will not preclude You or Athelas from applying to a court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary. THE PROPER VENUE FOR ANY ACTION PERMITTED UNDER THIS SUBSECTION REGARDING “EQUITABLE RELIEF” WILL BE THE FEDERAL AND STATE COURTS LOCATED IN SANTA CLARA COUNTY, CALIFORNIA; THE PARTIES HEREBY WAIVE ANY OBJECTION TO THE VENUE AND PERSONAL JURISDICTION OF SUCH COURTS.

Exceptions to Agreement to Arbitrate: Athelas may bring a lawsuit solely for injunctive relief to stop unauthorized use or abuse of the Platform or infringement of intellectual property rights (for example, trademark, trade secret, copyright, or patent rights) without first engaging in the informal dispute-resolution process described above.

YOU MAY ONLY RESOLVE DISPUTES WITH ATHELAS ON AN INDIVIDUAL BASIS, AND MAY NOT BRING A CLAIM AS A PLAINTIFF OR A CLASS MEMBER IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION. CLASS ARBITRATIONS, CLASS ACTIONS, PRIVATE ATTORNEY GENERAL ACTIONS, AND CONSOLIDATION WITH OTHER ARBITRATIONS ARE NOT ALLOWED UNDER THESE TERMS OF USE.

Notwithstanding the above, You can decline or “opt out” of the alternative dispute resolution process described above by contacting opt_out@athelas.com within 30 days of first accepting these Terms and stating that You (first and last name) decline this dispute resolution process.

YOU UNDERSTAND AND AGREE THAT, BY NOT OPTING-OUT OF THE ALTERNATIVE DISPUTE RESOLUTION PROCESS DESCRIBED, YOU WAIVE ANY RIGHT TO JURY TRIAL TO WHICH YOU MAY OTHERWISE BE ENTITLED IN CONNECTION WITH ANY ACTION OR LITIGATION IN ANY WAY ARISING OUT OF OR RELATED TO THESE TERMS OF USE.

If You opt-out of the dispute resolution process described in this section, or if any matter is otherwise determined not to be subject to such dispute resolution process, You hereby submit to the exclusive jurisdiction of any state or federal court sitting in Santa Clara County, California in any legal proceeding arising out of or relating to these Terms. You agree that any and all claims and matters arising out of these Terms, unless subject to the dispute resolution process described above, may be heard and determined in any such court, and You hereby waive any right to object to such filing on grounds of improper venue, forum non-conveniens, or other venue-related grounds, unless such objection asserts that the claim or matter in dispute is subject to determination through the dispute resolution process described above.

General Contract Terms

These Terms, the Privacy Policy, any other agreements executed between You and Athelas, and any other terms incorporated herein by reference, constitute the entire and exclusive understanding and agreement between Athelas and You regarding the use of the Services, and these Terms supersede and replace any and all prior oral or written understandings or agreements between Athelas and You regarding use of the Services.

GOVERNING LAW

These Terms shall be governed by the laws of the Delaware without reference to its conflict of laws provisions.

ASSIGNMENT

You may not assign or transfer these Terms, by operation of law or otherwise, without Athelas’ prior written consent. Any attempt by You to assign or transfer these Terms, without such consent, will be null and of no effect. Athelas may assign or transfer these Terms, at its sole discretion, without restriction.

Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors, and permitted assigns.

NOTICES

Any notices or other communications permitted or required hereunder, including those regarding modifications to these Terms, will be in writing and given: (i) by Athelas via email (in each case to the address that You provide); and/or (ii) by posting to the Platform. For notices made by email, the notice will be effective as of the date the notice is first transmitted. You agree that any notice received from Athelas electronically satisfies any legal requirement that such notice be in writing. YOU ALONE ARE RESPONSIBLE FOR ENSURING THAT YOUR EMAIL ADDRESS ON FILE WITH ATHELAS IS ACCURATE AND CURRENT, AND NOTICE TO YOU SHALL BE DEEMED EFFECTIVE UPON THE SENDING BY ATHELAS OF AN EMAIL TO THE ADDRESS WE HAVE ON FILE.

You shall give any notice to Athelas by email to: legal@athelas.com. Notice to Athelas shall be effective upon receipt of notice by Athelas.

NO INADVERTENT WAIVER

The failure of Athelas to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Athelas. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise. If, for any reason, a court of competent jurisdiction finds any provision of these Terms invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect.

SEVERABILITY

If any provision of these Terms is determined to be invalid, illegal or unenforceable, the remaining provisions of these Terms remain in full force, provided that the essential terms and conditions remain valid, binding and enforceable and the economic and legal substance of the transactions contemplated by these Terms are materially preserved.

INTELLECTUAL PROPERTY RIGHTS

“Intellectual Property Rights” means all intellectual property rights or similar proprietary rights, including (a) patent rights and utility models, (b) copyrights and database rights, (c) trademarks, trade names, domain names and trade dress and the goodwill associated therewith, (d) trade secrets, (e) mask works, and (f) industrial design rights; in each case, including any registrations of, applications to register, and renewals and extensions of, any of the foregoing in any jurisdiction in the world.

As between You and Us, all right, title and interest, including all Intellectual Property Rights, in the Services, any related materials, logos, products, and documentation, and any other property or materials furnished or made available hereunder, and all modifications and enhancements thereof, belong to and are retained solely by Athelas or its licensors, vendors and affiliates, as applicable. All rights not expressly

granted are reserved by Us. Any use of the Services not expressly permitted by these Terms is a breach of these Terms and may violate copyright, trademark and other laws.

Contacting Athelas

Please feel free to contact Us if You have any questions about the Terms of Use and/or any other documents referenced herein. You may contact Us at support@athelas.com.

DATA SECURITY OFFICER:

Dhruv Parthasarathy, InfoSec@athelas.com