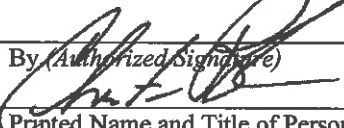


**Iowa Department of Administrative Services**  
**Contracts Declaration & Execution Page**

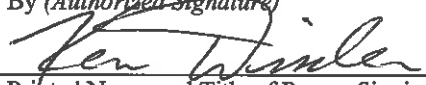
Title of Contract: Online Laboratory Information Management System		Bid Proposal Number: RFP1216009012	Contract Number: MA #17457
This Agreement is entered into between the State of Iowa (by and through its agency, the Department of Administrative Services on behalf of the Iowa Department of Agriculture & Land Stewardship and any other State of Iowa government agencies and entities) and the Contractor named below:			
State Agency's Name: Iowa Department of Administrative Services			
Contractor's Name: Accelerated Technology Laboratories, Inc.			
Contract to Begin: 3/1/2017	Date of Expiration: 2/28/2019	Annual Extensions: Four (4) annual extensions	
The parties agree to comply with the terms and conditions of the following documents listed in order of preference (should there be an inconsistency or conflict between the documents):  -This Contract Agreement MA #17457 and associated documents, and any additional amendments or addendums -RFP and all Amendments, Addendums and associated documents -Contractor's Response to RFP, including the Technical and Cost Proposals -Statements of Work & Delivery Orders issued under the contract agreement (As issued by State of Iowa agencies & entities or by political subdivisions as defined in Iowa Code Chapter 8A.101)			

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto**

**Contractor: Accelerated Technology Laboratories, Inc.**

By (Authorized Signature) 	Date Signed 3/3/2017
Printed Name and Title of Person Signing Christine Paszko, PhD, Vice President, Sales & Marketing	
Address 496 Holly Grove School Road West End, NC 27376	

**State of Iowa: Iowa Department of Administrative Services**

By (Authorized Signature) 	Date Signed 3/6/2017
Printed Name and Title of Person Signing Ken Discher Purchasing Agent 3	
Address Iowa Department of Administrative Services Hoover Bldg. – Level 3 1305 E Walnut St. Des Moines, IA 50319	

**CONTRACT Master Agreement #17457  
BETWEEN  
IOWA DEPARTMENT OF ADMINISTRATIVE SERVICES  
AND  
ACCELERATED TECHNOLOGIES LABORATORIES, INC.**

This Contract (the “Contract”) is effective as of March 1, 2017 (“Effective Date”), and is made by and between Accelerated Technologies Laboratories, Inc. (“Contractor”), a North Carolina corporation, authorized to do business in Iowa, with offices located at 496 Holly Grove School Road, West End, NC 27376, and the State of Iowa (“State”), acting by and through the Iowa Department of Administrative Services, (“Agency”) with offices located at Hoover Building-Level 3, 1305 E. Walnut St., Des Moines, Iowa 50319, (representing the Department of Agriculture and Land Stewardship (IDALS) and any other State of Iowa agencies and entities choosing to do business under the Contract.)

WHEREAS Contractor has developed Sample Master Pro Software (“Software”) that is designed to accelerate accurate result reporting and improve efficiency and data security. Data is entered into the system in the field as samples are collected and the software tracks the progress of the samples through many steps (receiving, sample preparation, sample assignment, multiple rounds of testing, and reporting) and final reporting;

WHEREAS This Software will provide quality improvement through accuracy of data and traceability of all reagents and activities for accreditation efforts. The State’s quality control system will reside in the system and allow for quality monitoring. The State will be able to monitor sample progress and obtain final reports once they have been approved for release of data;

WHEREAS The Software will provide training tracking, which is vital to laboratory accreditation and overall data quality;

WHEREAS the State desires to utilize the Software; and

WHEREAS Contractor is willing to enter into an agreement with the State whereby the State will obtain access to the Software.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## **SECTION 1. DEFINITIONS**

In addition to any other terms that may be defined elsewhere in this Contract, the following terms shall have the following meanings:

**“Acceptance”** means that the State has determined that one or more Deliverables satisfy the State’s Acceptance Tests. Final Acceptance means that the State has determined that all Deliverables satisfy the State’s Acceptance Tests. Non-acceptance means that the State has determined that one or more Deliverables have not satisfied the State’s Acceptance Tests.

**“Acceptance Criteria”** means the Specifications, goals, performance measures, testing results and/or other criteria designated by the State and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.

**“Acceptance Tests” or “Acceptance Testing”** mean the tests, reviews and other activities that are performed by or on behalf of State to determine whether the Deliverables meet the Acceptance Criteria or otherwise satisfy the State, as determined by the State in its sole discretion.

**“Access”** means an event in which the State or an Authorized User logs into the Software using a username and password provided by the Contractor’s system or administrator.

**“Authorized Contractors”** mean independent contractors, consultants or other Third Parties who are retained or hired by the Agency or a Governmental Entity to assist the Agency or Governmental Entities with their use of the Software consistent with the rights granted herein.

**“Authorized User”** means any Governmental Entity, Authorized Contractor or other Third Party that is authorized or permitted by the State to access or use the Software and its functions.

**“Bid Proposal” or “Proposal”** means the Contractor’s proposal submitted in response to the RFP.

**“Contract”** means the collective documentation memorializing the terms of the agreement between the Agency and the Contractor identified on the Contract Declarations & Execution Page(s) and includes the signed Contract Declarations & Execution Page(s), the Special Terms, these General Terms for Services Contracts, any Special Contract Attachments, and all other attachments to the Contract Declarations & Execution Page(s).

**“Contract Declarations & Execution Page(s)”** means the document that contains basic information about the Contract and incorporates by reference these General Terms for Services Contracts, the Special Terms, and all other attachments to the Contract Declarations and Executions Page(s).

**“Customization Deliverables”** means code that is created specifically for the State of Iowa’s LIMS project, for items such as custom reports, instrument parsers, and system integration. This does not include any software that is delivered by ATL for which ATL owns the intellectual property and which is commercially available. These exceptions to the customization deliverables include ATL’s Sample Master® LIMS and any other commercially available software offered by ATL including: iMobile, Result Point® and NWA® Statistical Software control (which is owned by North West Analytical).

**“Customizations”** means any custom reporting windows/screen, the creation of documents (e.g. reports), integration with existing databases, parsing to instruments, and designing & developing virtual workspaces for each laboratory, or other custom developed product provided under a Statement of Work, whether acting alone or in conjunction with the State of Iowa or its employees, Authorized Contractors, affiliates or other Third Parties acting on the State’s behalf, and all corresponding or underlying designs, inventions, methodologies, techniques, discoveries, know-how, show-how and works of authorship, and all United States and foreign patents issued or issuable thereon, all copyrights and other rights in works of authorship, collections and arrangements of data, mask work rights, trade secrets on a worldwide basis, trademarks, trade names, and other forms of corporate or product identification, and any Source Code, division, continuation, modification, enhancement, derivative work or license incorporated, included, or related to or into any of the foregoing.

**“Deficiency”** means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable, including, without limitation, any failure of a deliverable to conform to or meet an applicable specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.

**“Documentation”** means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.

**“Enhancements”** means all updates, upgrades, bug fixes, patches, additions, modifications or other enhancements to the Software (including, without limitation, any new releases or versions of the Software), provided or made available by Contractor or any Third Party under this Contract or any other agreement (including, without limitation, any agreement for maintenance or support) and all changes to the Software as a result of such Enhancements.

**“Governmental Entity”** shall mean any Governmental Entity, as defined in Iowa Code Section 8A.101(4), or any successor provision to that section. The term Governmental Entity shall also include agencies, independent agencies, the Judicial Branch, courts, boards, authorities, institutions, establishments, divisions, bureaus, commissions, committees, councils, examining boards, public utilities, offices of elective constitutional or statutory officers, and other units, branches, or entities of government.

**“Software”** means any software, programs, applications, modules, or components identified Schedule A, or any corresponding schedules, exhibits, addendums, or other like attachments attached to this Contract, in all forms, including Source Code and object code, all related Documentation and Enhancements, and all copies of the foregoing.

**“Source Code”** means the human-readable source code, source program, scripts and/or programming language, including HTML, XML, XHTML, Visual Basic, and JAVA, for or related to the Software. Source Code includes all source code listings, instructions (including compile instructions), programmer’s notes, commentary and all related technical information and Documentation, including all such information and Documentation that is necessary or useful for purposes of maintaining, repairing, or making modifications or enhancements to the Software and the Source Code.

**“Special Contract Attachments”** means any attachment to this Contract indicated on the Contract Declarations & Execution Page(s).

**“Special Terms”** means the RFP Section 6.2 entitled “Special Terms” that contains terms specific to this Contract, as well as but not limited to the Scope of Work, contract payment terms, and any amendments to these General Terms and Conditions for Services Contracts. If there is a conflict between the General Terms for Services Contracts and the Special Terms, the Special Terms shall prevail.

**“Specifications”** means all specifications, requirements, technical standards, performance standards, representations and other criteria related to the Deliverables stated or expressed in this Contract, the Documentation, the RFP, and the Proposal. Specifications shall include the Acceptance Criteria and any specifications, standards or criteria stated or set forth in any applicable state, federal, foreign and local laws, rules and regulations. The Specifications are incorporated into this Contract by reference as if fully set forth in this Contract.



**“State”** means the State of Iowa, the Agency, and all State of Iowa agencies, boards, and commissions, and when this Contract is available to political subdivisions, any political subdivisions of the State of Iowa.

**“Statement of Work”** means the initial statement of work set forth in Schedule A to this Agreement, and any additional statement of work that may be executed by the parties, and any amendments thereto. Each Statement of Work will describe the Specifications of the Software and services to be provided by Contractor, the fixed, not-to-exceed compensation owed to the Contractor for the Software and any Support Services provided by Contractor pursuant to this Contract, and final delivery dates associated therewith. Each Statement of Work is incorporated into this Contract by this reference as if fully set forth in this Contract.

**“Support Services”** means training, technical support, general assistance, planning, architecture design, or reporting provided by Contractor to the State.

**“Third Party”** means a person or entity (including, but not limited to any form of business organization, such as a corporation, partnership, limited liability company, association, etc.) that is not a party to this Contract.

## **SECTION 2. SCOPE OF WORK**

**2.1 Software:** Subject to the terms of this Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, perpetual, fully paid up, royalty-free, worldwide right and license to utilize the Software identified in Schedule A (attached hereto). Schedule A is incorporated into this Contract by this reference as if fully set forth in this Contract.

**2.1.1** The terms of this Contract shall continue to apply to this perpetual license notwithstanding the expiration of this Contract under Section 6.

**2.1.2** With respect to any license granted pursuant to this Contract, the State may:

**2.1.2.1** Use, install, host, access, execute, copy, modify, edit, format, translate, maintain, support, repair, enhance, test, demonstrate, and display the Software, and prepare derivative works based on the Software, in all media now known or hereafter created;

**2.1.2.2** Combine and use the Software with other software, firmware, Public Code and hardware;

**2.1.2.3** Grant any or all of the rights set forth/granted in Subsection 2.1, to Authorized Contractors and Governmental Entities; and;

**2.1.2.4** Grant rights to access and use the Software and its functions to Authorized Users.

**2.1.3** All Software subject to this Contract may be used on any one or more of the computers, data center locations, networks, Internet or intranet sites, servers or other systems of the Agency, any Governmental Entity, or any Authorized Contractor (“Agency Systems”). For purposes of this Contract, the parties agree that if the Agency or any Governmental Entity makes any modifications or Enhancements to the Software (whether directly or indirectly through an Authorized Contractor), the Agency or Governmental Entity who makes such

modification or Enhancement owns such modifications or Enhancements. The foregoing license grants and rights conferred herein include a license under any current or future patents owned or licensable by Contractor to the extent necessary: (i) to exercise any license right granted herein; and (ii) to combine the Software with any other hardware and software.

- 2.1.4** The features of the Software may be altered at Contractor's reasonable discretion through updates or changes as long as the basic functionality of the Software is not impaired and the purpose of this Contract is maintained.
- 2.1.5** Contractor will notify State prior to release of any material updates.
- 2.1.6** Contractor shall not condition any of the State's rights and remedies, or Contractor's obligations, under this Contract or any other agreement related to the Software (including any agreement related to maintenance or support of the Software), on the State accepting or installing any Enhancements or additional functionality provided by Contractor.
- 2.1.7 Acceptance Testing.** Except as otherwise specified in the Scope of Work, all Deliverables shall be subject to the State's Acceptance Testing and Acceptance, unless otherwise specified in the Statement of Work. Upon completion of all work to be performed by Contractor with respect to any Deliverable, Contractor shall deliver a written notice to the State certifying that the Deliverable meets and conforms to applicable Specifications and is ready for the State to conduct Acceptance Tests; provided, however, that Contractor shall pretest the Deliverable to determine that it meets and operates in accordance with applicable Specifications prior to delivering such notice to the State. At the State's request, Contractor shall assist the State in performing Acceptance Tests at no additional cost to the State. Within a reasonable period of time after the State has completed its Acceptance Testing, the State shall provide Contractor with written notice of Acceptance or Non-acceptance with respect to each Deliverable that was evaluated during such Acceptance Testing. If the State determines that a Deliverable satisfies its Acceptance Tests, the State shall provide Contractor with notice of Acceptance with respect to such Deliverable. If the State determines that a Deliverable fails to satisfy its Acceptance Tests, the State shall provide Contractor with notice of Non-acceptance with respect to such Deliverable. In the event the State provides notice of Non-acceptance to Contractor with respect to any Deliverable, Contractor shall correct and repair such Deliverable and submit it to the State within thirty (30) days of Contractor's receipt of notice of Non-acceptance so that the State may re-conduct its Acceptance Tests with respect to such Deliverable. In the event the State determines, after re-conducting its Acceptance Tests with respect to any Deliverable that Contractor has attempted to correct or repair pursuant to this section, that such Deliverable fails to satisfy its Acceptance Tests, then the State shall have the continuing right, at its sole option, to:
  - 2.1.7.1** Require Contractor to correct and repair such Deliverable within such period of time as the State may specify in a written notice to Contractor;
  - 2.1.7.2** Refuse to accept such Deliverable without penalty and without any obligation to pay any fees or other amounts associated with such Deliverable (or receive a refund of any fees or amounts already paid with respect to such Deliverable);
  - 2.1.7.3** Accept such Deliverable on the condition that any fees or other amounts payable with respect thereto shall be reduced or discounted to reflect, to the State's

satisfaction, the Deficiencies present therein and any reduced value or functionality of such Deliverable or the costs likely to be incurred by the State to correct such Deficiencies; or

**2.1.7.4** Terminate this Contract and/or seek any and all available remedies, including damages. Notwithstanding the provisions of Section 8 of this Contract, the State may terminate this Contract pursuant to this section without providing Contractor with any notice or opportunity to cure provided for in Section 8. The State's right to exercise the foregoing rights and remedies, including termination of this Contract, shall remain in effect until Acceptance Tests are successfully completed to the State's satisfaction and the State has provided Contractor with written notice of Final Acceptance. If the State determines that all Deliverables satisfy its Acceptance Tests, the State shall provide Contractor with notice of Final Acceptance with respect to such Deliverables. Contractor's receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable(s) shall not be construed as a waiver of any of the State's rights to enforce the terms of this Contract or require performance in the event Contractor breaches this Contract or any Deficiency is later discovered with respect to such Deliverable(s).

**2.2 Services:** The Contractor shall provide the following services as set forth below:

**2.2.1** Contractor shall deliver the Software to the State and setup and install the Software for use on the State's hardware as specified in Schedules A and B, and as may be further set forth in a Statement of Work. To the extent Software is mailed or shipped to the State, Contractor shall bear all freight, shipping, handling and insurance costs for delivery of the Software and shall bear all risk of loss with respect to the Software, including any losses resulting from any damage to or destruction of the Software, in whole or in part, which may occur prior to the State's delivery of State's written notice that the Software meets the State's Specifications.

**2.2.2** Contractor shall assist in training the State's Authorized Users on access to and use of the Software, as well as assist the State in the migration of any data into the Software, in accordance with Schedules A and B (attached hereto), and as set forth in the Accelerated Technology Laboratories GOLD package in Schedule B. Schedule B is incorporated into this Contract by this reference as if fully set forth in this Contract.

**2.2.3** Contractor shall provide Software maintenance and technical support services in accordance with the Performance Criteria set forth in Schedule B (attached hereto).

**2.2.4** Contractor shall provide additional Customization, consultation, and other information technology services consistent with the rates set forth in Schedule A, and may be further set forth in a Statement of Work.

**2.3 Non-Exclusive Rights.** This Contract is not exclusive. The State reserves the right to select other contractors to provide services similar or identical to the scope of services described in this Contract during the term of this Contract, and the Contractor reserves the right to provide similar or identical services as described in this Contract to other persons.

## SECTION 3. OBLIGATIONS

**3.1 Contractual Obligations.** The terms and conditions of the RFP and of the Proposal are made contractual obligations of Contractor, except that any proposed revisions or modifications made by Contractor to the sample contracts attached to the RFP Proposal shall not be deemed to limit, modify or otherwise affect any of the contractual obligations of Contractor or the Agency hereunder, unless expressly stated herein.

**3.2 No Inconsistency.** The references to the parties' obligations, which are contained in this Contract, are intended to change, modify, supplement or clarify the obligations as stated in the RFP and the Proposal. The failure of the parties to make reference to the terms of the RFP or Proposal in this Contract shall not be construed as creating a conflict and will not relieve Contractor of the contractual obligations imposed by the terms of the RFP and the Proposal. Terms offered in the Proposal, which exceed the requirements of the RFP, shall not be construed as creating an inconsistency or conflict with the RFP or this Contract. Notwithstanding anything herein to the contrary, the Agency shall have only those obligations that are expressly stated in this Contract, and the Proposal does not create any express or implied obligations of the Agency.

**3.3 Availability of Contract to Other Entities.** All other agencies of the State of Iowa and all political subdivisions of the State of Iowa may make purchases pursuant to the Contract as permitted by the Competitive Bidding Document.

## SECTION 4. RESPONSIBILITIES

### 4.1 Project Management & Reporting.

- 4.1.1 Project Manager.** At the time of execution of this Contract, each party shall designate, in writing, a Project Manager to serve until the expiration of this Contract or the designation of a substitute Project Manager. During the term of this Contract, each Project Manager shall be available to meet monthly, unless otherwise mutually agreed, to review and plan the Deliverables being provided under this Contract.
- 4.1.2 Review Meetings.** During the review meetings the Project Managers shall discuss progress made by the Contractor in the performance of this Contract. Each party shall provide a status report, as desired by a Project Manager, listing any problem or concern encountered since the last meeting. Records of such reports and other communications issued in writing during the course of Contract performance shall be maintained by each party.
- 4.1.3 Reports.** At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that will facilitate problem resolution. For as long as a problem remains unresolved, written reports shall identify:

**4.1.3.1** Any event not within the control of the Contractor or the State that accounts for the problem;

**4.1.3.2** Modifications to the Contract agreed to by the parties in order to remedy or solve the identified problem;

**4.1.3.3** Damages incurred as a result of any party's failure to perform its obligations under this Contract; and

**4.1.3.4** Any request or demand by one party that another party believes is not included within the terms of this Contract.

**4.1.4 Problem Reporting Omissions.** The State's acceptance of a problem report shall not relieve the Contractor of any obligation under this Contract or waive any other remedy under this Contract or at law or equity that the State may have. The State's failure to identify the extent of a problem or the extent of damages incurred as a result of a problem shall not act as a waiver of performance or damages under this Contract. Where other provisions of this Contract require notification of an event in writing, the written report shall be considered a valid notice under this Contract provided the parties required to receive notice are notified.

**4.1.5 Change Order Procedure.** The Agency may at any time request a modification to the Scope of Work using a change order. The following procedures for a change order shall be followed:

**4.1.5.1** Written Request: The Agency shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Work.

**4.1.5.2** The Contractor's Response: The Contractor shall submit to the Agency a firm cost proposal for the requested change order within five (5) business days of receiving the change order request.

**4.1.5.3** Acceptance of the Contractor Estimate: If the Agency accepts the cost proposal presented by the Contractor, the Contractor shall provide the modified Deliverable subject to the cost proposal included in the Contractor response. The Contractor's provision of the modified deliverables shall be governed by the terms and conditions of this Contract.

**4.1.5.4** Adjustment to Compensation: The parties acknowledge that a change order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor's compensation or the performance deadlines under this Contract.

## **4.2 Confidential Information.**

**4.2.1 Access to Confidential Information.** The Contractor's employees, agents and subcontractors may have access to confidential information maintained by the State to the extent necessary to carry out its responsibilities under the Contract. The Contractor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by the State. The Contractor shall provide to the State a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the

Contractor in connection with the performance of the Contract. The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this Contract. The private or confidential information shall remain the property of the State at all times.

- 4.2.2 No Dissemination of Confidential information.** No confidential information collected, maintained, or used in the course of performance of the Contract shall be disseminated by Contractor except as authorized by law and only with the prior written consent of the State, either during the period of the Contract or thereafter. Any data supplied by the State to the Contractor or created by the Contractor in the course of the performance of this Contract shall be considered the property of the State. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of the State. The Contractor may be held civilly or criminally liable for improper disclosure of confidential information.
- 4.2.3 Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the Agency and cooperate with the Agency in any lawful effort to protect the confidential information.
- 4.2.4 Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to the Agency any unauthorized disclosure of confidential information.
- 4.2.5** If Contractor requests confidential treatment with respect to any information or material contained within its Bid Proposal and if a judicial or administrative proceeding is initiated to compel the release of such material, Contractor shall, at its sole expense, appear in the proceeding or otherwise obtain an order restraining the release of such material from a court of competent jurisdiction. Agency may release the information or material with or without advance notice to Contractor if no judicial or administrative proceeding is initiated and Agency determines the information or material is not confidential under Iowa or other applicable law, or if Contractor failed to properly request confidential treatment under the RFP, or if Contractor rescinds its request for confidential treatment.
- 4.2.6 Survives Termination.** The Contractor's obligations under this section shall survive termination or expiration of this Contract.

**4.3 Contractor Responsibility for Security.** The Contractor shall comply with the Agency's and the State's security regulations as listed in the RFP Section 6.2 including any written procedure which the Agency's or the State's personnel, contractors and consultants are asked to follow. Contractor agrees to cooperate fully and to provide any assistance necessary to the Agency or the State in the investigation of any security breaches that may involve the Contractor, Contractor's personnel, or Contractor's web hosting servers, database servers, e-payment servers and other information technology systems. Contractor must ensure the security of hosted software and data and meet the State's Enterprise Security Policies described at <http://secureonline.iowa.gov/links/index.html>, as well as federal requirements relating to the security or privacy of data and the notification of individuals whose data has been breached or accessed in an unauthorized manner. The Agency may opt to have Contractor's environment audited as required by the State of Iowa Office of Chief Information Officer ("OCIO"), and Contractor shall participate and cooperate fully in such audits.

#### **4.4 Computer Hardware.**

- 4.4.1** The State shall be solely responsible to provide access to, use, maintain and support its own computer hardware, software, printers, Internet connection, and other facilities required for access and use of the Software.
- 4.4.2** Contractor agrees to provide problem reporting procedures to the State for reporting Software "bugs", malfunctions, programming errors and related problems. Upon notification of any "bug" in the Software pursuant to the procedures set forth by Contractor, Contractor will investigate and if able to verify and reproduce the bug, use reasonable commercial efforts to correct such "bug" or create a work around.
- 4.4.3** The Agency may cure any Contractor default under this Contract without prejudice to any other remedy it may have if Contractor fails to correct such default as required in this Contract or if Contractor otherwise defaults or fails to perform any provision of the Contract within the time period specified in a notice of default from the Agency. The Agency may provide or procure the services reasonably necessary to cure any Contractor default, in which event Contractor shall reimburse the Agency for the actual, reasonable out-of-pocket costs incurred by the Agency for such services. In addition, Contractor shall cooperate with the Agency or any Third Parties retained by the Agency who assist in curing such default, including by allowing access to any pertinent materials or work product of Contractor.

**4.5 System Storage.** The Contractor shall not store or back-up any data or information supplied to the Software by the State or its Authorized Contractors on a server located outside the continental United States (CONUS).

### **SECTION 5. INTELLECTUAL PROPERTY**

#### **5.1 Intellectual Property.**

- 5.1.1 Ownership and Assignment of Other Deliverables.** Contractor agrees that the State and Agency shall become the sole and exclusive owners of all Customization Deliverables, excluding the Commercial off the Shelf (COTS) Sample Master® LIMS and COTS automation software including Sample Master® iMobile, and Result Point®. Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Customization Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Customization Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. Contractor represents and warrants that the State and the Agency shall acquire good and clear title to all Customization Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary or affiliate of Contractor. The Contractor (and Contractor's employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the Customization Deliverables and shall not use any Customization Deliverables, in whole or in part, for any purpose, without the prior written consent of the Agency and the payment of such royalties or other compensation as

the Agency deems appropriate. Unless otherwise requested by Agency, upon completion or termination of this Contract, Contractor will immediately turn over to Agency all Customization Deliverables not previously delivered to Agency, and no copies thereof shall be retained by Contractor or its employees, agents, subcontractors or affiliates, without the prior written consent of Agency.

**5.1.2 Waiver.** To the extent any of Contractor's rights in any Customization Deliverables are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, Contractor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State's rights in and to the Customization Deliverables.

**5.1.3 Further Assurances.** At the Agency's request, Contractor will execute and deliver such instruments and take such other action as may be requested by the Agency to establish, perfect or protect the State's rights in and to the Customization Deliverables and to carry out the assignments, transfers and conveyances set forth in this Contract.

## **SECTION 6. DURATION OF CONTRACT**

**6.1 Duration of Contract.** The term of the Contract shall begin and end on the dates specified on the Contract Declarations & Execution Page(s), unless extended or terminated earlier in accordance with the termination provisions of this Contract. The Agency may, in its sole discretion, exercise any applicable extension by giving the Contractor written notice of the extension decision at least sixty (60) days prior to the expiration of the initial term or renewal term.

## **SECTION 7. COMPENSATION**

**7.1 Pricing.** The Contractor will be compensated in accordance with the payment terms outlined in the Contract Payment Terms and Scope of Work described in the Special Terms.

The Contractor shall submit, on the frequency established on the Contract Declarations & Execution Page(s) an invoice for Deliverables rendered in accordance with this Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The State shall verify the Contractor's performance of the Deliverables outlined in the invoice before making payment. The State shall pay all approved invoices in arrears and in conformance with Iowa Code 8A.514. The State may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code § 8A.514.

Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any Deliverables provided by or on behalf of the Contractor under this Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under this Contract.

**7.2 The State has established rules for limitations on reimbursement expenses.** Please reference Department of Administrative Services - State Accounting Enterprise Procedure 210-245 (accessible on the internet) for limits on travel expenses.

**7.3 Withholding Payments.** In addition to pursuing any other remedy provided herein or by law, the State may withhold compensation or payments to Contractor, in whole or in part, without penalty to the State or work stoppage by Contractor, in the event the State determines that:



- 7.3.1** Contractor has failed to perform any of its duties or obligations as set forth in this Contract;  
or
- 7.3.2** Any Deliverable has failed to meet or conform to any applicable Specifications or contains  
or is experiencing a Deficiency.

No interest shall accrue or be paid to Contractor on any compensation or other amounts withheld or retained by the State under this Contract.

**7.4 Setoff Against Sums Owed by the Contractor.** In the event that Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, set off any such sum against:

- 7.4.1** Any sum invoiced by, or owed to, Contractor under this Contract, or
- 7.4.2** Any sum or amount owed by the State to Contractor, unless otherwise required by law.

The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing setoff.

**7.5 Most Favored Client Pricing.** During the Term, Contractor shall not at any time enter into a substantially similar license with a different client at prices below those stated in this Contract. If Contractor charges a different client a lower price for the substantially similar license, Contractor must immediately apply the lower price for the license under this Contract for the remainder of the then current Initial Term or Renewal Term for so long as the client's contract is in effect. If Contractor fails to meet the lower price, the Agency, at its option, may terminate this Contract pursuant to Section 8. A license shall be considered substantially similar for purposes of this Section if it involves the same or substantially similar (i) number and nature of Authorized Users, (ii) Software, (iii) length of term, and (iv) Specifications as set forth in Schedules A and B.

## **SECTION 8. TERMINATION**

**8.1 Immediate Termination by the State.** The State may terminate this Contract for any of the following reasons effective immediately without advance notice:

- 8.1.1** In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- 8.1.2** The State determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a person's life, health or safety to be jeopardized;
- 8.1.3** The Contractor fails to comply with confidentiality laws or provisions;
- 8.1.4** The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

**8.2 Termination for Cause by the Agency.** The Agency may terminate this Contract upon written notice for the breach by Contractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Agency's notice of breach or any subsequent notice or correspondence delivered by the Agency to Contractor, provided that cure is feasible. In addition, the Agency may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

- 8.2.1** Contractor furnished any statement, representation, warranty or certification in connection with this Contract, the RFP or the Proposal that is false, deceptive, or materially incorrect or incomplete;
- 8.2.2** Contractor or any of Contractor's officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;
- 8.2.3** Contractor or any parent or affiliate of Contractor owning a controlling interest in Contractor dissolves;
- 8.2.4** Contractor terminates or suspends its business;
- 8.2.5** Contractor's corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited, or any license or certification held by Contractor related to Contractor's performance under this Contract is suspended, terminated, revoked, or forfeited;
- 8.2.6** Contractor has failed to comply with any applicable international, federal, state (including, but not limited to Iowa Code chapter 8F), or local laws, rules, ordinances, regulations or orders when performing within the scope of this Contract;
- 8.2.7** The Agency determines or believes the Contractor has engaged in conduct that: (a) has or may expose the Agency or the State to material liability, or (b) has caused or may cause a person's life, health or safety to be jeopardized;
- 8.2.8** Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or Contractor misappropriates or allegedly misappropriates a trade secret;
- 8.2.9** Contractor fails to comply with any applicable confidentiality laws, privacy laws, or any provisions of this Contract pertaining to confidentiality or privacy; or
- 8.2.10** Any of the following has been engaged in by or occurred with respect to Contractor or any corporation, shareholder or entity having or owning a controlling interest in Contractor:
  - 8.2.10.1** Commencing or permitting a filing against it which is not discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to

any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;

**8.2.10.2** Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;

**8.2.10.3** Making an assignment for the benefit of creditors;

**8.2.10.4** Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with Contractor's performance of its obligations under this Contract; or

**8.2.10.5** Taking any action to authorize any of the foregoing. The Agency's right to terminate this Contract shall be in addition to and not exclusive of other remedies available to the Agency, and the Agency shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

**8.3 Termination upon Notice.** Following thirty (30) days written notice, the Agency may terminate this Contract in whole or in part without penalty and without incurring any further obligation to Contractor. Termination can be for any reason or no reason at all.

**8.4 Termination Due to Lack of Funds or Change in Law.** Notwithstanding anything in this Contract to the contrary, and subject to the limitations set forth below, the Agency shall have the right to terminate this Contract without penalty and without any advance notice as a result of any of the following:

**8.4.1** The legislature or governor fail in the sole opinion of the Agency to appropriate funds sufficient to allow the Agency to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or

**8.4.2** If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Agency to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Agency in its sole discretion; or

**8.4.3** If the Agency's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

**8.4.4** If the Agency's duties, programs or responsibilities are modified or materially altered; or

**8.4.5** If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects the Agency's ability to fulfill any of its obligations under this Contract. The Agency shall provide Contractor with written notice of termination pursuant to this section.

**8.5 Limitation of the State's Payment Obligations.** In the event of termination of this Contract for any reason by either party (except for termination by the Agency pursuant to Section 8.2), the State shall pay only those amounts, if any, due and owing to Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the State is obligated to pay pursuant to this Contract; provided however, that in the event the Agency terminates this Contract pursuant to Section 8.4, the State's

obligation to pay Contractor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of invoices and proper proof of Contractor's claim. Notwithstanding the foregoing, this Section 8.5 in no way limits the rights or remedies available to the Agency and shall not be construed to require the State to pay any compensation or other amounts hereunder in the event of Contractor's breach of this Contract or any amounts withheld by the State in accordance with the terms of this Contract. The Agency shall not be liable, under any circumstances, for any of the following:

- 8.5.1** The payment of unemployment compensation to Contractor's employees;
- 8.5.2** The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;
- 8.5.3** Any costs incurred by Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract;
- 8.5.4** Any damages or other amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments or commitments made in connection with this Contract;
- 8.5.5** Any taxes Contractor may owe in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

**8.6 Contractor's Termination Duties.** Upon receipt of notice of termination or upon request of the Agency, Contractor shall:

- 8.6.1** Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work performed under the Contract and such other matters as the Agency may require.
- 8.6.2** Immediately cease using and return to the State any property or materials, whether tangible or intangible, provided by the State to Contractor.
- 8.6.3** Cooperate in good faith with the State and its employees, agents and independent contractors during the transition period between the notification of termination and the substitution of any replacement service provider.
- 8.6.4** Immediately return to the State any payments made by the State for Deliverables that were not rendered or provided by Contractor.
- 8.6.5** Immediately deliver to the State any and all Deliverables for which the State has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied as that time.

**8.7 Termination for Cause by Contractor.** Contractor may only terminate this Contract for the breach by the Agency of any material term, condition or provision of this Contract, if such breach is not cured within sixty (60) days of the Agency's receipt of Contractor's written notice of breach.

**8.8 Release Provisions.** Subject to the other provisions of this Contract, Contractor shall provide the Source Code to the State for any Customizations Contractor creates for the State as enumerated in Schedule A, upon the occurrence of any one or more of the following “Release Events”:

**8.8.1** Upon the termination of this Contract pursuant to Section 6; or

**8.8.2** Contractor merges, undergoes a change in control of at least 50% of its outstanding stock or sells all or substantially all of its assets, and the survivor or acquirer is not bound by or does not assume all of Contractor’s rights and obligations under this Contract, whether by operation of law, written contract or otherwise.

## **SECTION 9. INDEMNIFICATION**

**9.1 By the Contractor.** The Contractor agrees to indemnify and hold harmless the State and its officers, appointed and elected officials, board and commission members, employees, volunteers and agents (collectively the “Indemnified Parties”), from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments (including, without limitation, the reasonable value of the time spent by the Attorney General’s Office, and the costs, expenses and attorneys’ fees of other counsel retained by the Indemnified Parties directly or indirectly related to, resulting from, or arising out of this Contract, including but not limited to any claims related to, resulting from, or arising out of:

**9.1.1** Any breach of this Contract;

**9.1.2** Any negligent, intentional or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;

**9.1.3** The Contractor’s performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor;

**9.1.4** Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Iowa;

**9.1.5** Any claim of misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights or personal rights of any third party, including any claim that any Deliverable or any use thereof (or the exercise of any rights with respect thereto) infringes, violates or misappropriates any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other intellectual property right or proprietary right of any third party.

**9.2 Survives Termination.** Contractor’s duties and obligations under this section shall survive the termination of this Contract and shall apply to all acts or omissions taken or made in connection with the performance of this Contract regardless of the date any potential claim is made or discovered by the Agency or any other Indemnified Party.

## **SECTION 10. INSURANCE**

**10.1 Insurance Requirements.** The Contractor, and any subcontractor, shall maintain in full force and effect, with insurance companies licensed by the State of Iowa, at the Contractor’s expense, insurance covering its work during the entire term of this Contract and any extensions or renewals thereof. The Contractor’s insurance shall, among other things, be occurrence based and shall insure against any loss or

damage resulting from or related to the Contractor's performance of this Contract regardless of the date the claim is filed or expiration of the policy. The State of Iowa and the Agency shall be named as additional insureds or loss payees, or the Contractor shall obtain an endorsement to the same effect, as applicable.

**10.2 Types and Amounts of Insurance Required.** Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount specified on the Contract Declarations and Execution Page for each occurrence. In addition, the Contractor shall ensure it has any necessary workers' compensation and employer liability insurance as required by Iowa law.

**10.3 Certificates of Coverage.** Contractor shall maintain all insurance policies required by this Contract in full force and effect during the entire term of this Contract and any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of the Agency. The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The certificates shall be subject to approval by the Agency. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least thirty (30) days' prior written notice to the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract.

**10.4 Waiver of Subrogation Rights.** The Contractor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against the State. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to the State.

## **SECTION 11. WARRANTIES**

**11.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law.** Warranties made by the Contractor in this Contract, whether: (1) this Contract specifically denominates the Contractor's promise as a warranty; or (2) the warranty is created by the Contractor's affirmation or promise, by a description of the Deliverables to be provided, or by provision of samples to the State, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties that arise through course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Deliverables provided by the Contractor. The provisions of this section apply during the term of this Contract and any extensions or renewals thereof.

**11.2 Contractor represents and warrants that:** (1) all Deliverables shall be wholly original with and prepared solely by Contractor; or it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses and authority necessary to provide the Deliverables to the State hereunder and to assign, grant and convey the rights, benefits, licenses and other rights assigned, granted or conveyed to the State hereunder or under any license agreement related hereto without violating any rights of any third party; (2) Contractor has not previously and will not grant any rights in any Deliverables to any third party that are inconsistent with the rights granted to the State herein; and (3) the State shall peacefully and quietly have, hold, possess, use and enjoy the Deliverables without suit, disruption or interruption.

**11.3 Contractor represents and warrants that:** (1) the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables); and (2) the State's use of, and exercise of any rights with respect to, the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables), do not and will

not, under any circumstances, misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any third party. Contractor further represents and warrants there is no pending or threatened claim, litigation or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Deliverables. Contractor shall inform the State in writing immediately upon becoming aware of any actual, potential or threatened claim of or cause of action for infringement or violation of an intellectual property right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then Contractor shall, at the State's request and at the Contractor's sole expense: (1) procure for the State the right or license to continue to use the Deliverable at issue; (2) replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation; (3) modify or replace the affected portion of the Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation; or (4) accept the return of the Deliverable at issue and refund to the State all fees, charges and any other amounts paid by the State with respect to such Deliverable. In addition, Contractor agrees to indemnify, defend, protect and hold harmless the State and its officers, directors, employees, officials and agents as provided in the Indemnification section of this Contract, including for any breach of the representations and warranties made by Contractor in this section. The foregoing remedies shall be in addition to and not exclusive of other remedies available to the Agency and shall survive termination of this Contract.

**11.4 Contractor represents and warrants that the Deliverables (in whole and in part) shall:** (1) be free from material Deficiencies; and (2) meet, conform to and operate in accordance with all Specifications and in accordance with this Contract during the Warranty Period, as defined in the Special Terms. During the Warranty Period Contractor shall, at its expense, repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications within five business days of receiving notice of such Deficiencies or failures from the State or within such other period as the State specifies in the notice. In the event Contractor is unable to repair, correct or replace such Deliverable to the State's satisfaction, Contractor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto. The foregoing shall not constitute an exclusive remedy under this Contract, and the Agency shall be entitled to pursue any other available contractual, legal or equitable remedies. Contractor shall be available at all reasonable times to assist the State with questions, problems and concerns about the Deliverables, to inform the State promptly of any known Deficiencies in any Deliverables, repair and correct any Deliverables not performing in accordance with the warranties contained in this Contract, notwithstanding that such Deliverable may have been accepted by the State, and provide the State with all necessary materials with respect to such repaired or corrected Deliverable.

**11.5 Contractor represents, warrants and covenants** that all services to be performed under this Contract shall be performed in a professional, competent, diligent and workmanlike manner by knowledgeable, trained and qualified personnel, all in accordance with the terms and Specifications of this Contract and the standards of performance considered generally acceptable in the industry for similar tasks and projects. In the absence of a Specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard. So long as the State notifies Contractor of any services performed in violation of this standard, Contractor shall re-perform the services at no cost to the State, such that the services are rendered in the above-specified manner, or if the Contractor is unable to perform the services as warranted, Contractor shall reimburse the State any fees or compensation paid to Contractor for the unsatisfactory services.

**11.6 Contractor represents and warrants** that the Deliverables will comply with any applicable federal, state, foreign and local laws, rules, regulations, codes, and ordinances in effect during the term of this Contract, including applicable provisions of Section 508 of the Rehabilitation Act of 1973, as

amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board, the Iowa Department of Administrative Services, and Iowa Office of the Chief Information Officer.

**11.7 Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that the State will not have any obligations with respect thereto.

## **SECTION 12. CONTRACT ADMINISTRATION**

**12.1 Independent Contractor.** The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents and any subcontractors performing under this Contract are not employees or agents of the State or any agency, division or department of the State simply by virtue of work performed pursuant to this Contract. Neither the Contractor nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work performed pursuant to this Contract. The State will not withhold taxes on behalf of the Contractor (unless required by law).

**12.2 Incorporation of Documents.** To the extent this Contract arises out of an RFP, the parties acknowledge that the Contract consists of these contract terms and conditions as well as the RFP and the Bid Proposal. The RFP and the Bid Proposal are incorporated into the Contract by reference, except that no objection or amendment by the Contractor to the provisions of the RFP shall be incorporated by reference into the Contract unless the Agency has explicitly accepted the Contractor's objection or amendment in writing. If there is a conflict between the Contract, the RFP and the Bid Proposal, the conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the RFP; (3) the Bid Proposal.

**12.3 Intent of References to Bid Documents.** The references to the parties' obligations, which are contained in this Contract, are intended to supplement or clarify the obligations as stated in the RFP and the Bid Proposal. The failure of the parties to make reference to the terms of the RFP or the Bid Proposal in this Contract shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the RFP and the Contractor's Bid Proposal. The contractual obligations of the Agency cannot be implied from the Bid Proposal.

**12.4 Compliance with the Law; Nondiscrimination in Employment.** The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by federal or state law, executive orders, and rules of the Iowa Department of Administrative Services. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and section 19B.7) and the use of targeted small businesses as subcontractors and suppliers. Upon the State's written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121.

The Contractor, its employees, agents and subcontractors shall also comply with all federal, state, and local laws, including any permitting and licensure requirements, in carrying out the work performed under this Contract.



In the event Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract as set forth in section 1.15.11, Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this section.

Notwithstanding anything in this Contract to the contrary, Contractor's failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend, in whole or in part, this Contract. The State may further declare Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

**12.5 Legislative Changes.** The Contractor expressly acknowledges that the contracted Deliverables are subject to legislative change by either the federal or state government. Should either legislative body enact measures which alter the project, the Contractor shall not hold the Agency liable in any manner for the resulting changes. The Agency shall use best efforts to provide thirty (30) days' written notice to the Contractor of any legislative change. During the thirty (30)-day period, the parties shall meet and make a good faith effort to agree upon changes to the Contract to address the legislative change. Nothing in this Subsection shall affect or impair the Agency's right to terminate the Contract pursuant to the termination provisions.

**12.6 Procurement.** Contractor shall use procurement procedures that comply with all applicable federal, state, and local laws and regulations.

**12.7 Non-Exclusive Rights.** This Contract is not exclusive. The State reserves the right to select other contractors to provide Deliverables similar or identical to those described in the Scope of Work during the term of this Contract.

**12.8 Non-Supplanting Requirement.** To the extent required by state or federal law, federal and state funds made available under this Contract shall be used to supplement and increase the level of state, local and other non-federal funds that would in the absence of such federal and state funds be made available for the programs and activities for which funds are provided and will in no event take the place of state, local and other non-federal funds.

**12.9 Compliance with Iowa Code chapter 8F.** If the Contract is subject to the provisions of Iowa Code chapter 8F, the Contractor shall comply with Iowa Code chapter 8F with respect to any subcontracts it enters into pursuant to this Contract. Any compliance documentation, including but not limited to certifications, received from subcontractors by the Contractor shall be forwarded to the Agency.

**12.10 Amendments.** This Contract may be amended in writing from time to time by mutual consent of the parties. Amendments to the General Terms for Services Contracts may appear in the Special Terms.

**12.11 Third Party Beneficiaries.** There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State and the Contractor.

**12.12 Assignment and Delegation.** Contractor may not assign, transfer or convey in whole or in part this Contract without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment. The Contractor may not delegate any of its obligations or duties under this Contract without the prior written consent of the Agency. The Contractor may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to the Contractor under this Contract.

**12.13 Use of Third Parties.** The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. The Contractor shall notify the Agency in writing of all subcontracts relating to Deliverables to be provided under this Contract prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all Deliverables provided under this Contract. All restrictions, obligations and responsibilities of the Contractor under this Contract shall also apply to the subcontractors and the Contractor shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

**12.14 Choice of Law and Forum.** The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law. Any and all litigation commenced in connection with this Contract shall be brought and maintained solely in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Agency or the State of Iowa.

**12.15 Integration.** This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

**12.16 Headings or Captions.** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

**12.17 Not a Joint Venture.** Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived here from. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

**12.18 Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, and for any default of activities and obligations.

**12.19 Supersedes Former Contracts or Agreements.** This Contract supersedes all prior contracts or agreements between the Agency and the Contractor for the Deliverables to be provided in connection with this Contract.

**12.20 Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

**12.21 Notice.** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by a reliable carrier which shall be addressed to the person who signed the Contract on behalf of the party at the address identified in the Contract Declarations & Execution Page(s) at the address specified on the forms. Each such notice shall be deemed to have been provided:

**12.21.1** At the time it is actually received; or,

**12.21.2** Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

**12.21.3** Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

**12.22 Cumulative Rights.** The various rights, powers, options, elections and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled.

**12.23 Severability.** If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

**12.24 Time is of the Essence.** Time is of the essence with respect to the Contractor's performance of the terms of this Contract. Contractor shall ensure that all personnel providing Deliverables to the State are responsive to the State's requirements and requests in all respects.

**12.25 Authorization.** Contractor represents and warrants that:

**12.25.1** It has the right, power and authority to enter into and perform its obligations under this Contract.

**12.25.2** It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

**12.26 Successors in Interest.** All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

**12.27 Records Retention and Access.** The Contractor shall maintain accurate, current, and complete records of the financial activity of this Contract which sufficiently and properly document and calculate all charges billed to the State throughout the term of this Contract and for a period of at least five (5) years following the date of final payment or completion of any required audit (whichever is later). If any

litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the five (5) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five (5) year period, whichever is later. The Contractor shall permit the Agency, the Auditor of the State or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. Based on the audit findings, the State reserves the right to address the Contractor's board or other managing entity regarding performance and expenditures.

- 12.27.1** Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Contract require matching funds, cash contributions made by the Contractor and third party in-kind (property or service) contributions must be verifiable from the Contractor's records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income, and third-party reimbursements.
- 12.27.2** The Contractor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.
- 12.27.3** The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the State.
- 12.27.4** The Contractor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring and evaluating its program.
- 12.27.5** The Contractor shall retain all medical records for a period of six (6) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code section 614.1(9). Client records, which are non-medical, must be maintained for a period of five (5) years.

## **12.28 Audits or Examination of Records.**

- 12.28.1** Contractors that expend \$750,000 or more in a fiscal year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements. Single audits must be completed and the data collection form and reporting package must be submitted electronically to the Federal Audit Clearinghouse within the earlier of thirty (30) calendar days after Contractor's receipt of the auditor's report(s), or nine months after the end of the audit period. The Contractor shall submit to the Agency one (1) copy of the separate letter to management addressing non-material findings, if provided by the auditor, promptly following receipt by Contractor. Contractor shall also submit one (1) copy of the final audit report to the Agency within thirty (30) days after Contractor's receipt thereof, if either the schedule of findings and questioned costs or the summary schedule of prior audit

findings includes any audit findings related to federal awards provided by the Agency. The requirements of this subsection shall apply to the Contractor as well as any subcontractors.

**12.28.2** If a Contractor is independently audited but is not required to submit the audit report per the criteria in subsection 12.28.1 above, the Contractor shall submit to the Agency one (1) copy of the separate letter to management addressing non-material findings, if provided by the auditor, promptly following receipt by Contractor. Within fifteen (15) days following Agency's request, the Contractor shall also submit one (1) copy of the final audit report to the Agency.

**12.28.3** The Agency may require, at any time and at its sole discretion, that recipients of non-federal and/or federal funds have an audit performed. The Contractor shall submit one (1) copy of the audit report to the Agency within thirty (30) days of its issuance, unless specific exemption is granted in writing by the Agency. The Contractor shall submit with the audit report a copy of the separate letter to management addressing non-material findings, if provided by the auditor. The Contractor may be required to comply with other prescribed compliance and review procedures.

**12.28.4** The Contractor shall be solely responsible for the cost of any required audit unless otherwise agreed in writing by the Agency.

**12.29 Qualifications of Staff.** The Contractor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors or anyone acting for or on behalf of the Contractor, are properly licensed, certified or accredited as required under applicable state law and the Iowa Administrative Code. The Contractor shall provide standards for service providers who are not otherwise licensed, certified or accredited under state law or the Iowa Administrative Code.

**12.30 Solicitation.** The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

**12.31 Obligations beyond Contract Term.** This Contract shall remain in full force and effect to the end of the specified term or until terminated pursuant to this Contract. All obligations of the Agency and the Contractor incurred or existing under this Contract as of the date of expiration or termination will survive the termination or expiration of this Contract.

**12.32 Counterparts.** The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**12.33 Delays or Impossibility of Performance.** Neither party shall be in default under the Contract if performance is prevented, delayed or made impossible to the extent that such prevention, delay, or impossibility is caused by a "force majeure." The term "force majeure" as used in this Contract includes an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care, such as acts of God, war, civil disturbance and other similar causes. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. "Force majeure" does not include: financial difficulties of the Contractor or any parent, subsidiary, affiliated or associated company of Contractor; claims or court orders that restrict Contractor's ability to deliver the Deliverables contemplated by this Contract; strikes; labor unrest; or

supply chain disruptions. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as defined in this Contract. If a "force majeure" delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Agency. The party seeking to exercise this provision and not perform or delay performance pursuant to a "force majeure" shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

**12.34 Suspensions and Debarment.** The Contractor certifies pursuant to 48 CFR Part 9 that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal Agency or State Agency. The Contractor certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contracts with the State of Iowa.

**12.35 Conflict of Interest.** Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the State that is a conflict of interest. No employee, officer or agent of the Contractor or subcontractor shall participate in the selection or in the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code ch. 68B shall apply to this Contract. If a conflict of interest is proven to the Agency, the Agency may terminate this Contract, and the Contractor shall be liable for any excess costs to the Agency as a result of the conflict of interest. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. The Contractor shall report any potential, real, or apparent conflict of interest to the Agency.

**12.36 Certification Regarding Sales and Use Tax.** By executing this Contract, the Contractor certifies it is either (a) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 423; or (b) not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in Iowa Code subsections 423.1(47) & (48). The Contractor also acknowledges that the Agency may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the Agency or its representative filing for damages for breach of contract.

**12.37 Right to Address the Board of Directors or Other Managing Entity.** The Agency reserves the right to address the Contractor's board of directors or other managing entity of the Contractor regarding performance, expenditures and any other issue as appropriate. The Agency determines appropriateness.

**12.38 Repayment Obligation.** In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

**12.39 Further Assurances and Corrective Instruments.** The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such amendments hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Contract.

**12.40 Reporting Requirements.** If this Contract permits other State agencies and political subdivisions to make purchases off of the Contract, the Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a report to the Agency on a quarterly basis. The report shall identify all of the State agencies and political subdivisions making purchases off of this Contract and the quantities purchased pursuant to the Contract during the reporting period.

**12.41 Immunity from Liability.** Every person who is a party to the Contract is hereby notified and agrees that the State, the Agency, and all of their employees, agents, successors, and assigns are immune from liability and suit for or from Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.

**12.42 Public Records.** The laws of the State require procurement records to be made public unless otherwise provided by law.

**12.43 Use of Name or Intellectual Property.** Contractor agrees it will not use the Agency and/or State's name or any of their intellectual property, including but not limited to, any State, state agency, board or commission trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Agency and/or the State.

**12.44 Taxes.** The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. The State is exempt from State and local sales and use taxes on the Deliverables. [State of Iowa Tax Exempt Letter](#)

**12.45 No Minimums Guaranteed.** The contract does not guarantee any minimum level of purchases or any minimum amount of compensation.

**12.46 Equitable Relief.** The parties acknowledge that a breach of this Contract may cause the non-breaching party irreparable injury and damage and therefore the breaching party may be enjoined through injunctive proceedings in addition to any other rights and remedies which may be available to the parties at law or in equity.

## **SCHEDULE A**

### **DESCRIPTION OF SOFTWARE AND SPECIFICATIONS**

This Schedule A is part of and incorporated into the Contract MA #17457 between Accelerated Technologies Laboratories, Inc. (“Contractor”), a North Carolina corporation, authorized to do business in Iowa, with offices located at 496 Holly Grove School Road, West End, NC 27376, and the State of Iowa (“State”), acting by and through the Iowa Department of Administrative Services (“Agency”) with offices located at Hoover Bldg.-Level 3, 1305 E. Walnut St., Des Moines, Iowa 50319. This Schedule A and all corresponding schedules, exhibits, addendums, and like attachments attached hereto is effective as of the Effective Date. Unless otherwise specifically defined in this Schedule A, all capitalized terms used herein shall have the meanings ascribed to them under this Contract.

#### **1. Description of Software and Specifications.**

- a. The Software is entitled “Sample Master Pro.” The fees shall be as specified in the GANTT chart located in the initial Statement of Work, and shall total \$114,387 for all Software, including all Module Licenses and Enhancement Tools.
  - i. Contractor agrees to provide 10 concurrent user licenses for the Software that will be primarily for laboratory use (data entry, supervisor approval, inventory control, tracking employee training, and the like).
  - ii. The Software shall include modules including Sample Tracking, Data Entry, Sample Scheduling, QA/QC, Electronic Data Transfer, Chemical Inventory, Resource Management, and LIMS Maintenance Module.
  - iii. The Software shall also include enhancement tools, including:
    1. 35 iMobile named user licenses for pre-logging samples in the field (with the option to buy more during the next 5 years at the contracted price);
    2. 20 Result Point client access licenses for the bureaus in the Wallace Building to track sample progress through the laboratory and to obtain final results;
    3. 2 bar code starter packages that include printers, bar code readers, software, cables, label design, configuration, installation and training; and
    4. NWA QA X licensee, which is imbedded quality analyst statistical software.
- b. Contractor agrees that State may purchase additional Software licenses at the prices listed below:
  - i. Additional iMobile licenses will be available to the State at the current rate of \$1,000 per license for the duration of the Contract;
  - ii. Upon request of the State, Contractor shall provide additional barcode starter packages (including Zebra label printer, 2 handheld scanners, all cables, label design, configuration, installation and training) at a cost of \$3,000 per package for the duration of the Contract; and

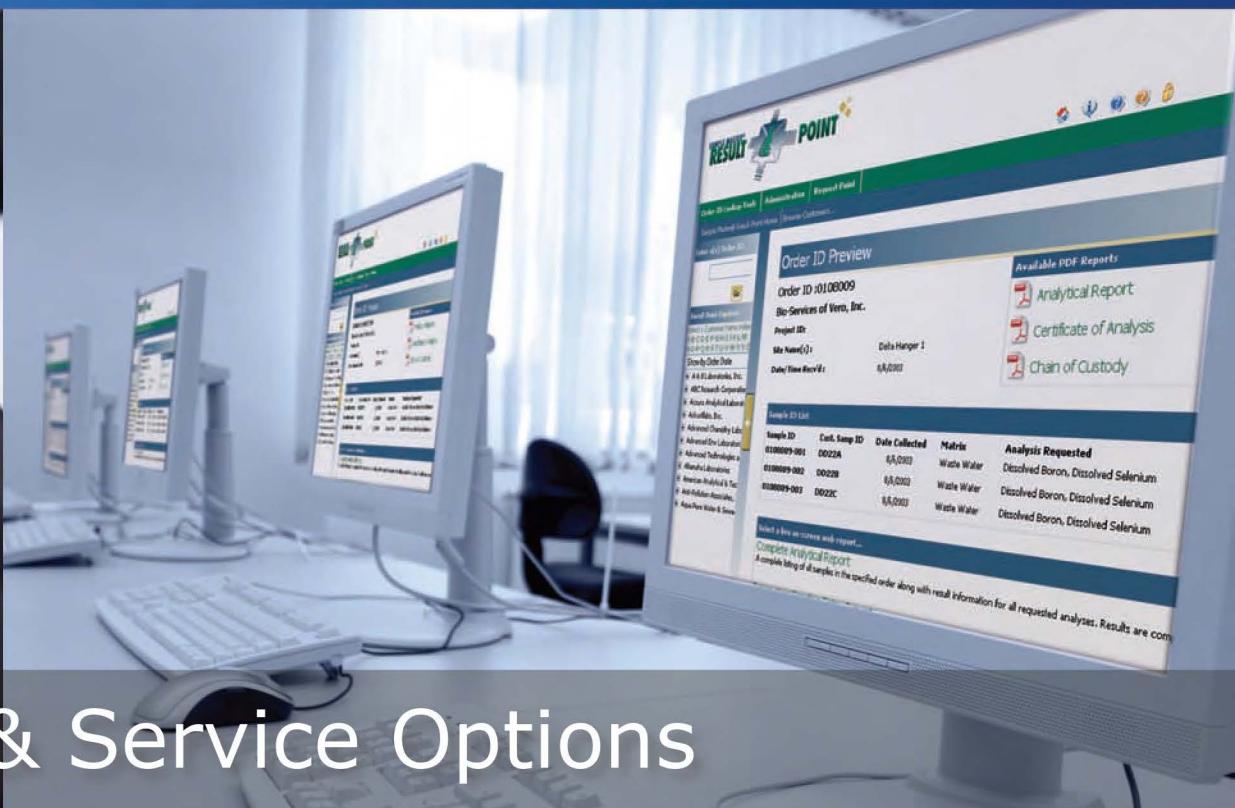


- iii. Instrument Interface Parcels for \$2850 for a package of 3, which includes on-site service to deliver and test 3 parsing routines, for the duration of the Contract.
  - c. Contractor shall provide for any Customizations, and other related information technology services related to the Software, as further specified in a Statement of Work, requested by the State for the Software, and Contractor shall be compensated by the State for such work at the hourly rate of \$225/hour. This hourly rate includes the following services: consulting, report development, instrument configuration, database parsing and other professional services. The hourly rate shall remain at \$225/hour for the duration of the contract.
2. No Public Code is incorporated into the Software.

**SCHEDULE B**  
**MAINTENANCE AND SUPPORT**

1. The Contractor will provide maintenance and customization services at contracted rates to establish a unique product that supports the laboratory testing conducted by the State
  - a. Contractor shall provide off-site services for the State, including: creating checklists, templates, a project implementation plan, and a dashboard series to successfully deploy the LIMS.
  - b. Contractor shall provide on-site consulting or training services to the State at the State's request, and Contractor shall charge no more than \$2,473 per day for such services. The Contractor's rate for on-site consulting services shall remain at \$2,473 per day for the duration of the Contract.
  - c. Contractor shall provide off-site consulting services to the State at the State's request, and Contractor shall charge no more than \$225 per hour for such services. The Contractor's rate for on-site consulting services shall remain at \$225 per hour for the duration of the Contract
  - d. Contractor shall provide off-site report development to the State at the State's request. The State will provide current hardcopies or electronic copies of current reports and the Contractor will design a custom template for the report that will be filled in with sample information and results that end users put into the LIMS. The Contractor shall charge no more than \$225 per hour for such services. The Contractor's rate for on-site consulting services shall remain at \$225 per hour for the duration of the Contract
  - e. Contractor shall provide off-site testing and documentation to the State at the State's request, to integrate the Software with existing State databases and spreadsheets with continual updates. Contractor shall charge no more than \$225 per hour for such services. The Contractor's rate for on-site consulting services shall remain at \$225 per hour for the duration of the Contract
  - f. During any Renewal Term of this Contract, the State may purchase the ATL Gold Support package for the Software from Contractor, at a cost of no more than \$12,559 per year. The Contractor's rate for this package shall remain at \$12,559 per year for 5 years after the Effective Date of the Contract.
    - i. Contractor shall provide support and services as part of the ATL Gold Support package as set forth in Attachment 1 to this Schedule, and shall include the following:
      1. Unlimited telephone, email and web site support for up to two (2) State personnel.
      2. A dedicated account manager.
      3. All Enhancements are free.
      4. Access to user group meetings and LIMS Solution Newsletter.
      5. Two (2) hours of off-site programming support.

## **SCHEDULE B - ATTACHMENT 1**



# Support & Service Options

Attachment 1



# Support & Service Options

A LIMS is a major investment, and we believe that superior support is a necessity. ATL delivers excellent support by a team of laboratory and software professionals that are experienced, responsive, and committed to providing our clients with the highest level of support and service in the industry.

ATL makes a major commitment to re-investing in research and development with ongoing product enhancements, new products, new functionality upgrades and regular releases employing the latest technology. Product upgrades allow customers to keep their LIMS current and ensure that it meets the changing laboratory, business and regulatory environment.

LIMS customer support requirements are not constant over time. ATL support offerings provide our clients access to the most inclusive and flexible support options available. From early implementation to initial “go-live” and on to full operational use, this natural cycle develops as databases increase in size, user populations grow and computing environments become more sophisticated. ATL prides itself on working with its customers to create a detailed multi-tiered support plan, which matches our clients’ laboratory, data management, and support requirements, today and into the future. ATL customer support options recognizes this cycle by providing a range of services within The ATL Metals Support Program that meet customers’ changing needs through the LIMS evolution. The ATL Metals Support Program currently provides four levels that mirror customer business requirements. ATL BRONZE being the most basic level of support through PLATINUM, which is the most comprehensive. ATL’s GOLD support is the most popular and best value support option.

## ATL GOLD Support Services

The ATL GOLD support service is most popular and appropriate for customers who require maximum responsiveness, or have higher availability requirements for the implementation. GOLD is available for customers with operations in a single location, or multiple locations and countries. There are many elements that contribute to the successful implementation of a robust LIMS systems, and ATL GOLD support is clearly positioned to help customers extract the most value from their LIMS systems, assuring continued success with ATL software.

Unlimited technical support on a toll-free number plus two hours of programming support or web training at no charge, priority routing and a dedicated LIMS account manager to provide customers with a single point of contact for swift response and solution management.



## Descriptions of ATL Services Provided

**Technical Support** - ATL offers customers direct toll-free telephone access to software engineers for problem resolution, anomaly reporting, documentation clarification and technical guidance, during normal business hours, Monday to Friday. Support calls are directly routed to and resolved by software engineers, who have access to a comprehensive range of software diagnostic tools. All support calls received are customer prioritized using a set of pre-defined severity levels, which are assigned according to the severity, support level purchased, and impact on customer business. All calls are logged, tracked; resolutions are documented in accordance with ATL’s ISO Certified Quality Plan. In addition to direct phone technical support, users can also e-mail support or access the portal knowledgebase and user forum, to receive assistance 24/7.

**Programming Support** - is available to provide user specific features to the LIMS to create custom reports, to migrate data, or to assist in understanding and troubleshoot customer written code.

**Remote Support** - allows ATL software engineers to log into the customer system and perform diagnostics; this requires customer permission and system access.

**Instrument Integration** - ATL engineers have developed a library of over 350 different instrument parsers that have been interfaced with ATL’s LIMS. ATL offers instrument integration as a service and provides IQ/OQ services if required.





**Consulting and Validation Services** – ATL also offers needs assessment services to review the current processes and operations of the laboratory and provides a formal report with recommendations for improvements in operational efficiency and productivity. ATL provides validation services, including IQ (Installation Qualification)/OQ (Operational Qualification/PQ (Performance Qualification) and also partners with several firms that offer additional validation and assessment services.

**Access to Web Site User Support Area** – ATL support is further enhanced by a secure web support area where users can access a wealth of product knowledge. This allows access for downloading ATL service packs and for accessing the knowledge base and white papers. This site also provides access to Frequently Asked Questions, the user bulletin board and breaking news.

**LIMS Solutions Newsletter** – is the primary publication for communicating ATL's vision and direction. This regular newsletter is devoted to the ATL user community, with news on industry events, enabling customers to make informed business decisions about laboratory automation, laboratory data management and support services.

## Comparison of the ATL Metals Support Options

ATL Support Type	BRONZE	SILVER	GOLD	PLATINUM
<b>Technical Support</b>	<b>5</b> incidents	<b>10</b> incidents	Unlimited	Unlimited
<b>Migration Credit</b>	Not Included	Included	Included	Included
<b>Dedicated Account Manager</b>	Not Included	Not Included	Included	Included
<b>Free Product Upgrades</b>	Not Included	Not Included	Included	Included
<b>Web Training Course Pass (ATL University)</b>	Not Included	Not Included	Included	Included
<b>Yearly LIMS Maintenance List</b>	Not Included	Not Included	Included (off-site)	Included (on-site)
<b>Programming Support (Off-Site)</b>	Not Included	Not Included	Included (2 hours Free)	Included (8 hours Free)
<b>ATL Web Support Site, FTP Support Area, Service Packs, User Group Meetings &amp; LIMS Solutions Newsletter</b>	Included	Included	Included	Included
<b>Quarterly Web Training</b>	Not Included	Not Included	Included	Included
<b>Annual Maintenance Cost (based on LIMS software cost)</b>	5%	10%	18%	35%
<b>Training: LIMS Boot Camp</b>	Not Included	Not Included	Not Included	Included*
<b>Software Engineer Extended Business Hrs.</b>	Not Included	Not Included	Not Included	Included

\*A 5 day pass to both the Intermediate and Advanced Classes.



## Overview of Training Options

### **Introduction**

We understand that not all people learn the same way; for some, self paced training programs are ideal, some prefer one-on-one training and yet others excel in formal classroom training. Because of these differences, we tailor our training offerings to provide a combination of programs to meet our clients' needs, from tutorials, to blended e-learning, to interactive web sessions, to formal classroom training. One study found that undergraduate students learn and retain information as follows: 10 percent of what they read, 20 percent of what they hear, 30 percent of what they see, 50 percent of what they see and hear, 60 percent of what they write, 70 percent of what they discuss and 80 percent of what they experience.\*

We also believe that hands-on experience is the best; that is why we started ATL University over a decade ago. We offer formal 100% hands-on courses which consist of a variety of classes for users of all levels of expertise, from novice end-users to seasoned LIMS administrators.

### **ATL University**

This is an ATL Institute that has been offering formal training courses for over a decade; the most popular course is the LIMS BOOT CAMP, a 5 day intensive hands-on course that covers the features and functionality of the software. The intermediate class is held the first 3 days and deals primarily with user interaction with the system, where as the 2 day advanced course is positioned for LIMS administrators and super users that will modify reports, create new reports, extend the application with new forms, tables and queries. Additional courses are offered including beginning, intermediate and advanced report writing, as well as a series of web-based courses on various LIMS and laboratory automation topics.

### **On-site Training**

ATL Certified Trainers also provide on-site expert installation and training for LIMS administrators, as well as end-users. To allow users a varied training experience, training can be provided on-site, one on one, on the job or in small groups. This initial training is supplemented with training manuals, tutorials, a user manual, quarterly web-based training, and the curriculum that is offered through ATL University.

### **Web-based Training**

In order to provide clients with the support that they need, when they need it, ATL Certified Trainers offer web-assisted training courses. The major advantage is that this training can be quickly scheduled and can be provided to a single user as well as to a group. Instructor led web courses are offered through ATL University, and we also offer custom training based on client's needs.

### **Customized Training**

ATL can also provide training specially designed to meet our client's unique needs. ATL has provided group training in auditoriums as well as small classrooms. Training can be on-site or interactive, via our web-based instructor assisted training option. Users can work with ATL engineers to create a customized course curriculum that would best fit their requirements.

\*In the book *Handbook on Teaching Undergraduate Science Courses* (Thomson Custom Publishing, 1999), written by Gordon E. Uno.



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**Microsoft**  
GOLD CERTIFIED  
Partner

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## STATEMENT OF WORK NO. 1

This Statement of Work, effective as of the date set forth in Contracts Declaration Page, is a part of and incorporated into the Contract MA #17457 between Accelerated Technologies Laboratories, Inc. (“Contractor”), a North Carolina corporation, authorized to do business in Iowa, with offices located at 496 Holly Grove School Road, West End, NC 27376, and the State of Iowa (“State”), acting by and through the Iowa Department of Administrative Services (“Agency”). This Statement of Work and all corresponding schedules, exhibits, addendums, and like attachments attached hereto are incorporated into the Contract as if full set forth therein. Unless otherwise specifically defined in this Statement of Work, all capitalized terms used herein shall have the meanings ascribed to them under this Contract.

Contractor shall provide implementation, installation, configuration, training, and other services (“**Implementation Services**”) to State, as set forth below:

1. The deadlines for the delivery of the Software, modules, enhancement tools, and any Customizations referenced herein, and which meet the State’s Specifications, are set forth in the GANTT chart, attached here to as Attachment 1.
  - a. Software to be shipped and received by State by Gantt #52.
  - b. The overall goal is to have the Software, modules, enhancement tools, and any Customizations referenced herein, and which meet the State’s Specifications, fully implemented and deployed [“Go-Live”] prior to August 10, 2017 [the beginning of the Iowa State Fair—during which time the State’s IDALS Agency is extremely busy].
2. Subject to the State’s Acceptance Testing procedures under the Contract, the State shall compensate the Contractor for the Software, modules, enhancement tools, and any Customizations referenced herein, and which meet the State’s Specifications, according to the dates and amounts set forth in the table below. With respect to the Implementation Services further described below, the GANTT chart represents a high-level overview of such services. State and Contractor shall jointly work to prepare more detailed implementation plans and configuration requirements, which shall be incorporated into this Statement of Work as if fully set forth herein, and thereby into the Contract as if fully set forth herein, whether attached to this Statement of Work or not.

Payment No.	GANTT No. (see Attachment 1)	Description/Amount
1	After GANTT #18	After the State accepts introductory and initiation activities, the State shall pay \$35,796 (1/3 Software license cost, software modules, and enhancement tools))
2	After GANTT #72	After on-site services are approved and successful installation of Software on server, the State shall pay \$35,796 (1/3 Software license cost, software modules, and enhancement tools) + \$7000 (2 bar code starter packages and one NWA QA X License) + \$11,129 onsite consulting services +\$2,473 ATL Advantage Plan (1 day services) +

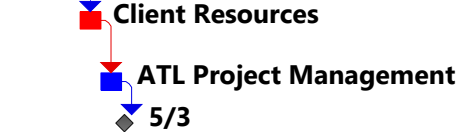
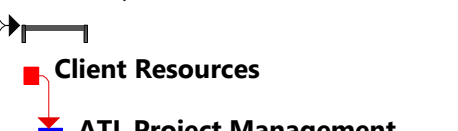
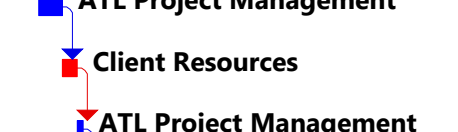
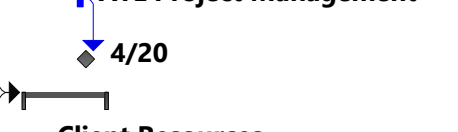

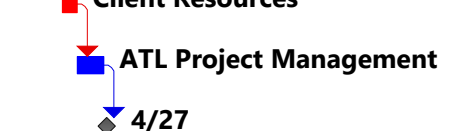


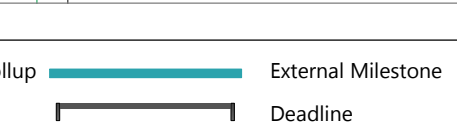
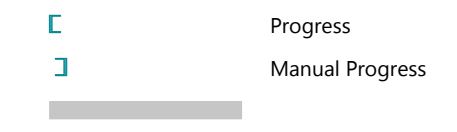
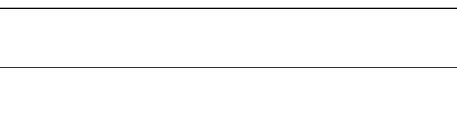



		\$9,000 report writing (40 hours minimum), for a total of \$65, 398 + travel.
3	After GANTT #72	After completion of onsite System Admin/User Training, the State shall pay \$9,892 + travel. Contractor shall provide two trainers to the State for this training.
4	After GANTT #74	After work process configuration and custom reports are functional, the State shall pay \$3,600.)
5	After GANTT #76	After successful Off Site Testing, the State shall pay \$10,800.
6	After GANTT #77	After completion of successful “Go Live Assistance”, the State shall pay \$4,946 + travel.
7	After GANTT #78	Final payment after State notifies Contractor that the Software meets all Specifications, the State shall pay \$35,795 (1/3 Software license cost, software modules, and enhancement tools)).
8	After GANTT #79	After Boot Camp is completed, the State shall pay at total of \$2,995 for two attendees to attend Boot Camp within one (1) year of “Go Live” date.

- a. Subject to the State’s Final Acceptance, the final payment due for the Software, modules, enhancement tools, and any Customizations referenced herein, and which meet the State’s Specifications, shall be made no later than August 31, 2017 (the grant deadline).
- i. The only exception to payments made by the August 31, 2017 deadline shall be for “Boot Camp” as set forth in the table above. This is core training that provides an introduction to the fundamentals of the Software. It is designed for end users and super-users. Attendees will return to the laboratory able to leverage the utmost functionality from Sample Master Pro

## **Attachment 1**



ID	Task Name	Duration	Start	Finish	11 12/18	January 21 1/22	2/26	April 1 4/2	5/7	June 11 6/11	7/16	August 21 8/20	9/24	November 1 10/29	12/3
24	Client reviews and approves RD and sends back to ATL (Client Activity)	5 days	Wed 4/19/17	Tue 4/25/17											
25	Develop and test reports, review documentation	5 days	Wed 4/26/17	Tue 5/2/17											
26	Deliver reports and documentation	1 day	Wed 5/3/17	Wed 5/3/17											
27	Instrument Integration	14 days	Fri 3/31/17	Thu 4/20/17											
28	Client returns all instrument output files to ATL (Client Activity)*	3 days	Fri 3/31/17	Tue 4/4/17											
29	Develop Requirements Document (RD) for Instruments and issue to client	6 days	Wed 4/5/17	Wed 4/12/17											
30	Client reviews, approves and signs Instrument RD and sends back to ATL (Client Activity)	2 days	Thu 4/13/17	Mon 4/17/17											
31	Develop and test instrument integrations, review documentation	2 days	Tue 4/18/17	Wed 4/19/17											
32	Deliver Parser training material (if applicable)	1 day	Thu 4/20/17	Thu 4/20/17											
33	System Interfacing	19 days	Fri 3/31/17	Thu 4/27/17											
34	Client returns all system information to ATL (Client Activity)*	4 days	Fri 3/31/17	Wed 4/5/17											
35	Develop Requirements Document (RD) for Instruments and issue to client	5 days	Thu 4/6/17	Wed 4/12/17											
36	Client reviews, approves and signs system interfacing RD and sends back to ATL (Client Activity)	2 days	Thu 4/13/17	Mon 4/17/17											
37	Develop and test system interfaces, review documentation	7 days	Tue 4/18/17	Wed 4/26/17											
38	Deliver training material (if applicable)	1 day	Thu 4/27/17	Thu 4/27/17											
39	Continue Pre-installation template	4.25 days	Fri 3/31/17	Thu 4/6/17											
40	Schedule and Hold review call for in-depth data template instruction(if applicable) (ATL & Client)	2 hrs	Fri 3/31/17	Fri 3/31/17											
41	Client completes data template or obtains databases and returns to ATL (Client Activity)	4 days	Fri 3/31/17	Thu 4/6/17											
42	Pre-Installation Activities	7.25 days	Fri 3/31/17	Tue 4/11/17											
43	Define Onsite visit date (ATL & Client Activity)	1 day	Fri 3/31/17	Fri 3/31/17											

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44	Send Confirmation of Travel document for approval and signature (ATL)	1 day	Mon 4/3/17	Mon 4/3/17	<div>ATL Project Management</div>										
45	Return Confirmation of Travel document with signed approval (Client Activity)	1 day	Tue 4/4/17	Tue 4/4/17	<div>Client Resources</div>										
46	Schedule for Pre-Installation Conference Call and issue invitation (ATL + Client Activity)	2 hrs	Wed 4/5/17	Wed 4/5/17	<div>ATL Account Management,ATL Project Management,Client Resources</div>										
47	Hold Pre-Installation Conference Call (ATL + Client Activity)	6 hrs	Wed 4/5/17	Wed 4/5/17	<div>ATL Account Management,ATL Project Management,Client Resources</div>										
48	Define schedule for installation and agenda for Kick-Off Meeting and issue invitation	1 day	Thu 4/6/17	Thu 4/6/17	<div>ATL Account Management,ATL Project Management,Client Resources</div>										
49	Perform preliminary LIMS configuration (if applicable)	2 days	Fri 4/7/17	Mon 4/10/17	<div>ATL Project Management</div>										
50	Preparation for on-site visit	0.25 days	Tue 4/11/17	Tue 4/11/17	<div>ATL Project Management</div>										
51	Assemble required manuals, copies of agenda and project dashboard	2 hrs	Tue 4/11/17	Tue 4/11/17	<div>ATL Account Management</div>										
52	Installation Phase (on-site)	53.13 days	Tue 4/11/17	Tue 6/27/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
53	LIMS Kick Off Meeting (on-site)	0.13 days	Tue 4/11/17	Tue 4/11/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
54	Hold Kick-Off Meeting (ATL + Client Activity)	1 hr	Tue 4/11/17	Tue 4/11/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
55	Verify hardware, software and network (on-site)	0.25 days	Tue 4/11/17	Tue 4/11/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
56	Verify hardware, software and network (ATL + Client IT involvement)	2 hrs	Tue 4/11/17	Tue 4/11/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
57	Configure LIMS (on-site)	0.25 days	Tue 4/11/17	Tue 4/11/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
58	Configure LIMS (ATL + Client IT involvement)	2 hrs	Tue 4/11/17	Tue 4/11/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
59	Configure LIMS Client Portion (on-site)	0.5 days	Tue 4/11/17	Wed 4/12/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
60	Configure LIMS Client Access (ATL + Client IT involvement)	4 hrs	Tue 4/11/17	Wed 4/12/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
61	Populate LIMS static tables (on-site)	0.5 days	Wed 4/12/17	Wed 4/12/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
62	Populate LIMS static tables (Client + ATL activity)	0.5 days	Wed 4/12/17	Wed 4/12/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
63	Install Systems Interface to/from LIMS (on-site)	1 day	Wed 4/12/17	Thu 4/13/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
64	Install Systems Interface to/from LIMS (ATL + Client Activity)	1 day	Wed 4/12/17	Thu 4/13/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
65	Install Custom Reports (on-site)	1 day	Fri 5/5/17	Mon 5/8/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
66	Install and Train on the custom reports (ATL + Client Activity)	1 day	Fri 5/5/17	Mon 5/8/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
67	Integrate Instruments with LIMS (on-site)	1 day	Tue 5/30/17	Wed 5/31/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										
68	Install and test instrument data parsers on-site	0.5 days	Tue 5/30/17	Wed 5/31/17	<div>ATL Project Management,ATL Software Engineering,Client Resources</div>										

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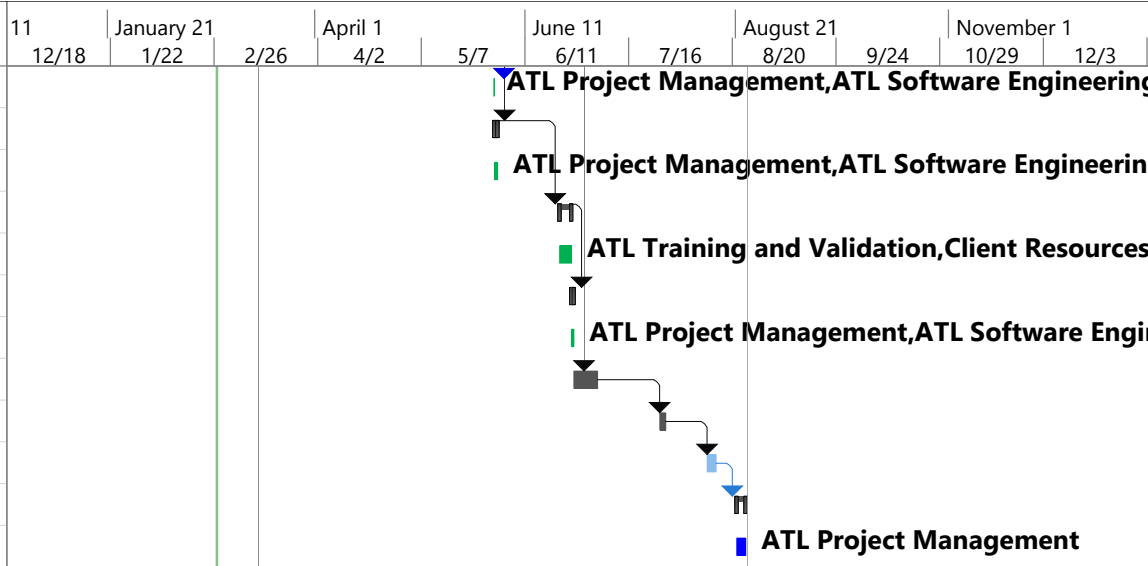
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69	Train LIMS DBAs on features and functionality (ATL + Client Activity)	0.5 days	Wed 5/31/17	Wed 5/31/17											
70	Train LIMS Administrators and End Users (on-site)	1 day	Wed 5/31/17	Thu 6/1/17											
71	LIMS DBAs and LIMS administrators receive core training (ATL + Client Activity)	1 day	Wed 5/31/17	Thu 6/1/17											
72	Train End-users (on-site)	2 days	Thu 6/22/17	Mon 6/26/17											
73	LIMS End-users receive core training (ATL + Client Activity)	2 days	Thu 6/22/17	Mon 6/26/17											
74	Wrap-up meeting (on-site)	0.5 days	Mon 6/26/17	Tue 6/27/17											
75	Hold Wrap-up meeting (ATL + Client Activity)	4 hrs	Mon 6/26/17	Tue 6/27/17											
76	Acceptance testing, dual login, fine tune setup	5 days	Tue 6/27/17	Wed 7/5/17											
77	Go Live (Cut-Over) (on-site)	2 days	Wed 7/26/17	Fri 7/28/17											
78	Final Acceptance	1 day	Fri 8/11/17	Mon 8/14/17											
79	Boot Camp	3 days	Mon 8/21/17	Thu 8/24/17											
80	Attend Intermediate Boot Camp in Pinehurst	3 days	Mon 8/21/17	Thu 8/24/17											

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