

SAMPLE MASTER®

LABORATORY INFORMATION MANAGEMENT SYSTEM

Sample Master® Pro Proposal for Iowa Dept. of Agriculture & Land Stewardship

Prepared for Ken Discher

12/21/2016



Sample No.	Sample Name	Test	Parameter	Result	Units	C	Entered Date
1181001	1181001-01	Mercury by CMA	Mercury	21	ug/L		5/21/2011 4:39:54
1181002	1181002-01	Mercury by CMA	Mercury	31	ug/L		5/31/2011 4:38:54
1181003	1181003-01	Mercury by CMA	Mercury	95	ug/L		6/14/2011 1:58:15
1181004	1181004-01	Mercury by CMA	Mercury	32.5	ug/L		6/10/2011 6:10:51
1181005	1181005-01	Mercury by CMA	Mercury	39	ug/L		6/10/2011 6:10:51
1181006	1181006-01	Mercury by CMA	Mercury	121	ug/L		6/14/2011 1:40:52
1181007	1181007-01	Mercury by CMA	Mercury	3.8	ug/L		6/14/2011 1:40:52
1181008	1181008-01	Mercury by CMA	Mercury	NA	ug/L		6/17/2011 2:13:51
1181009	1181009-01	Mercury by CMA	Mercury	15143	ug/L		6/20/2011 10:16:39
1181010	1181010-01	Mercury by CMA	Mercury	8185	ug/L		6/20/2011 10:16:39
1181011	1181011-01	Mercury by CMA	Mercury	2.2	ug/L		6/15/2011 11:24:30
1181012	1181012-01	Halacids Acid by GC/ED	Monochloroacetic Acid	3.2	mg/L		6/15/2011 11:24:30
1181013	1181013-01	Halacids Acid by GC/ED	Dichloroacetic Acid	2.3	ug/L		6/15/2011 11:24:30
1181014	1181014-01	Halacids Acid by GC/ED	Trichloroacetic Acid	25	mg/L		6/15/2011 11:24:30
1181015	1181015-01	Halacids Acid by GC/ED	Hexachloroacetic Acid	4.8	mg/L		6/15/2011 11:24:30
1181016	1181016-01	Halacids Acid by GC/ED	Monochloroacetic Acid	5.3	mg/L		6/15/2011 11:24:30
1181017	1181017-01	Halacids Acid by GC/ED	Dichloroacetic Acid	2.3	mg/L		6/15/2011 11:24:30
1181018	1181018-01	Halacids Acid by GC/ED	Trichloroacetic Acid	4.5	mg/L		6/15/2011 11:24:30
1181019	1181019-01	Halacids Acid by GC/ED	Hexachloroacetic Acid	1.6	mg/L		6/15/2011 11:24:30
1181020	1181020-01	Halacids Acid by GC/ED	Trichloroacetic Acid	3.1	mg/L		6/15/2011 11:24:30
1181021	1181021-01	Halacids Acid by GC/ED	Trichloroacetic Acid	2.5	mg/L		6/15/2011 11:24:30
1181022	1181022-01	Acidly	Mercury	2	ug/L		6/15/2011 11:24:30
1181023	1181023-01	Acidly	Acidly as CdCl2	2	ug/L		6/15/2011 1:47:56
1181024	1181024-01	Acidly	Benzoic	2.6	mg/L		6/21/2011 1:50:35
1181025	1181025-01	Acidly	3,3-Dimethylsuccinic	3.6	ug/L		6/30/2011 5:15:50



496 Holly Grove School Road
West End NC 27376
(910) 673-8165 | atlab.com



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SM20161221-SS-low-A
Cost Proposal for
Iowa Dept. of Agriculture & Land Stewardship
Sample Master Pro - 10 Concurrent User License
12/21/16
RFP 1216009012



Sample Master® Module Licenses

Description	Qty	Units	Unit Price	Total
Sample Tracking Module This module allows users to quickly and efficiently automate functions such as log-in, generate barcode labels, create quotes, convert to orders, and create invoices that can be electronically exported to numerous accounting packages. <ul style="list-style-type: none"> • Generate a series of reports, including Chain of Custody, login report, and sample conditions • Scan supporting documentation or attach files to an order (PDF, Word, Excel, etc.) • Create, maintain and email work lists 	1	each	27,999 \$	27,999
Data Entry Enter data, create QC Batches and Custom Reports, check the Audit Trail, run a Trend Analysis, run the GIS (Geographic Information System) function, set up Unit Conversions, and leverage the Master Query function to quickly mine data. Custom Reporting allows you to harness the power of the Master Query by defining the audit report criteria and creating an unlimited number of user-definable reports. Using historical data, create Trend Analysis charts by test, department, client, site, or a variety of criteria. Using the LIMS GIS function, users can plot sampling locations and test result values.	1	each	27,999 \$	27,999
Sample Scheduling Automatically logs in samples for routine collection. Samples can be scheduled hourly, daily, weekly, monthly, quarterly, semi-annually, or annually.	1	each	11,910 \$	11,910
QA/QC The integrated QA/QC module allows users to graph results and create control charts. Users can configure tests to include QC, matrix spikes, blanks, duplicates, surrogates, matrix spike duplicates, and many others. Control limits may be entered manually or calculated from historical limits. You can easily select the data to plot using the Master Query such as test, sample number, method, site, analyst, etc.	1	each	16,946 \$	16,946
Electronic Data Transfer Transfer data electronically from the instrument to the LIMS. Sample Master® will accept the instrument output files and parse data in the required input format. Using the LIMS Task Manager, Sample Master® will scan specific directories at user-definable times seeking files to import, or the exact data to be imported can be specified in the case of multiple runs or dilutions for a sample. Users can leverage the EDD (Electronic Data Deliverable) designer to quickly create EDDs.	0	each	11,910 \$	Optional
Chemical Inventory This module allows you to track supplies and vendors and provides the ability to assign prices to supplies, track lot numbers, and assign expiration dates. By automating back office information, better purchasing decisions can be made and the laboratory will run more efficiently. The report dashboard will provide reports that can be automatically emailed to alert users of supplies that are approaching expiration date or supplies that are reaching critical limits so they can be re-ordered.	1	each	11,910 \$	11,910
Resource Management Set up instrument calibration schedules and personnel certificate renewal alerts and you'll always be within regulatory compliance. If an instrument calibration is out-of-date or an employee has an expired training certificate, permission to perform a specific task will not be allowed. Manage instrument maintenance, calibration and repair records to ensure that all instruments are within control.	1	each	11,910 \$	11,910
Customer Relationship Management (CRM) CRM is vital to laboratory success; this module offers an easy and affordable way to effectively support system deviations through an organized method of tracking, monitoring, and rapidly resolving potential problems. The CRM module will facilitate the execution of corrective and preventative actions to ensure regulatory compliance. Laboratories with a focus on CRM have improved laboratory processes, higher marks in customer satisfaction, trust, and loyalty, and have fostered long-term business relationships.	0	each	11,910 \$	Optional



LIMS Maintenance Module

The LIMS Maintenance module is comprised of the entire laboratory's static information that is configured and maintained by the database administrator. This is where the Sample Master® setup information and default settings are found. Information such as defaults, number format, QC batch ID, employees, permissions, tests, methods, limits, prices, departments, ID formats, reports, and many other settings are stored and updated. This module allows the administrator to easily configure the LIMS to conform to the workflows and business rules of the laboratory.

1 each 0 \$ 0

Sample Master® Enhancement Tools

Description	License Type	Qty	Unit	Unit Price	Total
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iMobile® **Named** **1** package \$ **35,000**

Allows direct upload of LIMS data from field collectors in real-time. (iPad, Samsung Galaxy, Nexus, or other device with a rugged case sold separately.)

Package price includes 35 named user licenses.

Result Point® **Named** **1** package \$ **20,000**

Result Point™ is a secure web portal that allows clients to access their data 24/7; view status and results, check limits, view or print reports in PDF, Excel, or other common file formats. Users can also remotely log in samples that will be shipped to the laboratory.

Package price includes 20 Client Access licenses, additional client access licenses may be purchased for \$1500 each.

Barcode Starter Package **Package** **2** each 3,000 \$ **6,000**

This package includes everything that is needed for barcode creation, a Zebra Label Printer, 2 hand held scanners, all cables, software, label design, configuration, installation and training.

Instrument Interface Parsers **Package** **3** package 2,850 \$ **Optional**

ATL has extensive expertise in instrument integration and has a library of over 450 different instruments that have previously been interfaced with Sample Master®. All common instrumentation in laboratories has been interfaced. The cost for each interface is \$950 with a 50% discount for instruments that have an identical output file.

ICP
HPLC/MS
GC/MS

NWA QA X License **Named** **1** each 1,000 \$ **1,000**

License for the imbedded version of Northwest Analytical's Quality Analyst Statistical Software.

Subtotal Sample Master® Software	\$	163,674
<i>10 Concurrent User License Discount</i>	-30%	\$ -32,602
<i>Special pricing: Sample Master Pro offered at Sample Master Classic pricing.</i>	-32022	\$ -32,022
Subtotal software net discounts	\$	99,050
Subtotal additional items	\$	7,000

Professional Services

Description	Service Location	Qty	Unit	Unit Price	Total
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ATL Advantage Plan **Off-Site** **1** day 2,473 \$ **2,473**

The Project Management Program consists of checklists, a template (if required), project implementation plan, and a dashboard series that ensures that ATL's clients successfully deploy Sample Master® LIMS. The ATL Advantage Project Management program is the result of over two decades of expertise in the LIMS industry and in compliance with ATL's ISO 9001:2008 Certified Quality Management System (Includes project management and implementation assistance).

ATL Per-Diem On Site Consulting Services **On-Site** **4.5** day 2,473 \$ **11,129**

To provide configuration assistance and guidance for the configuration of the laboratory's work processes into Sample Master®. Includes onsite time for delivery of system integrations with CPS ARID, CPS PID, CAFO & OCC, and AMS Advantage.



ATL Per-Diem Off Site Consulting Services	Off-Site	16	hour	225	\$	3,600
To provide configuration assistance and guidance for the configuration of the laboratory's work processes into Sample Master®.						
Report Development	Off-Site	40	hour	225	\$	9,000
Custom Reports To Be Determined. Simple Reports are estimated to require 8-12 hours. More complex reports may require additional time.						
Instrument and System Interfacing	On-Site	1	day	2,473	\$	Optional
On-site service to deliver and test 3 instrument parsing routines.						
ATL Per-Diem Off Site Testing & Documentation	Off-Site	48	hour	225	\$	10,800
Configuration of system integrations with CPS ARID, CPS PID, CAFO & OCC, and AMS Advantage.						

Please Note: ATL Engineers will work with client to create a Requirements Document that will clearly define the specifications of each customization, for client review and signoff prior to any initiation of work (Includes Requirements Document, Creation, QA/QC, documentation and installation). Upon completion of the Requirements Document process and client approval an exact cost will be provided.

Total Professional Services Costs	\$	37,002
Estimated Travel & Lodging Costs (Based on 2 trip(s) and 5.5 days on-site.)	\$	4,525
<i>(not included in Total Professional Services Costs)</i>		

Training

Description	Training Location	Qty	Unit	Unit Price		Total
System Administrator's Training	On Site	1	day	2,473	\$	2,473
Administrator training is designed to maximize the user's knowledge and understanding of Sample Master®'s Security and Configuration within the appropriate modules within the LIMS. Training includes the information required to configure users and test methods within Sample Master®.						
End User Training	On Site	3	day	2,473	\$	7,419
End user training is designed to ensure users develop an understanding of Sample Master®'s modules and functionality relevant to their individual responsibilities.						
Other Training	On Site	2	day	2,473	\$	4,946
Go Live Assistance						
Sample Master® Boot Camp - Intermediate Class	At ATL	2	each	2,995	\$	5,990
This course will benefit everyday LIMS users, laboratory managers, chemists, microbiologists, IT workers, analysts — any team member whose job involves information technology, reporting, creation of QC charts, data processing and management. The focus of this intermediate course is to build upon existing knowledge and return users to the workplace equipped with the skill set to leverage the utmost functionality from LIMS and provide maximum benefit and return to your organization.						

Special Offer: Buy one seat at Sample Master Boot Camp- Intermediate Class, get one seat Free.		
Must be used within one year of purchase date.	\$	-2,995
Total Training Costs	\$	17,833
Estimated Travel & Lodging Costs (Based on 3 trip(s) and 6 days on-site.)	\$	5,550
<i>(not included in Total Training Costs)</i>		



Annual Maintenance and Support

Description	Qty	Support Rate	Total
<p>ATL Gold Support</p> <p>Unlimited telephone, e-mail and Web site operational support for up to two customer points-of-contact (POC). Phone support hours are from 8:00 am to 5:00 PM Eastern Standard Time, Monday through Friday, other than on Federal holidays. A dedicated Account Manager is assigned to your company. Service Pack updates and product upgrades ARE INCLUDED. Access to User Group Meetings and LIMS Solution Newsletter is granted. Gold level support also includes 2 hours of off site programming support and quarterly web training. The purchase of a new Sample Master LIMS includes one year of ATL Gold level support. (NOTE: 1st year support – NO CHARGE; 1ST year support period begins on date application goes live)</p>	1	\$	12,559
Annual Maintenance and Support Costs			\$ 12,559



Quotation Summary SM20161221-SS-low-A

Total Software Costs	\$	99,050
Sample Master® Enhancement Tools	\$	7,000
Total Professional Services Costs	\$	37,002
Total Training Costs	\$	17,833
Estimated Travel & Lodging Costs	\$	10,075
Total Project Costs	\$	170,959
Annual Maintenance and Support Costs <i>(year 2 and beyond)</i>	\$	12,559

Quote valid through 2/24/2017

The pricing on the quotation is the result of bundling and package discounting. Sample Master Pro is offered at Sample Master Classic pricing. Any changes to line items and/or quantities will significantly impact the unit pricing for the remaining items.

Early payment discount of 1% if payment received in net 30 days.
Travel Reimbursement per Iowa State Regulations

Prepared by Sonja Stutsman
Accelerated Technology Laboratories
Address 496 Holly Grove School Road
West End, NC 27376
Phone 800.565.LIMS (5467)
Fax 910.673.8166
Email sstutsman@atlab.com

Prepared for Ken Discher
Address Iowa Dept. of Agriculture & Land Stewardship
1305 E. Walnut St., DAS - Hoover Bldg. – Level 3
Des Moines, IA 50319
Phone 515 281-6380
Email Ken.Discher@iowa.gov



Approved By _____
Dr. Christine Paszko
VP Sales and Marketing

Accepted By _____
Date _____



Overview of ATL's Cost Proposal

This page describes ATL's software and services outlined in the cost proposal and are described below for the implementation of ATL's Laboratory Information Management Systems (LIMS). ATL's LIMS are available as stand-alone desktop software, subscription based hosted service or most commonly deployed as an enterprise software solution. ATL offers a concurrent user license for our LIMS products and offers a perpetual user license that can be purchased or leased from ATL. Clients that purchase ATL's products on a subscription basis, receive a renewable on-demand license that is activated with regular payments.

1. LIMS Software

ATL's LIMS offer the following features; quoting, invoicing, sample tracking, chain of custody, full barcode support, data entry, quality assurance, quality control, project management, sample scheduling, stability, freezer management, asset management, chemical inventory, resource management, time tracking, customer relationship management, reporting and maintenance.

ATL's LIMS run on Microsoft Windows operating systems. The database for our LIMS include SQL Server, (Sample Master[®] Pro and TITAN[®]), SQL Express (Sample Master[®] only), or Oracle (Sample Master[®] Pro) ATL does not typically include database licensing (SQL Server or Oracle) unless specifically requested to be included in the cost proposal.

The Result Point[®] web portal for either TITAN[®] or Sample Master[®] offers an unlimited user license.

2. The ATL Advantage Plan – Implementation Service

The implementation of ATL's LIMS products typically consists of several remote and on-site activities. Typically there are several on-site visits for data preparation, system configuration, and training of both end-users as well as system administrators. ATL works with clients and offers a pre-installation template to expedite database population so that users are trained with familiar data that ATL engineers have populated into the LIMS.

As part of ATL's LIMS purchase, ATL has created the ATL Advantage Plan, which includes free project management based on ATL's ISO 9001:2008 Quality Management System, ensuring our clients success.

- a. **Project Management:** During the project implementation phase a dedicated project manager is assigned to the project. Deliverables include: a project Gantt chart, a project dashboard, and bi-weekly conference calls for regular updates.
- b. **Implementation Support:** A LIMS Implementation Guide workbook is provided which guides users through the implementation process step by step.
- c. **Dedicated Account Manager:** Alerts users of upcoming user group meetings, quarterly web training courses, boot camps, webcasts and any special events. The dedicated account manager stays with the customer when ATL GOLD support or higher is maintained.

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- d. **Creation of Requirements Documents:** For the addition of any custom features such as instrument parsers, reports or new features or functions.

3. ATL Training Plan

At ATL we feel that training is critical to gaining the most value from your LIMS investment. ATL has crafted a comprehensive training plan which includes initial on-site training, on the job training, web based training, Boot Camp (formal classroom style learning), video tutorials along with custom training options. ATL University has met the needs of our clients in providing various learning options for over a decade. We offer initial on-site training for all of our clients, which is followed web based training, along with our Boot Camps (formal classroom style learning) along with video tutorials. ATL also offers instructor lead web based learning as well as one-on-one learning (on the job training). ATL offers user friendly step by step manuals for training end-users and LIMS administrators.

4. ATL Metals Plan (On-going Maintenance and Support)

For the purchase of ATL's LIMS products licenses, ATL GOLD support is included free of charge for the first 12 months from the anniversary date (the anniversary date is the date of installation). ATL offers a metals plan with 4 levels of support (Platinum, Gold, Silver and Bronze). The primary features of Gold support include: a dedicated account manager, live, toll-free technical support, free product upgrades, access to the user forum and user groups, and free quarterly web trainings. Subsequent support and maintenance are charged separately and renewed on an annual basis. For lease/subscription customers, the cost of support is in the cost proposal for the duration of the term of the respective contract. Please visit www.atlab.com support site for additional benefits of each Metal plan.

All active maintenance agreements include the ability to download service packs and enhancements, which are released quarterly. The ATL Gold support plan also includes toll-free telephone and web-based technical support; users can report any issues with our web reporting form 24/7. Technical support is available Monday through Friday from 8:00 am – 5:00 pm ET, excluding ATL Holidays. Under the ATL Metals Plan extended support hours are available if required under the Platinum package.

5. Licensing Structure

ATL offers concurrent user licenses, however the software can be accessed by as many machines as desired, only the specified number of licenses can access the database simultaneously. Additional user licensees can be purchased at any time.

6. Hardware Requirements

As ATL offers different products, the minimum hardware and software requirements can be found on ATL's web site on each product brochure. ATL engineers are happy to assist in specifying hardware and software as each environment will typically have differing requirements and needs. As a Microsoft Gold partner, ATL utilizes the latest versions of Microsoft platforms.



TERMS AND CONDITIONS

Customer orders and ATL agrees to furnish the Equipment, Software and Services in accordance with the terms of this Agreement. This Agreement supersedes the terms and conditions of any purchase documents submitted by the Customer.

1. EQUIPMENT

Customer agrees: (i) that any problem with the Equipment shall be the responsibility of its manufacturer; (ii) not to hold ATL or its representatives liable for any problem such problem with any Equipment; (iii) to provide reasonable access for installation of the Equipment, and use the Equipment in a manner consistent with the recommendations of the manufacturer; (iv) to execute all documents as may be reasonably requested by the manufacturer in connection with the purchase of Equipment; (v) not to relocate the Equipment to a different address, site or laboratory without the prior written consent of ATL.

2. SOFTWARE

- (a) Provided Customer makes full and complete payment(s) to ATL as described in Section 5 below. ATL grants to customer a non-transferable, non-exclusive, limited license: (i) for its employees and agents to use the Software in a machine-readable form on the Equipment or other computer hardware approved by ATL and at the site specified in this Agreement solely for the Customer's internal business purposes and (ii) to make up to two backup copies of machine readable code portions of the Software and printed listings thereof, for backup or archival purposes only, which copies shall be subject in all respects to the terms and conditions hereof.
- (b) Customer agrees and understands: (i) that no title to the Software, its copies or to its intellectual property is transferred to Customer (ii) that the Software is derived in part and may contain portions of software code proprietary to others; (iii) that it shall not disassemble or decompile the Software; and (iv) that it shall not publish any results of benchmark tests run on the Software.
- (c) Customer shall have no rights to any modifications, enhancements or extensions with respect to the Software.
- (d) If the Equipment is not operative, Customer may transfer to and use the Software on other, approved equipment at the Designated Site, provided Customer informs ATL of such transfer in writing.
- (e) The Software is not specifically developed, manufactured or licensed for use in the planning, construction, maintenance, operation or use in any nuclear capacity or for the flight, navigation, or communication of aircraft or ground support equipment.
- (f) Upon any termination of the license granted under this Agreement, Customer shall immediately cease use of the Software, and either deliver to ATL the Software and all copies of the Software, and all documentation containing the Software and other proprietary information, or destroy such materials on the instruction of ATL.
- (g) Customer shall display all proprietary and copyright notices and legends to the extent and in the manner specified by ATL.
- (h) Customer is aware that in the event Customer fails to pay all amounts due to ATL in accordance with the terms and conditions of this Agreement, the software provided to the Customer by ATL will be disabled so as to

Signature _____ Print Name _____ Date _____

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prevent the automatic generation of reports. In the event that the Software is disabled in this manner, Customer should contact ATL immediately. CUSTOMER ACKNOWLEDGES AND AGREES THAT ATL SHALL NOT BE LIABLE FOR ANY LOSSES OF TIME OR DATA, OR FOR ANY OTHER DAMAGES THAT MAY RESULT IN ANY WAY FROM THE DISABLING OF THE SOFTWARE PURSUANT TO THIS SECTION.

3. SERVICES

In the performance of Services specified in this Agreement, ATL and any agent or employee of ATL, is acting as an independent contractor, and not as an employee, of Customer.

4. PROPRIETARY INFORMATION

Customer shall hold in confidence, and make reasonable efforts to ensure that its employees and agents also hold in confidence all technical, business or financial information of ATL and shall not disclose such information except upon written authorization of ATL.

5. PAYMENT AND SHIPMENT

Invoices shall be due and payable prior to the date of installation in accordance to the terms stated in this Agreement, unless otherwise specified by ATL. Amounts unpaid when due shall accrue late charges of 1.5% per month or, if lower, the maximum rate allowed by law. All shipments shall be FOB ATL's place of business, and all shipping charges and insurance costs will be paid by the Customer. ATL shall have a security interest in any Equipment purchased hereunder until payment in full and Customer will cooperate fully in further evidencing and perfecting such interest. All delivery dates specified by ATL are estimates only and shall not be binding. Equipment modified by ATL to meet safety concerns or government standards shall be deemed conforming.

6. WARRANTIES AND LIABILITY

- (a) ATL warrants that the Software media and associated documentation shall be free from defects in materials and workmanship for a period of ninety (90) days following date of delivery of such items (the "Warranty Period"). ATL agrees to replace or repair any such media or documentation which is found defective during the Warranty Period provided Customer notifies ATL during the Warranty Period or within ten (10) days thereafter.
- (b) ATL does not, however, warrant that (i) operation of the software shall be uninterrupted or error-free, or (ii) Software functions shall operate in all combinations selected by Customer.
- (c) THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) FOR THE EQUIPMENT, SOFTWARE OR SERVICES, NO THIRD PARTY SUPPLIER OF SOFTWARE WARRANTS THE SOFTWARE OR ASSUME ANY LIABILITY FOR ANY DAMAGES SUFFERED OR INCURRED BY CUSTOMER.
- (d) IN NO EVENT WILL ATL BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OCCURRING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR FOR DAMAGES IN EXCESS OF THE AMOUNT RECEIVED UNDER THIS AGREEMENT.

7. MISCELLANEOUS

- (a) ATL agrees to use reasonable commercial efforts to provide Equipment, Software and Services described in this Agreement, provided, however, ATL is not responsible for the success or failure of the application performed by, or the conclusions drawn from, the use of the Equipment, Software, or Services by the

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Customer or any other party. Under no circumstances shall ATL be required to provide any Equipment, Software or Services creating or having functionality not expressly described in writing(s) provided by Customer to ATL prior to the effective date of this Agreement or any relevant Amendment thereto.

- (b) ATL agrees to provide problem reporting procedures to Customer 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 ATL, ATL will investigate and if able to verify and reproduce the bug, use reasonable commercial efforts to correct such "bug" or create a work around.
- (c) Subject to Section 6(b) above, ATL shall indemnify Customer against costs and damages arising from claims of infringement of any U.S. patent or copyright resulting from the use of Software within the scope of the license, provided ATL is (i) promptly notified of all such claims; (ii) given sole control of any litigation or settlement, and provided further that the Customer shall provide all available assistance to enable ATL to defend or settle any such claims or proceedings. The foregoing obligation of ATL does not apply with respect to Software: (A) not developed and produced by ATL; (B) made in whole or in part in accordance to Customer's specifications; (C) which was modified by a party other than ATL after shipment by ATL; (D) combined with other products where the alleged infringement relates to such combination or otherwise would not have occurred but for the combination; or (E) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would avoid the alleged infringement. Customer will indemnify ATL for any liability, cost, expense and attorney's fees incurred in connection with a claim for infringement with respect to software, products or equipment: (F) not developed and produced by ATL; (G) made in whole or part in accordance to Customer's specifications; (H) which, if provided by ATL, was thereafter modified by a party other than ATL; (I) that combines ATL products with other products where the alleged infringement relates to such combination or otherwise would not have occurred but for the combination; or (J) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would avoid the alleged infringement.
- (d) Customer agrees to comply with all applicable regulations of the U.S. Department of Commerce and the U.S. Export Administration with respect to the Equipment and Software.
- (e) The rights or obligations stated herein shall not be assignable or transferable in whole or in part by Customer without the prior written consent of ATL, and any attempt to do so shall be null and void.
- (f) ATL may terminate this Agreement and all licenses and rights granted hereunder if Customer fails to comply with any term or condition stated herein.
- (g) In the event any legal action is initiated to enforce any provision of this Agreement, the prevailing party shall be entitled to collect its reasonable attorney's fees and costs incurred in connection with such action. North Carolina law shall govern in this Agreement and the sole venues for any action arising out of or relating to this agreement shall be in Moore County, North Carolina or Guilford County, North Carolina.
- (h) These terms may be waived or amended only by a writing signed by the parties. Failure or delay in asserting a claim hereunder shall not be deemed a waiver thereof and no waiver with respect to a particular instance shall be deemed to waive generally the applicable right. Section headings are for convenience only and shall not affect interpretation. Notices shall be in writing, and sent by registered or certified mail.

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