



**Scotia-Glenville CSD Cybersecurity
Managed Services**

PREPARED FOR: Scotia-Glenville CSD

PREPARED BY: Gabe Stacy
CEO
gabes@acturesolutions.com

DATE: June 20, 2024

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1. Confidentiality Notice

The information contained herein is considered confidential and proprietary, being produced solely for the customer identified above.

This Statement of Work (SOW) is proprietary to Acture Solutions and contains Acture Solutions confidential information, except as permitted by law relating to municipal entities in New York. It may not be disclosed in whole or in part without express written permission from Acture Solutions. No portion of this SOW may be duplicated or used for any purpose other than to receive services or deliverables from Acture Solutions as described here.

2. Scope of Work

The Statement of Work (SOW) and the applicable Solution Summary (and any other documents attached thereto and incorporated therein by reference) (collectively this "Order") is subject to the following terms and conditions (the "MSA" or the "Agreement"): (i) the Master Sales Agreement or other applicable master agreement in effect as of the date hereof between Acture Solutions and/or its subsidiaries and affiliates (collectively, "Acture Solutions" or "Seller") and **Scotia-Glenville CSD** ("Customer"); or (ii) if no such master agreement is currently in place between Acture Solutions and Customer, the attached terms and conditions.

Customer's signature on this Order or Customer's issuance of a purchase order in connection with this order shall represent Customer's agreement with each document in this Order.

This Order may include the sales of any of the following to the Customer: (a) any hardware, third party software, and/or Seller software (collectively "Products"); any installation services, professional services, and/or third party provided support services that are generally associated with the Products and sold to customers by Seller ("Professional Services"); any Seller-provided vendor management services, software release management services, remote monitoring services and/or, troubleshooting services (collectively, "Managed Services"); and/or any Seller-provided maintenance services ordered by Customer to maintain and service Supported Products or Supported Systems at Supported Sites to ensure that they operate in conformance with their respective documentation and specifications ("Maintenance Services"). For ease of reference only, Professional Services, Managed Services and Maintenance Services may be referred to collectively as "Services." Unless otherwise defined herein, capitalized terms used herein will have the same meanings as set forth in the Agreement.

Products and/or Services not specifically itemized are not provided herein. Any additional applications, technologies, integrations, or other Products and/or Services not specified herein, are not included in this SOW, and may result in additional charges at any time during the project.

Unless signed, this Order will be valid for a period of thirty (30) days following the date hereof. Thereafter, this Order will no longer be of any force and effect.

The outline of deliverables for this Order flows below.

3. Agreement Timeline

The Cybersecurity Software and Services engagement will be July 1st 2024 through June 30, 2025, and renew annually through June 2027, unless terminated earlier by Customer.



4. Engagement Overview

Thank you for the opportunity to work with you on Cybersecurity Managed Services engagement. This document describes the work to be performed during this engagement and covers the assumptions as the basis for this agreement, the responsibilities of Acture Solutions personnel, and the responsibilities of the Customer.

Acture Solutions will provide onsite and remote cyber security managed services, support and supplemental Remote Monitoring and Management for Scotia-Glenville CSD. These services will ensure Scotia has a safe and secure technology environment and is achieving the objectives defined in the 2023 Business Review.

5. Cyber Security Software and Services Provided

This section identifies the work that will be performed as part of this project. Below is an initial, high-level list of tasks and assumptions for the cyber managed service. Acture Solutions will conduct a meeting with the district to review and finalize the technical approach, constraints, and schedule. This meeting is intended to ensure that all parties are working with consistent expectations for this yearly fixed service.

Remote Monitoring and Management (Identify, Protect, Detect, Respond)

Remote Monitoring and Management is core to Acture's Managed Cyber offering. Work will be performed during standard business hours, 7:30 AM – 4:30 PM. Emergency services meeting the criteria outlined in the Service Level Agreement (SLA) section will be available 24 hours a day, 7 days a week, 365 days a year. This will be completed both remotely and on-site based upon the needs of the district.

Key components of this offering include:

Proactive Monitoring - Protect, Detect, Respond

Acture Managed Cyber service continuously monitors servers, workstations and other devices for performance issues, potential vulnerabilities, and other indicators of system health. This proactive approach allows for the identification and resolution of problems before they impact users. Items requiring attention, such as end of life Windows machines, will be documented and remediation will be performed via the SLA below.

Patch Management- Protect, Respond

Acture's Managed Cyber Service provides the automated deployment of software patches and updates. Keeping systems up-to-date helps mitigate security vulnerabilities, ensuring that the environment is more resistant to cyber threats.

Asset Management- Identify

Acture's Managed Cyber Service has visibility into the entire IT infrastructure, allowing IT teams to track hardware and software assets. This visibility is essential for inventory management, license compliance, and strategic planning.

Security Monitoring- Protect, Detect, Respond, Recover



Acture’s Managed Cyber Service monitors security-related events and generate alerts for suspicious activities. This helps in identifying and responding to potential security breaches promptly. Additionally, we will manage Scotia’s Securly environment to ensure accurate content filtering and reporting.

Reporting and Analytics

Acture’s Managed Cyber Service will provide insights into system performance, usage trends, and potential areas for improvement. This data helps in making informed decisions and optimizing IT resources in order to protect the network.

Device Optimization

This service will provide best practice services. The technicians may be centralized, on-site and/or in the field in order to accomplish the necessary level of services for useability and security best practices. These technicians will be assigned ticket requests by the services site coordinator in accordance with SLA’s outlined below:

Items to be considered in-scope of the include:

- Serve as primary assistance for issues related to user accounts, account logins/security issues, MFA enrollments and issues, email security issues, and Level 1-Level 2 tenant issues, ensuring accounts are useable and secure following best practices.
- Assist in physical asset management and technology commissioning/decommissioning per NIST CSF best practices under the Identify Core Principle when required
 - Including onsite summer school-start/school-end implementation work getting devices into and off of the District’s network and inventory systems
- Assignments deemed necessary to improve the useability and the cybersecurity of the District’s existing IT infrastructure. (Please note, major move-add-changes are not in scope of the L1/L2 best-practices technician role. This is covered in the “Smart Hands” SOW.)
- Continuously update documentation and asset information related to end user devices and relevant processes for secure device deployment and configuration.
- Should a cybersecurity issue occur, follow the District’s incident response protocols and serve as the initial technician with the affected user/asset, working with Acture’s escalation support team.
- Specific request avenues will be provided based on building location and/or technology experiencing the issue

Remote Monitoring and Management will often lead to Request Creation (both manual and automated). Acture will follow the District’s IT Request Creation process and resolution workflows, dispatching district-knowledgeable technicians when needed to address issues onsite with District staff.

Level	Response Time/Resolve Time	Description of Services
Tier 1	Response – within Thirty (30) minutes. Resolve – within Five (5) business days	Items affecting 1-5 users, non-security related. These items will be supported during business hours by assigned staff.

Tier 2	Response – within Thirty (30) minutes. Resolve – within One (1) business day	Items affect a instructional building or similar sized group of users or Customer defined VIPs. These items will be supported during business hours by assigned staff. The customer must provide the definitions of VIP.
Tier 3	Response – within Fifteen (15) minutes during normal business hours and within one (1) hour outside of normal business hours. Resolve – within Six (6) business hours.	Items that affect the entire district or endanger the safety of the Customer or their data. These items will be worked on continuously until resolution.
Operable Network and Server Escalation issues	Response – within 30 minutes. Resolution plan- within two business days*	*For issues where the network and/or server is operable, but a troublesome issue requires investigation and correction, resolution may not be possible within two business days. but a plan and next steps should be communicated to the customer within a two-day timeframe Vendor support may be required for resolution of these types of issues and Acture will provide best effort for vendor support to resolve the issue quickly—this requires the customer to list Acture as an approved support contact on behalf of the client with the relevant vendor(s).

Acture Solutions has an incident response target of ninety-five percent (95%), with clear lines of communication with the Customer when situations impact meeting those SLAs. These tiers apply regardless of the method of discovery, proactive Acture monitoring, or Customer reporting

Network Protection

Acture’s comprehensive **Network Security Service** as a key first step to ensure the security of a district’s computer network infrastructure to protect against cyber threats. This service adds layered protections to the confidentiality, integrity, and availability of data and resources within the network. Services included are:

- Network Engineering
 - Design and implement security solutions for the district's network.
 - Replace EoL, unsupported Switches and APs
 - Eliminate unmanaged switches
 - Configure firewalls, intrusion detection/prevention systems, and other security devices

- Collaborate with other IT teams to integrate security into network architecture
- Network Security Administration
 - Administer and manage security infrastructure such as firewalls, VPNs, and IDS/IPS
 - Configure access controls and enforce security policies leveraging ClearPass
 - Ensure accurate and automated on-boarding/off-boarding leveraging OneSync
 - Participate in regular security audits and assessments
- Investigate security incidents and provide initial incident reviews and assessments, looking for indicators of compromise (IOCs).
 - Please note, digital forensics and recovery may require efforts are outside of managed services contracts, typically a requirement of most cybersecurity insurance policies who use their own recovery and forensic teams.
 - Implement and maintain security measures to protect the network
 - Investigate security incidents through the analysis of network traffic and logs and review of IOCs
 - Collect and preserve digital evidence for forensic purposes, such as screenshots of events, log data, IP addresses, URLs, all following the client's incident response policy (if needed, Acture can provide client's an incident response policy to revise/review with their legal team)
 - Collaborate with law enforcement if necessary
- Network Incident Response
 - Lead efforts to respond to and recover from security incidents
 - Conduct forensic analysis to determine the root cause of incidents
 - Develop and improve incident response plans
- Network and Wireless Security Architecture
 - Design and plan the overall security architecture for the district's network
 - Develop security policies and standards for network infrastructure.
 - Ensure that security controls align with business goals
 - Focus on securing wireless networks and technologies
 - Implement encryption and authentication protocols for wireless communication.
 - Monitor and respond to security threats related to wireless networks

vCISO Leadership Services

Acture will provide **vCISO Leadership Services** to work with the customer on any issues with the services noted above, areas of opportunity, and reporting.

This service includes:

- Oversight and Leadership of all services noted and serve as the District's key point of contact
- Cybersecurity Strategy and Planning
 - Developing and executing a comprehensive cybersecurity strategy aligned with the district's business goals and risk tolerance.

- Creating and maintaining a technology cybersecurity roadmap that outlines key initiatives and milestones. Including:
 - Three year roadmap, two-year plan and one year budget.
 - Proposed hardware and software solutions to continue to improve the District's ability to deliver Digital Classroom instruction in an effective and cybersecure-aware manner, including best practices around classroom technologies.
- Security Architecture and Design
 - Provide guidance on the design and architecture of secure systems and networks.
 - Ensure that security is considered in the development and deployment of all technologies.
- Risk Management
 - Identify and assess cybersecurity risks to the district's assets, data, and systems
 - Develop risk mitigation strategies and ensure risk management practices are integrated into business processes
- Security Governance
 - Engage with executive leadership and the board to provide updates on cybersecurity initiatives and risks
 - Develop/Improve the District's overall Information Security and Cybersecurity-relevant policies
- Serve as the client's main point of contact for concerns related to service delivery and project execution.

6. Change Order Process

Despite good project planning, design and review, project plans often require some degree of change at some point. These changes are handled using change order requests, which must be agreed upon by all parties to the contract before such work can be performed.

Either Acture Solutions or the Customer may initiate a change order for any deliverable, work requirement, assumption or dependency that is part of the project. All requests must be in writing and handled by the Acture Solutions Team. Acture Solutions will review the change and provide pricing as applicable before proceeding. All changes must be agreed to in advance in writing by the Customer. The Acture Solutions Project Manager may also engage project team members to assess the impact of the change. Agreed changes must be approved in written by an authorized representative of the Customer, via email or a modified purchase order.

7. General Assumptions

Assumptions are made in order to identify and estimate services. If an assumption is invalidated, then the SOW may be adjusted in writing or a change order may be required.

- a) All services to be performed by Acture during US normal business hours of 7:30 AM – 4:30 PM local time; Monday through Friday, excluding Acture Solutions designated holidays. (Please note that Acture does offer 24/7/365 eyes on glass Security Operations Center services priced separately from this agreement.)
- b) All services will be provided either at the locations noted above or at the Acture Solutions offices.
- c) Service that are not explicitly and clearly stated in this SOW are considered outside of scope and will require a change order or may be invoiced by Acture Solutions. All change orders must be agreed to in advance in writing by the Customer.

- d) Changes to the project will result in a change order and additional costs.
- e) The Customer is responsible for managing all third parties not outlined in this SOW.
- f) In the event quantities or part numbers differ between this document or the associated quote, the quote shall be the authoritative document.

8. Acture Responsibilities

- a) Create a communication contact list of all stakeholders.
- b) Schedule qualified technical resources.
- c) Successfully manage the managed cyber security service

9. Customer Responsibilities

1. Provide a Single Point of Contact who will be responsible for:
 - a. Working with the Acture Solutions Site leader to resolve issues
 - b. Ensuring all customer responsibilities are completed based on jointly agreed timing
 - c. Reasonable notification of schedule and changes
 - d. Attending all status meetings
2. Customer will provide adequate, co-located workspace for the engagement participants (both Acture and Customer resources) with the appropriate system level access.
3. Acture will be provided administrator access to all equipment that Acture is responsible for maintaining. No third party, other than the manufacturer, shall have such access.
4. Coordinate with 3rd party system integrators if applicable.
5. Provide environmental conditions that meet or exceed manufacturer specified conditions.
6. Provide access to the site including but not limited to floor plans, equipment room, cabling, IP worksheet, system level access, credentials, high speed internet access.
7. Provide equipment rack space, suitable power and grounding if applicable.
8. Any Products delivered to Customer by Acture under this SOW are delivered without warranty of any kind from Acture. Acture does not make and expressly disclaims any and all warranties and representations of any kind or nature with respect to any Products. This disclaimer includes any warranties of non-infringement or otherwise. Customer's only warranties for Products are the applicable manufacturer's warranties, if any.

10. Cyber Security Software and Services Billing

Billing terms for this project supersede any MSA in place and are only applicable to the services stated in this SOW. Payments are due within thirty (30) days from the Customer's receipt of the invoices unless otherwise previously agreed between Customer and Acture Solutions finance department. Any change to the Project Pricing and Payment schedule will be managed through the Change Order procedures specified herein. All stated prices are exclusive of any taxes, fees, and duties or other amounts, however designated, and including without limitation value added and withholding taxes which are levied or based upon such charges, or upon this SOW (other than taxes based on the net income of Acture Solutions). The Customer shall pay any taxes related to services purchased or licensed pursuant to this SOW or the Customer shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed a separate item on the invoice.

Please see attached quote.



12. Acceptance

Customer agrees to these Terms of Service by signing at the bottom and issuing a PO.

	Acture Solutions Inc.		Customer:
Signature:		Signature:	
Name:		Name:	
Title:		Title:	
Date:		Date:	

Quote and SOW are subject to the Terms & Conditions of the Acture Master Agreement, unless agreed to otherwise in writing.



We have prepared a quote for you

Scotia-Glenville CSD Cybersecurity Managed Services

Quote # 001339
Version 1

Prepared for:

Scotia Glenville Central School District

Christine Carusone
ccarusone@sgcsd.net

453 Karner Road
Albany, NY 12205
www.acturesolutions.com
(518) 377-4057



Software

Description	Price	Qty	Ext. Price
ACTLBR1 Cybersecurity Managed Services	\$378,810.00	1	\$378,810.00

Subtotal: **\$378,810.00**

453 Karner Road
Albany, NY 12205
www.acturesolutions.com
(518) 377-4057



Scotia-Glenville CSD Cybersecurity Managed Services

Prepared by:

Acture Solutions, Inc.

Nick Forbes
(518) 377-4057
forbesn@acturesolutions.com

Prepared for:

Scotia Glenville Central School District

900 Preddice Parkway
Scotia, NY 12302
Christine Carusone
(518) 347-3600
ccarusone@sgcsd.net

Quote Information:

Quote #: 001339

Version: 1
Delivery Date: 06/11/2024
Expiration Date: 07/11/2024

Ship To:

Scotia Glenville Central School District

900 Preddice Parkway
Scotia, NY 12302
Christine Carusone
(518) 347-3600
ccarusone@sgcsd.net

Bill To:

Scotia Glenville Central School District

900 Preddice Parkway
Scotia, NY 12302
Accounts Payable
(518) 347-3600
ap@SGCSD.net

Quote Summary

Description	Amount
Software	\$378,810.00

Total: **\$378,810.00**

Please provide an authorized purchase order as acceptance of this quote if not signing electronically through order porter. Payment terms are Net 30 unless otherwise specified. Acture Solutions, Inc will invoice Customer for products at the time of shipping and for services performed at the time of delivery. Acture may invoice Customer separately for partial product deliveries and services rendered. Fee for services will be billed in equal monthly installments.

Acture Solutions, Inc.

Signature: _____

Name: Nick Forbes

Title: Account Manager

Date: 06/11/2024

Scotia Glenville Central School District

Signature: _____

Name: Andrew Giaquinto

Date: _____



Scotia-Glenville CSD
Smart Hands Supplement

PREPARED FOR: Scotia-Glenville CSD

PREPARED BY: Chris Garber
Lead Solutions Architect
garberc@acturesolutions.com

DATE: June 20, 2024

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1. Project Overview

Thank you for the opportunity to work with you on the Smart Hands Supplement. This document describes the work to be performed during this engagement and covers the assumptions as the basis for this agreement, the responsibilities of Acture Solutions personnel, and the responsibilities of the Customer.

2. Agreement Timeline

This agreement will commence July 1st, 2024, and renew annually through June 2027. Customer may terminate this agreement at any time without penalty on thirty (30) days notice to Acture.

3. Project Objectives

Objectives of this initiative will be:

1. Provide technical resources to deliver on-site L1 helpdesk support. The resources will have the skills necessary to effectively manage basic support issues and will work in conjunction with the other Acture teams ensure seamless dispatching and problem resolution.

4. Project Scope of Services

This section identifies the work that will be performed as part of this project. Below is an initial, high-level list of roles and responsibilities for the resources.

- Install and support computer equipment (PCs, Macs, Chrome).
- Troubleshoot computer hardware and software issues.
- Install and configure printers.
- Troubleshoot printing issues.
- Install and configure ancillary computer hardware (ex. scanners, LCD projectors, electronic whiteboards, keyboards, mice, etc.).
- Support and troubleshoot all District software and cloud-based services.
- Provide input into hardware and network software recommendations for budget development.
- Provide help-desk support to all buildings in the district during the normal school hours of operation, including password resets and typical support items such as device connectivity, OS troubleshooting and application help.
- Document issues and solutions in Scotia-Glenville CSD's ticketing system.
- Collaborate with other Acture Teams to maintain hardware inventory and documentation on networking design and layout.
- Other technology support services as determined by Acture and Scotia-Glenville CSD

5. Change Order Process

Despite good project planning, design and review, project plans often require some degree of change at some point. These changes are handled using change order requests, which must be agreed upon in writing by all parties to the contract before such work can be performed.

Either Acture Solutions or the customer may initiate a change order for any deliverable, work requirement, assumption or dependency that is part of the project. All requests must be in writing and handled by the Acture Solutions Team. Acture Solutions will review the change and provide pricing as applicable before proceeding. The Acture Solutions Project Manager may also engage project team members to assess the impact of the change.



Agreed changes must be approved in written by an authorized representative of the Customer, via email or a modified purchase order.

6. General Assumptions

Assumptions are made in order to identify and estimate services. If an assumption is invalidated, then the SOW may be adjusted in writing agreed to by both parties or a change order may be required.

1. All services to be performed by Acture during US normal business hours of 7:30 AM – 4:30 PM local time; Monday through Friday, excluding Acture Solutions designated holidays.
2. Services that are not explicitly and clearly stated in this SOW are considered outside of scope and will require a change order or may be invoiced by Acture Solutions.
3. Changes to the project will result in a change order and additional costs.
4. The Customer is responsible for managing all third parties not outlined in this SOW.

7. Acture Responsibilities

1. Will designate a direct Acture supervisor
2. Schedule a short kickoff meeting to review the roles and responsibilities documented in this SOW
3. Manage escalations in a timely manner, engaging proper resources.

8. Customer Responsibilities

1. Provide a Single Point of Contact for the engagement
2. Coordinate with 3rd parties (movers) if applicable.
3. Provide a Purchase Order and requirements for invoicing and timely payment.

9. Professional Services Pricing and Billing Services

Billing terms for this project supersede any MSA in place and are only applicable to the services stated in this SOW. Payments are due within thirty (30) days from the date of customer's receipt of the invoices unless otherwise previously agreed between Customer and Acture Solutions finance department. Any change to the Project Pricing and Payment schedule will be managed through the Change Order procedures specified herein. All stated prices are exclusive of any taxes, fees, and duties or other amounts, however designated, and including without limitation value added and withholding taxes which are levied or based upon such charges, or upon this SOW (other than taxes based on the net income of Acture Solutions). The Customer shall pay any taxes related to services purchased or licensed pursuant to this SOW or the Customer shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed a separate item on the invoice. The yearly price shall be adjusted annually on July 1st based on the change in the Consumer Price Index (CPI) as reported by the Bureau of Labor Statistics. This increase shall not exceed 3.5% of the current year.

Please see attached quote.

10. Acceptance

Customer agrees to these Terms of Service by signing at the bottom and/or issuing a PO.



	Acture Solutions Inc.		Customer:
Signature:		Signature:	
Name:	Gabe Stacy	Name:	
Title:		Title:	
Date:		Date:	

Quote and SOW are subject to the Terms & Conditions attached hereto.



We have prepared a quote for you

Smart Hands

Quote # 001237
Version 1

Prepared for:

Scotia Glenville Central School District

Christine Carusone
ccarusone@sgcsd.net

453 Karner Road
Albany, NY 12205
www.acturesolutions.com
(518) 377-4057



Professional Services

Description	Price	Qty	Ext. Price
Smart Hands- onsite helpdesk	\$10,958.00	12	\$131,496.00

Subtotal: **\$131,496.00**

453 Karner Road
Albany, NY 12205
www.acturesolutions.com
(518) 377-4057



Smart Hands

Prepared by:
Acture Solutions, Inc.
Nick Forbes
(518) 377-4057
forbesn@acturesolutions.com

Prepared for:
Scotia Glenville Central School District
900 Preddice Parkway
Scotia, NY 12302
Christine Carusone
(518) 347-3600
ccarusone@sgcsd.net

Quote Information:
Quote #: 001237
Version: 1
Delivery Date: 05/01/2024
Expiration Date: 05/31/2024

Ship To:
Scotia Glenville Central School District
900 Preddice Parkway
Scotia, NY 12302
Christine Carusone
(518) 347-3600
ccarusone@sgcsd.net

Bill To:
Scotia Glenville Central School District
900 Preddice Parkway
Scotia, NY 12302
Christine Carusone
(518) 347-3600
ccarusone@sgcsd.net

Quote Summary

Description	Amount
Professional Services	\$131,496.00

Total: **\$131,496.00**

Please visit www.acturesolutions.com/about-1 to review the full Terms and Conditions.

Please provide an authorized purchase order as acceptance of this quote if not signing electronically through order porter. Payment terms are Net 30 unless otherwise specified. Acture Solutions, Inc will invoice Customer for products at the time of shipping and for services performed at the time of delivery. Acture may invoice Customer separately for partial product deliveries and services rendered. Fee for services will be billed in equal monthly installments.

Acture Solutions, Inc.

Scotia Glenville Central School District

Signature: _____

Signature: _____

Name: Nick Forbes

Name: Andrew Giaquinto

Title: Account Manager

Date: _____

Date: 05/01/2024



1. DEFINITIONS

Whenever used in this Statement of Work, the terms set forth in these Terms and Conditions shall have the following meanings. Additional terms are defined throughout this Statement of Work as they first appear. Acture and Customer may be jointly referred to as the "Parties" and individually referred to as a "Party."

- **"SOW"** means this Statement of Work.
- **"Deliverables"** means the tangible materials that Acture delivers to the Customer as set forth in this SOW.
- **"Developed Work"** means any and all Technology that is developed or reduced to practice in the process of developing and delivering the Deliverables.
- **"Technology"** means algorithms, concepts, data, designs, developments, documentation, discoveries, HTML, XML and other codes, inventions, methods, multimedia files, object code, procedures, scripts, programs, source code, text, documentation, web pages and any other item generally recognized as technology in Acture's or the Customer's industry.
- **"Products"** means hardware and/or software products manufactured or licensed by a third party. Products may be incorporated in, or delivered with, any of the Deliverables.
- **"Services"** means any services performed under this SOW, which may or may not include the delivery of tangible materials (e.g. training).

2. WARRANTY AND DEFECT MAINTENANCE

Acture warrants that it will perform Services hereunder in good faith and with a level of professional competence usual in the industry. Acture will provide Defect Maintenance (as defined below) for the Deliverables and the Developed Work for ninety (90) days from the time of final acceptance of the Deliverables at no additional cost to Customer. Thereafter, Acture will provide support and/or maintenance for the Deliverables and the Developed Work for an additional fee and subject to the terms and conditions of a Maintenance and Support Agreement. Notwithstanding the foregoing, any support and/or maintenance (whether during the initial 90-day period or thereafter) that is necessitated by any change, modification, editing or repairs made to the Deliverables or the Developed Work by Customer or any third party, shall be at an additional cost to Customer. For purposes of this SOW, **"Defect Maintenance"** shall mean maintenance of the Deliverables and the Developed Work to enable it to work properly in the original environment for which it was designed.

Any Products delivered to Customer by Acture under this SOW are delivered without warranty of any kind from Acture. Acture does not make and expressly disclaims any and all warranties and representations of any kind or nature with respect to any Products. This disclaimer includes any warranties of non-infringement or otherwise. Customer's only warranties for Products are the applicable manufacturer's warranties, if any.

3. ACCEPTANCE OF DELIVERABLES

Acture shall deliver each Deliverable at the time and in the manner specified under this Paragraph 3 or as otherwise specified in this SOW. Each Deliverable comprised of or containing Developed Work will be subject to acceptance testing by Customer to verify that the Deliverable satisfies the criteria for acceptance mutually agreed to by Customer and Acture in this SOW. At such time as Acture first offers the applicable Deliverable to Customer for acceptance, Acture shall provide written notice of completion to Customer (the **"Completion Acknowledgement"**). Upon receipt of the Completion Acknowledgement, Customer shall have thirty (30) business days to complete such acceptance testing as Customer desires to determine the functionality, performance and conformance of the Deliverable to the specifications contained in this SOW. In the event of any dispute between Customer and Acture, the failure of Customer to perform such tests shall preclude Customer from raising issues of functionality, performance or nonconformance to the specifications established in this SOW. Within thirty (30) business days after receipt of the Completion Acknowledgement, Customer may give Acture a written letter specifying deficiencies (the **"Deficiencies"**) in the Deliverable. Such letter shall specify the particular requirements of this SOW with which the Deliverable does not comply. In the event of any alleged Deficiencies, Acture shall proceed in a commercially reasonable manner to correct at its own expense such Deficiencies, if they so exist. After the Deficiencies have been corrected by Acture and subsequent notice is given to Customer, Customer may again run such acceptance tests as it desires and thereupon deliver to Acture the Completion Acknowledgement or a list of any additional Deficiencies within thirty (30) business days of such subsequent notice. Such process shall continue until the Deliverables or Developed Work have been accepted.

4. PAYMENTS

Billing for all labor will be upon acceptance of the Deliverables pursuant to Paragraph 3, or as otherwise specified in this SOW. If Milestone Billing is specified in this SOW, upon satisfactory completion of each milestone event as set forth in the Milestone Billing Schedule and verification of completion of the milestone by Customer as provided in Paragraph 3, Acture will bill Customer for the amount set forth in this SOW for that milestone. If Progress Payments are specified in this SOW, Customer will be billed as set forth in the Progress Payment Schedule with the final payment subject to acceptance of the Deliverables as provided in Paragraph 3. Payment terms for all invoices are Net thirty (30) Days. Late charges will be assessed on all undisputed amounts, after thirty (30) days from receipt of invoice, at the lesser of one-half percent (0.5%) per month or the maximum interest allowed by applicable law.

5. CHANGE CONTROL

If Customer wishes to make any changes to an executed SOW, Customer shall provide Acture with a proposed change order specifying the desired changes in the requirements (the "Change Order"). Customer acknowledges that any changes to a SOW may require increased work by Acture, necessitating a reasonable adjustment in the payment due Acture. The Parties shall negotiate such increases in good faith and Customer agrees to accept any delays in the Services or Deliverables caused by such negotiations and/or change in the requirements. Acceptance of the proposed Change Order shall be at Acture's sole discretion. If Acture accepts the proposed Change Order and Customer accepts the adjustment in the compensation to Acture and/or the schedule, the Parties shall execute the proposed Change Order, which shall detail the change in the Deliverables or Services, the adjusted compensation and/or the adjusted schedule. When signed by both Parties, the terms of the Change Order shall prevail over the applicable SOW to the extent they are inconsistent. If Acture does not accept the proposed Change Order and/or Customer does not accept the adjustment in the compensation to Acture, the proposed Change Order shall be null and void and this SOW shall continue to govern without change.

If the Customer requests changes while the work is in process and if the Parties agree that the changes do not warrant the effort of the change control process described in this Paragraph 5, Acture will charge for the work on a time and materials basis at Acture's published rate per hour.

6. CHARGES FOR IDLE TIME

Should Acture personnel assigned to do the work, need to wait due to Customer or a third party under the direction of Customer not having resources available as outlined in this SOW, Acture will charge by the hour for that idle time. The charge will be at Acture's published rate per hour for a maximum of eight hours per occurrence. Once the eight hours have been reached, Acture personnel will exit the work location and return the next business day. If the resources are still not available after the third business day, Acture personnel will exit the work location and not return until the project has been rescheduled. If Customer's work location is more than fifty (50) miles from the Acture office providing the Services, Customer will also be responsible for all direct travel and per diem expenses incurred as a result of the delay.

7. HOOR CATEGORIES

In the case of time and materials work the following definitions are used to apply normal time and overtime rates. Normal business hours are defined as eight hours performed within a single 24-hour period beginning at 7:00AM to 6:00PM Monday through Friday, excluding holidays as defined by United States

Code Title 5 Section 6103(a). Hours worked beyond the eight hours in a single day or hours worked on weekends or holidays are considered overtime hours.

8. NO SOLICITATION

During the period beginning on the effective date of this SOW and for a period of one (1) year after the date of the Completion Acknowledgement of this SOW neither Customer nor Acture shall, without the express written consent of the other Party, individually or on behalf of any other person, firm, corporation or other entity, directly or indirectly, solicit or encourage any employee of the other Party, or any subsidiary of the other Party, to terminate his or her employment with that Party. For purposes of this Paragraph, each Party's employees shall include both independent contractors, as well as personnel utilized by such Party, who are employees or contractors of third parties. Both Parties agree that should it hire any of the other Party's personnel, in breach of the provisions above, it will pay the damaged Party a nonrefundable hiring fee of thirty percent (30%) of the first year's base compensation for each person hired. The damaged Party will invoice the offending Party upon the start date of hire and such invoice will be paid in full within fifteen (15) days. This provision shall survive the termination of this SOW. This provision shall not restrict in any way the right of either Party to solicit generally in the media for personnel, or restrict in any way the right of either Party to hire any person as a result of such general solicitation, and shall not restrict employees, contractors, or representatives of either Party from pursuing on their own initiative employment opportunities from or with the other Party, or restrict the other Party from hiring such persons, and shall not restrict either Party from soliciting or hiring any personnel from the other Party who is referred to such Party by search firms, employment agencies, or other similar entities, provided that such entities have not been specifically instructed by such Party to solicit employees of the other Party.

9. CONFIDENTIAL INFORMATION

"Confidential Information" means any information and data, including in tangible, electronic or other form, of Acture or Customer that is identified as confidential or proprietary at the time of disclosure or which should be understood to be confidential by the nature of the information or the circumstances of the disclosure. Confidential Information shall include but not be limited to: Services, Research, Customer data, documentation, methodologies, know-how, technical information, financial information, information regarding each Party's operations, business relationships and the terms of this SOW. Confidential Information shall not include any information which: (a) is known to the receiving Party prior to receipt hereunder from a source that, to the receiving Party's knowledge, does not have an obligation of confidentiality to the disclosing Party; (b) becomes lawfully known (independently of disclosure by the disclosing Party) to the receiving Party from a source that, to the receiving Party's knowledge, does not have an obligation of confidentiality to the disclosing Party; (c) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this SOW; or (d) is independently developed by the receiving Party without use of the Confidential Information. The receiving Party agrees that it will not use the Confidential Information of the disclosing Party in any way, for its own

account or the account of any third party, except for the purpose of performing this SOW, nor will the receiving Party disclose the Confidential Information of the disclosing Party to any third party except as required by law, legal or judicial process or as requested by a regulatory authority. The receiving Party will take commercially reasonable precautions to protect the confidentiality of such Confidential Information. In the event that either Party is required by law, legal or judicial process or as requested by a regulatory authority to make any disclosure of any Confidential Information, by subpoena, judicial or administrative order or otherwise, such Party must first, to the extent permitted by applicable law or regulation and except in connection with an examination by a regulatory authority, give written notice of such requirement to the other Party, and must permit such Party to intervene in any relevant proceedings to protect its interests in the Confidential Information, and provide reasonable cooperation and assistance in seeking to obtain such protection, all at the disclosing Party's cost and expense. The terms and conditions of this SOW shall be considered confidential and proprietary information under this paragraph. If the Parties have previously executed a Non-disclosure Agreement, the terms and provisions of such Non-disclosure Agreement are hereby incorporated herein by this reference. To the extent that there is a conflict between the terms and provisions of this SOW and such Non-disclosure Agreement, the more restrictive terms and provisions shall control.

10. INDEPENDENT CONTRACTOR

Personnel furnished by Acture to perform the Services and deliver the Deliverables shall under no circumstances be considered Customer employees or agents and shall be in an independent contractor relationship to Customer at all times. Acture and its personnel will not be entitled to any of the benefits that Customer may make available to its employees, including, but not limited to, group health or life insurance, profit sharing, stock option or retirement benefits.

11. INDEMNIFICATION

11.1 Intellectual Property

Acture shall indemnify and hold harmless the Customer against any losses, claims, damages, liabilities, penalties, actions, proceedings or judgments (collectively, "Loss") to which the Customer may become subject, related to or arising out of an allegation that any Deliverable or Developed Work provided under this SOW, when used as contemplated by the SOW, infringes any third party's copyright or trade secrets. If a court or settlement enjoins the use of any Deliverable or Developed Work, or if in Acture's reasonable opinion, any Deliverable or Developed Work is likely to become the subject of a Loss, Acture shall have the option to modify such Deliverable or Developed Work so that it becomes non-infringing, or to substitute a substantially equivalent non-infringing Deliverable or Developed Work, or to obtain for the Customer a license to continue to use the Deliverable or Developed Work. Acture shall have no obligation under this Paragraph for any Loss if Acture has offered such modified or replacement Deliverable or Developed Work and the Loss results from Customer's failure to use the modified or replacement Deliverable or Developed Work. Notwithstanding the foregoing, Acture shall have no obligation under this Paragraph for any Loss that results from (a) use of any Deliverable or Developed Work in

combination with materials, services or products not supplied by Acture, other than as reasonably contemplated by this SOW or if Acture instructs or advises Customer to use a Deliverable or Developed Work in combination with such items, if such Deliverable or Developed Work would not have infringed the copyright or trade secret of the Party bringing the claim absent such combination, or (b) modifications to the Deliverable or Developed Work by any party other than Acture, other than as reasonably contemplated by this SOW or if Acture instructs or advises Customer to make such modifications, if such Deliverable or Developed Work would not have infringed the copyright or trade secret of the party bringing the claim absent such modifications. An "Indemnified Customer Party" shall include all individuals or entities controlling, controlled by or under common control with Customer (each, a "Customer Affiliate"), and the officers, directors, attorneys and employees of Customer and each Customer Affiliate. Acture shall reimburse an Indemnified Customer Party for all legal and other expenses, including, without limitation, reasonable attorneys' fees incurred by such Indemnified Customer Party in connection with investigating, defending or settling any Loss.

Any Products delivered to Customer by Acture under this SOW are delivered without indemnification of any kind from Acture. Acture does not make and expressly disclaims any and all indemnification of any kind or nature with respect to any Products. Customer's only protection for claims related to intellectual property infringement for Products delivered pursuant to this SOW is the indemnification provided by the manufacturer, if any.

11.2 Bodily Injury, Death and Property Damage

To the fullest extent permitted by law, Acture and Customer at their own expense, agree to indemnify, defend and hold the other, its shareholders, owners, officers, directors, agents, and employees harmless from and against all third party Claims (as defined below) from any cause arising out of or relating (directly or indirectly) to a breach of the provisions of this SOW by such Party, except for Claims arising out of or relating to the willful or intentional misconduct or negligence of the indemnified Party. For purposes of this SOW, "Claims" means any and all claims, causes of action (whether based on tort or contract law principles, law or equity, or otherwise), charges, assessments, fines, and penalties of any kind (including consultant and expert expenses, court costs, and reasonable attorneys' fees). This indemnification extends to and includes but is not limited to Claims for: (i) injury to any person (including death at any time resulting from that injury); and (ii) loss of, injury or damage to, or destruction of real or personal property (including all loss of use resulting from that loss, injury, damage, or destruction of premises). This indemnification may not be construed or interpreted as in any way restricting, limiting, or modifying either Party's insurance or other obligations under this SOW and is independent of the insurance obligations of either Party. The provisions of this paragraph shall survive the expiration or earlier termination of any SOW being provided under this SOW until all Claims involving any of the indemnified matters are fully, finally, and absolutely barred by the applicable statutes of limitation.

Each Party's indemnification obligations hereunder shall be subject to (i) receiving prompt written notice of the existence of any action (provided that failure to provide such notice shall only excuse the other Party to the extent that it is prejudiced thereby); (ii) being able to, at its option, control the defense of those portions of such action for which indemnification is sought; (iii) permitting the indemnified Party, at its own expense, to participate in the defense of those portions of such action for which indemnification is sought; and (iv) receiving reasonable cooperation of the indemnified Party in the defense thereof, all at the indemnifying Party's cost and expense.

12. DISCLAIMER AND LIMITATION OF LIABILITY

Except as expressly provided in this SOW, Acture does not make and expressly disclaims any and all warranties and representations of any kind or nature with respect to the Services performed or Deliverables delivered under this SOW, expressed or implied, including, without limitation, the implied warranties of title, merchantability and fitness for a particular purpose. Acture does not warrant (a) that the Deliverables will run properly on all hardware or systems or operate in all combinations which may be selected for use by Customer, or (b) that the operation of the Deliverables will be uninterrupted or error free.

With the exception of claims pursuant to Paragraph 11, and except in the case of willful or intentional misconduct or negligence, it is understood and agreed that either Party's liability to the other Party for damages from any cause whatsoever and regardless of the form of action, whether in contract, tort, strict liability or otherwise, or whether foreseeable or unforeseeable, shall not exceed the total amounts paid or owing by Customer to Acture for the Deliverables or Services provided under this SOW. In no event shall either Party be liable for any indirect, consequential, incidental, special or punitive damages, including without limitation loss of use, interruption of business, loss of data or loss of profits, arising out of or in any way connected with this SOW, the Deliverables, the Services, or any Acture supplied software, or third party software, even if such Party has been advised of the possibility of such damages. No action, regardless of form, arising out of the Deliverables or Services being provided by Acture hereunder, may be brought by either Party more than four (4) years after the cause of action has occurred, except with respect to claims relating to infringement of intellectual property rights.

13. OWNERSHIP AND LICENSING OF INTELLECTUAL PROPERTY

13.1 Customer's Rights

Prior to Acture's receipt of full and final payment from Customer for Deliverables delivered or Services rendered hereunder, Acture shall retain all right, title and interest in and to any Deliverables and/or Developed Work, including without limitation all rights under all copyright, patent, and other intellectual property laws. Upon final payment by Customer of all amounts due under this SOW and provided that Customer is not otherwise in default of its obligations under this SOW, the tangible items specified as Deliverables or Developed Work under this SOW will become the property of Customer. To the extent that any Acture Technology is contained in any Deliverables, Acture grants to Customer, upon full and final payment to Acture hereunder, a royalty-free, fully paid-up,

worldwide, non-exclusive license to use such Acture Technology in connection with the Deliverables. The foregoing license grant conveys no ownership interest in and to the Acture Technology and does not grant Customer the right to extract such Acture Technology from the Deliverables for the purpose of selling, reproducing, distributing, or marketing copies thereof to third parties as a stand-alone product.

Acture will be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, methodologies, and techniques within the scope of its consulting practice that are used in the course of providing the Services, including information publicly known or available or that could reasonably be acquired in similar work performed for another customer of Acture. In addition, in no event will Acture be precluded from developing for itself, or for others, materials that are competitive with the Deliverables or the Developed Work, irrespective of their similarity to the Deliverables or Developed Work, provided this is done without violation of the foregoing clauses and the confidentiality clauses set forth in Section 9 herein.

13.2 Products

Acture does not directly grant any license to Customer for any Products delivered hereunder. Acture shall assist Customer in obtaining from the applicable third-party vendor a license to use the Products, subject to such third party vendor's terms and conditions and at Customer's sole expense. This SOW shall specifically describe any Products delivered hereunder and the costs associated therewith.

13.3 License from Customer

During the period of performance of this SOW, Customer hereby grants to Acture a revocable, nonexclusive, worldwide, personal, royalty-free and nontransferable license to use, solely for the purpose of providing Services under this SOW, any and all Technology owned by Customer, or owned by a third party and licensed to Customer (to the extent permitted by such license), necessary for Acture to design, develop, test, operate, enhance and maintain the Deliverables and/or provide the Services. The license granted herein shall expire upon acceptance of the Deliverables or completion of the Services and shall under no circumstances give Acture any right in or claim to such Technology other than as expressly set forth above or alter Customer's ownership of the Deliverables and Developed Work under this SOW as set forth in this SOW.

14. INSURANCE

Acture agrees to provide and to maintain in effect at all times during the term of this SOW, at its sole expense, the following minimum insurance coverage:

- Workers' Compensation covering its Personnel in accordance with applicable Statutory requirements and Employer's Liability Insurance in an amount of not less than \$1,000,000 per accident for bodily injury by accident, \$1,000,000 policy limit by disease and \$1,000,000 per employee for bodily injury by disease.
- Commercial General Liability Insurance written on an occurrence form including coverage for bodily injury, property damage, products and completed operations, personal injury, advertising injury and contractual liabilities arising out of any and all Services provided

under this SOW with minimum limits of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

- Professional Liability/Errors and Omissions coverage of not less than \$3,000,000 each claim and annual aggregate. If coverage is written on a claims-made basis, coverage with respect to any and all work performed in connection with this SOW shall be maintained for a period of at least three (3) years after the expiration or termination of this SOW.
- Umbrella/Excess Liability with policy limits of not less than \$2,000,000 per occurrence and annual aggregate, as excess over general liability, automobile liability and employer's liability.

All insurance policies shall be issued by companies licensed to do business in New York and will be rated "A-" or better by A.M. Best. All insurance policies shall name the Customer as an additional insured on a primary to and non-contributory with respect to any other insurance afforded to Customer. All insurance policies shall include coverage for defense costs and related expenses.

15. FORCE MAJEURE

If the performance of this SOW or any obligation hereunder (except the payment of monies due hereunder) is prevented, restricted or interfered with by reason of any event or condition beyond the reasonable control of such Party (including, without limitation, acts of State or governmental action, international or domestic terrorism, riots, disturbance, war, strikes, lockouts, slowdowns, prolonged shortage of energy or other supplies, epidemics, fire, explosion, flood, hurricane, typhoon, earthquake or other act of God), the Party so affected shall be excused from such performance, only for so long as and to the extent that such a force prevents, restricts or interferes with such Party's performance and provided that the Party affected gives notice thereof to the other Party and uses diligent efforts to remedy such event or condition.

16. CONSENT TO USE SUBCONTRACTORS

From time to time in the performance of this SOW, it may be necessary or desirable for Acture to engage third parties as subcontractors. Customer consents and agrees that Acture may engage subcontractors to provide services hereunder, as it deems necessary, but that Acture shall retain full responsibility for all such services. Within the first twenty-four (24) hours actually worked by any subcontractor, Customer shall review the subcontractor's performance and decide whether such subcontractor's performance is acceptable. If Customer is dissatisfied with the performance of the subcontractor and wishes Acture to replace such

subcontractor, Customer must provide written notification to Acture within the initial twenty-four (24) hour period, specifying the reasons for its dissatisfaction and requesting the replacement of the subcontractor. Customer shall not be required to pay for the hours worked by that subcontractor during the initial twenty-four (24) hour period, provided its reasons for requesting the replacement are not unlawful and are bona fide in Acture's reasonable judgment. If Customer becomes dissatisfied with the performance of a subcontractor after the initial twenty-four (24) hour period, Customer may still request that Acture replace the subcontractor, but Customer shall pay for all hours worked by the terminated subcontractor from the first hour of work up to and including the date of termination. Acture shall use commercially reasonable efforts to replace a subcontractor removed for performance reasons, within 5 business days of the date of removal. Acture reserves the right to adjust the delivery schedule in the event a subcontractor is removed pursuant to this Paragraph 16.

17. EXTENT OF SOW

This SOW, including any change authorizations, appendices, addendums or attachments, constitutes the final and complete expression of all terms of the agreement between the Parties. It supersedes all proposals, understandings, and negotiations concerning the matters that it covers. Any representations, oral statements, or warranties made by either Party that differ in any way from the terms of this SOW shall be given no force or effect. No additions to or modifications of any provisions of this SOW shall be binding upon either Party unless made in writing and signed by a duly authorized representative of the Parties to be bound. Customer acknowledges that any additional or conflicting terms and conditions contained in Customer's purchase order shall not be applicable to the services to be provided hereunder, even if Acture relies on such purchase order for invoicing purposes.

18. WRITTEN COMMUNICATIONS

For the purposes of this SOW, written communication shall be defined to include facsimile transmissions and electronic mail.

19. COUNTERPARTS

This SOW may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed original and such counterparts together shall constitute but one and the same instrument. The Parties further agree that executed documents under this SOW may be sent via facsimile or scanned and sent via electronic mail.