

1 Preface

This Statement of Work # 1 ("SOW") is entered as of the Effective Date designated below, by and between Actian Corporation, a Delaware corporation, and its affiliates, with its principal place of business located at 500 Arguello St., Suite 200, Redwood City, CA 94063, USA ("**Actian**"), and the customer who has purchased through NetSuite, Inc. ("**NetSuite**") the Basic Implementation Services for the NetSuite connector for Salesforce by Actian ("**Client**"). By signing the NetSuite estimate or other order document that covers the purchase of such services and contains a URL linking to this SOW or otherwise references this SOW ("**NetSuite Order Form**"), Client accepts and is bound by the terms of this SOW and agrees that this SOW is governed by the terms and conditions of the Professional Services Agreement attached hereto as Appendix 1.

The effective date of this SOW is the Service Start Date of the NetSuite Order Form ("**Effective Date**"). This SOW shall terminate one year from the Effective Date ("**Termination Date**").

2 Scope of Services

2.1 Services

Actian will perform the following services ("**Services**") remotely:

1. Provision the account for NetSuite connector for Salesforce by Actian (the "**NetSuite Connector**") for Client.
2. Setup NetSuite ERP and Salesforce CRM connection using the NetSuite Connector.
3. Configure NetSuite Connector to product specifications.
4. Provide an overview and orientation the NetSuite Connector up to 2 hours in length.

Note: Actian expects the above actions #1-4 to take one day worth of work for most customers.

5. Map Client's custom fields between NetSuite and Salesforce CRM.

Total time of Services above not to exceed a total of three (3) days.

2.2 Global Assumptions

This SOW is dependent upon a certain set of basic assumptions being met by Client. These include, without limitation:

- Client shall make identified hardware/software/data available;

- Client shall execute Client responsibilities of the project in a timely manner and provide detailed feedback to Actian, without undue delay, as required in the project schedule;
- For the purposes of this SOW normal office hours is 9:00am through 5:00pm Central Time, Monday through Friday, and any work undertaken during the weekend and/or outside normal office hours may be subject to an additional premium of 50%;
- Client shall provide prompt access to information concerning the Client systems and applications (this information must completely and accurately reflect any procedures or conditions currently in effect);
- Client shall promptly respond to and address other reasonable requests by Actian;
- Client shall make appropriate log-in accounts with sufficient authority to accomplish the stated goals and their passwords, etc. where needed;
- Client shall ensure that all Actian and third-party software are properly licensed for the site location(s) being serviced. Additional software or services may be offered by Actian and shall be made available to Client pursuant to other contractual documentation to be negotiated and agreed between the parties.

3 Fee for Services

3.1 Fees

The fees payable for the Services are charged and collected by NetSuite. Any work undertaken during a US National Holiday will be subject to an additional premium of 100%.

4 Miscellaneous

4.1 Escalation Procedures and Dispute Resolution

Prior to the start of the project, each party will designate a primary contact. In the event that any disputes arise that are within the scope of this SOW, such contacts must be notified in writing immediately. Thereupon, the parties shall confer in good faith to resolve the problem or issue. If the parties are unable to mutually agree on a resolution within a reasonable time, either party may (1) suspend the project pending the resolution of the problem or issues, or (2) terminate this SOW. In the event of such termination, all amounts due for services rendered by Actian up to the date of termination will immediately become due and payable.

4.2 Change Control Process

Any changes to an SOW, project schedule, or the specifications, including any increases to hours which exceed the estimates listed herein, can only be made by a Change Request Form (the "Form") signed by both Actian and Client, in accordance with this section. Any parts of the project schedule, specifications, or SOW that are not explicitly mentioned in the Form are not changed.

Any changes to the project scope or any of the other terms and conditions of this SOW will be administered through the project change control procedure as described herein. When a need for a change to the project is identified, the Actian Consultant/Engagement Manager will complete a Form. This Form will describe Actian's understanding of the requested change, the impact that the change has on the current project, and the estimated resources and time required to implement the change.

The Form will set forth the fee due to Actian for such change (if applicable). The Actian Consultant/Engagement Manager will submit the completed Form to the Client Representative for review and approval. Estimates provided to the Client will remain valid for a period of five (5) business days from the date of submission.

If the Client does not approve the change estimate within the five (5) business days, and Actian has not extended the approval period in writing, the change estimate will automatically expire. Following receipt of the Client's written approval and Actian's acceptance, the Actian consultant/team will begin work on the requested change according to the agreed upon schedule.

Due to the complexity of some project change requests, the Client may be charged for the time required to scope and estimate the requested change. The Actian Consultant/Engagement Manager will advise the Client of the estimate, if a charge will apply.

Appendix 1 – Terms and Conditions

FEES Actian shall use reasonable efforts to provide professional services as provided in an applicable Statement of Work (“SOW”). All travel and subsistence expenses shall be chargeable in addition. All fees and charges for services provided under this SOW shall be invoiced to Client and all payments shall be made by Client to NetSuite as Actian’s authorized third party for receiving payment in accordance with the payment terms specified by NetSuite. In addition, Client shall pay a monthly late charge equal to the lesser of one percent (1%) of the outstanding amount or the maximum amount allowed by law on any invoice that is not paid when due. All fees are exclusive of duties and taxes, and Client shall be responsible for such duties and taxes (other than taxes on Actian’s income).

CONFIDENTIAL INFORMATION Each party receiving Confidential Information (“Recipient”) shall retain in confidence, and require its employees, agents and contractors to retain in confidence, these Terms and Conditions (including any SOW) and all Confidential Information of a party that discloses Confidential Information (“Discloser”). “Confidential Information” means information, in written or other tangible form, which is directly related to the business of Discloser, which has been conspicuously marked by Discloser as “confidential” or “proprietary” at the time of disclosure, or, if not so marked, would reasonably be regarded as confidential due to the nature of the information being disclosed. Recipient shall retain Discloser’s Confidential Information in the manner Recipient retains its own Confidential Information. Recipient shall not disclose or use Confidential Information outside the scope of this Agreement. Confidential Information shall not be disclosed to any third party without Discloser’s express written consent (except, solely for Recipient’s internal business needs, to NetSuite and consultants and subsidiaries who have a duty of confidentiality towards Recipient in respect of such Confidential Information). Confidential Information shall not include any information that: (i) is at the time of disclosure, or subsequently, publicly available without the Recipient’s breach of any obligations owed Discloser; (ii) becomes known to the Recipient prior to the Discloser’s disclosure of such information to the Recipient; (iii) becomes known to the Recipient from a source other than the Discloser without a breach of an obligation of confidentiality owed to the Discloser; (iv) is independently developed by the Recipient; or (v) is produced in compliance with applicable law or a court order, provided the Discloser is given reasonable notice of such law or order and an opportunity to preclude or limit such production. The obligations set forth herein with respect to Confidential Information shall continue in full force and effect for a period of two (2) years after the date of disclosure of Confidential Information.

INTELLECTUAL PROPERTY RIGHTS Actian shall retain all rights, title and interest in any and all Actian products including, without limitation, third-party products, data, plans, specifications, reports, designs, technological “know how”, documentation, deliverables, and other information used or in any manner employed, developed or obtained by Actian in the provision of professional services hereunder. Client shall retain all rights, title and interest in any and all Client products, data, plans, specifications, reports, designs, documentation and other information used or in any manner employed by Client in its receipt of professional services hereunder. The professional services and any associated deliverables are provided to Client in a non-transferable, non-exclusive, world-wide and royalty free license upon payment in full for all fees and related expenses due Actian hereunder. Notwithstanding the foregoing, Actian products and support services are not licensed hereunder, and Client must have a separate written agreement with Actian for the products or support services for which Actian will provide the professional services hereunder.

WARRANTY Actian warrants that it has the right to provide the services offered under these Terms and Conditions and any applicable SOW and that such services will be performed with reasonable skill and care by personnel with appropriate skills and experience. In the event of a breach of warranty, Client’s sole and exclusive remedy shall be the re-performance of the services, or if Actian fails to re-perform as warranted, upon Client’s return of any affected deliverables Actian shall refund the portion of the fees paid for the deficient services. **APART FROM ANY TERM, CONDITION OR WARRANTY IMPLIED BY STATUTE WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED BY AGREEMENT AND ANY WARRANTY EXPRESSLY SET FORTH HEREIN, ACTIAN MAKES NO WARRANTIES IN RELATION TO THE SERVICES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT OR OF FITNESS FOR A PARTICULAR PURPOSE.**

LIMITATION OF LIABILITIES Actian does not exclude or limit its liability to the Client for death or personal injury caused by any negligent act or omission or willful misconduct of Actian or its employees.

In entering into these Terms and Conditions and any SOW, Client had recourse to its own skill and judgment and has not relied on any representations made by Actian. Subject always to this Limitation of Liability clause, the aggregate liability of Actian for actual damages for any cause whatsoever whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall be limited to 125% of the fees paid to Actian for the Services upon which the damages were based.

In no event shall Actian be liable to the Client for indirect, special or consequential damages, loss, loss of profits, loss of revenues, or loss of business opportunity howsoever arising, even if Actian has been advised of or should have known of the possibility of such damages or loss.

WORK FACILITIES Client shall make available to Actian Client personnel, office space, computer resources, materials, facilities and other support as reasonably required and agreed between the parties, to permit Actian to perform the Services. Client work facilities shall be made available in a clean and safe condition.

CONTRACTS RIGHTS OF THIRD PARTIES Notwithstanding any other provision herein, nothing herein shall create or confer (whether expressly or by implication) any rights or other benefits or otherwise in favor of any person not a party hereto.

SERVICES AND ADDITIONAL PRODUCTS. Client acknowledges that the services specified herein are offered by Actian separately from any software that is commercially licensed by Actian. All services are deemed accepted upon delivery, except as otherwise expressly stated in an SOW. Client understands that it has the right to acquire the professional services independent of Actian’s commercial software licenses. If any such commercial license software is migrated, converted or upgraded, the prior commercial license is deemed automatically terminated and Client no longer has the right to use such terminated licenses.

FORCE MAJEURE. Other than payment obligations, a party will not be liable for non-performance caused by events beyond its control, if the party makes reasonable efforts to perform.

NON-SOLICITATION. During the term hereof, and for a period of one (1) year immediately following its expiration or termination, neither party shall solicit, directly or indirectly, any employee of the other party (or any of its affiliates) who was involved in providing services under an applicable SOW.

ENTIRE AGREEMENT. The applicable SOWs and these Terms and Conditions constitute the entire agreement between the parties and supersede all prior agreements or representations, oral or written relating to the subject matter hereof. Each party agrees that the use of pre-printed forms such as purchase orders is for convenience only and all pre-printed terms and conditions set forth thereon are void and of no effect. These Terms and Conditions shall expire at the end of the term of the applicable SOW, unless earlier terminated by either party at any time following material breach by the other and failure to cure such breach within 30 days of written notice thereof. Except for the section entitled WORK FACILITIES, the remainder of these Terms and Conditions shall survive the expiration or earlier termination of these Terms and Conditions. Nothing in this clause or elsewhere in these Terms and Conditions is intended to prevent a party taking action in respect of pre-contractual misrepresentations made fraudulently, if any, upon which the party relied. These Terms and Conditions and any SOW may not be modified or any term or condition waived except in writing signed by a duly authorized representative of each party. Neither these Terms and Conditions nor any right or obligation hereunder or in an SOW may be assigned by Client without Actian’s prior written consent. The provisions of these Terms and Conditions and applicable SOWs shall be binding upon and inure to the benefit of the parties, their successors, and permitted assigns.

EXPORT REGULATIONS Neither party shall commit any act that would violate the export control laws or regulations of the United States or other applicable export control laws, rules or regulations. Actian assumes no responsibility or liability for any failure by Client to obtain any necessary export approvals. Specifically, no Actian product or Work Product may be exported to embargoed or otherwise restricted countries or end-users.

GOVERNING LAW AND VENUE These Terms and Conditions and any applicable SOWs shall be governed by and construed in accordance with the law of the State of California without regard to the choice of law rules,

and the parties hereby submit to the exclusive jurisdiction of the courts located in Santa Clara County, California.