



OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION

Improving our future by degrees

February 27, 2019

NetApp Inc.
Mark Weber, Sr. Vice President
1921 Gallows Road, Suite 600
Vienna, VA 22182

Subject: C1403 Contract Extension

Dear Mr. Weber:

The above-referenced contract is due to expire on February 28, 2019.

In order to provide continuous service to OneNet and OneNet's clients, the Oklahoma State Regents for Higher Education wish to request that this contract be extended through August 31, 2019. The contract period will be effective March 1, 2019 through August 31, 2019. All terms of the original contract and any subsequent amendments will remain in full force and effect.

If you are agreeable to the renewal of the above mentioned contract, please sign in the space provided and return to this office as soon as possible.

If you have any questions, please feel free to contact Liza Hanke at 405-225-9206.

Sincerely,

Amanda Paliotta
Vice Chancellor for Budget & Fiscal Affairs, Information Technology, Telecommunications & OneNet

AGREED TO:

Mary Dorr (Mar 4, 2019)

USPS Controller

Name/Title

Mar 4, 2019

Date



OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION

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February 1, 2018

NetApp Inc.
Mark Weber, Sr. Vice President
1921 Gallows Road, Suite 600
Vienna, VA 22182

Subject: Renewal of Contract C1403

Dear Mr. Weber:

The above referenced contract will expire on February 28, 2018.

In order to provide continuous service to OneNet and OneNet's clients, the Oklahoma State Regents for Higher Education wish to exercise our option to renew this contract for the fourth of four one year renewal options. The contract period will be effective March 1, 2018 through February 28, 2019. All terms of the original contract and any subsequent amendments will remain in full force and effect.

If you are agreeable to the renewal of the above mentioned contract, please sign in the space provided and return to this office as soon as possible.

If you have any questions, please feel free to contact Liza Hanke at 405-225-9206.

Sincerely,

Amanda Paliotta
Vice Chancellor for Budget & Fiscal Affairs, Information Technology, Telecommunications &
OneNet

AGREED TO:

Mary Dorr
Mary Dorr (Feb 2, 2018)

Controller

Name/Title
02/02/2018

Date

AMENDMENT TO NETAPP C1403

This SECOND AMENDMENT TO NETAPP C1403 is entered into by and between NetApp, Inc. located at 495 East Java Drive, Sunnyvale, CA 94089 ("Manufacturer") and the Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK 73104 ("OSRHE").

WHEREAS, the Manufacturer and the OSRHE entered into an Contract for the acquisition of unified storage hardware, software and related services dated March 1, 2014 (the "Contract"); and

WHEREAS, the Manufacturer and the OSRHE desire to amend the Contract as provided herein,

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

The provision of the Contract which sets forth the Manufacturer's products, Exhibit B, is hereby amended by adding new products to the list of existing products available for purchase under this contract. Please go to <https://www.solidfire.com/resources> to see the listing of products.

Except as expressly amended and modified by this Amendment, all provisions of the Agreement and all prior amendments not affected by this amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have each caused this Amendment to be executed and to take effect as of the latter date written below as evidenced by the signatures of their respective duly authorized officers.

NetApp, Inc.

By: 

Name: Robert Stein

Title: VP Sales, NetApp

Date: 02-02-2017

Oklahoma State Regents for Higher Education

By: 

Name: Amanda Paliotta

Title: Vice Chancellor for Budget &
Fiscal Affairs, Information
Technology, Telecommunications &
OneNet

Date: _____

Approved
As To Form

Initials PMA

Date 01/31/17



OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION

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February 1, 2017

NetApp Inc.
Mark Weber, Sr. Vice President
1921 Gallows Road, Suite 600
Vienna, VA 22182

Subject: Renewal of Contract C1403

Dear Mr. Weber:

The above referenced contract will expire on February 28, 2017.

In order to provide continuous service to OneNet and OneNet's clients, the Oklahoma State Regents for Higher Education wish to exercise our option to renew this contract for the third of four one year renewal options. The contract period will be effective March 1, 2017 through February 28, 2018. All terms of the original contract and any subsequent amendments will remain in full force and effect.

If you are agreeable to the renewal of the above mentioned contract, please sign in the space provided and return to this office as soon as possible.

If you have any questions, please feel free to contact Liza Hanke at 405-225-9206.

Sincerely,

Amanda Paliotta
Vice Chancellor for Budget & Fiscal Affairs, Information Technology, Telecommunications & OneNet

AGREED TO:

Robert Stein, VP Sales - NetApp Inc.

Name/Title

02/02/2017

Date

Approved
As To Form
Initials: RMA
Date: 01/27/17

AMENDMENT TO NETAPP C1403

This FIRST AMENDMENT TO NETAPP C1403 is entered into by and between NetApp, Inc. located at 495 East Java Drive, Sunnyvale, CA 94089 ("Manufacturer") and the Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK 73104 ("OSRHE").

WHEREAS, the Manufacturer and the OSRHE entered into an Contract for the acquisition of unified storage hardware, software and related services dated March 1, 2014 (the "Contract"); and

WHEREAS, the Manufacturer and the OSRHE desire to amend the Contract as provided herein,

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

The provision of the Contract which sets forth the Manufacturer's designated authorized resellers is hereby amended by deleting it in its entirety and substituting, in lieu thereof, the attached new Exhibit A.

Except as expressly amended and modified by this Amendment, all provisions of the Agreement and all prior amendments not affected by this amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have each caused this Amendment to be executed and to take effect as of the latter date written below as evidenced by the signatures of their respective duly authorized officers.

NetApp, Inc.

By: Mary Dorr
Mary Dorr (Jun 8, 2016)

Name: Mary Dorr

Title: USPS Controller

Date: Jun 8, 2016

Oklahoma State Regents for Higher Education

By: Amanda Paliotta

Name: Amanda Paliotta

Title: Vice Chancellor for Budget &
Fiscal Affairs, Information
Technology, Telecommunications &
OneNet

Date: 6/8/16

Approved
As To Form
Initials AMH

Oklahoma Regents OneNet Contract
Contract C1403 – NetApp, Inc.

Exhibit A – Authorized Sales Partners (Resellers)
June 2016

CDW-G
230 N Milwaukee Ave
Vernon Hills, IL 60061
Contact Name: Tony Sivore, Sales Manager
Email Address: tonysiv@cdwg.com
Phone: (312) 705-3290
FAX: (312) 705-4990

DLT Solutions, LLC
2411 Dulles Corner Park, Ste 800
Herndon, VA 20171
Contact Name: Susan Patrick-Britton
Email Address: susan.patrick@dlt.com
Phone: (703) 773-8985
FAX: (866) 708-7033

e Tech Solutions
3540 South Boulevard, Suite 300
Edmond, OK 73013
Contact Name: Michael Delay
Email Address: mdelay@etechsolutions.net
Phone: (405) 608-4021
FAX:

ISG Technology Inc.
127 N 7th St
Salina, KS 67401
Contact Name: Scott Holloway
Email Address: sholloway@isgtech.com
Phone: (405) 516-7476
FAX: (405) 773-2711

Peak Methods Inc dba: Peak Uptime
823 S Detroit Ave #200
Tulsa, OK 74120
Contact Name: Kathy Case
Email Address: kathy.case@peakuptime.com
Phone: (918) 585-8488
FAX: (918) 585-5615

Presidio Networked Solutions, Inc.
705 S. Yale Ave, Suite 111
Tulsa, OK 74136
Contact Name: Sarah Jurado, Account Manager
Email Address: sjurado@presidio.com
Phone: (405) 708-4034 Cell (918) 288-3281
FAX: (972) 585-2615

SHI Government Solutions, Inc.
290 Davidson Avenue
Somerset, NJ 08873
Contact Name: David Rounds
Email Address: david_rounds@shi.com
Phone: (800) 509.2295
FAX: (888) 394-5322



Oklahoma State Regents for Higher Education

655 Research Parkway, Suite 200
Oklahoma City, OK 73104

Liza Hanke

Director of Purchasing

Tele: (405) 225-9206

Fax: (405) 225-9230

Email: lhank@osrhe.edu

Contract No.: C1403**NetApp, Inc.**

AMENDMENT NO. 1

CONTRACT TITLE: NetApp, Inc.

CONTRACT NUMBER: C1403

CONTRACT TERM: March 1, 2014 February 28, 2019

WEBSITE ADDRESS: OneNet: www.onenet.net/ops/contract.html

DATED: June 8, 2016

The provision of the Contract which sets forth the Manufacturer's designated authorized resellers is hereby amended by deleting it in its entirety and substituting, in lieu thereof, Exhibit A, attached hereto.

AUTHORIZED RESELLER CONTACT INFORMATION:

CDW-G

230 N Milwaukee Ave

Vernon Hills, IL 60061

Contact Name: Tony Sivore, Sales Manager

Email Address: tonysiv@cdwg.com

Phone: (312) 705-3290

FAX: (312) 705-4990

DLT Solutions, LLC

2411 Dulles Corner Park, Suite 800

Herndon, VA 20171

Contact Name: Susan Patrick-Britton

Email Address: susan.patrick@dlt.com

Phone: (703) 773-8985

FAX: (866) 708-7033

e Tech Solutions
3540 South Boulevard, Suite 300
Edmond, OK 73013
Contact Name: Michael Delay
Email Address: mdelay@etechsolutions.net
Phone: (405) 608-4021
FAX:

ISG Technology Inc.
127 N 7th St
Salina, KS 67401
Contact Name: Scott Holloway
Email Address: sholloway@isgtech.com
Phone: (405) 516-7476
FAX: (405) 773-2711

Peak Methods Inc dba: Peak Uptime
823 S Detroit Ave #200
Tulsa, OK 74120
Contact Name: Kathy Case

Email Address: kathy.case@peakuptime.com
Phone: (918) 585-8488
FAX: (918) 585-5615

Presidio Networked Solutions, Inc.
705 S. Yale Ave, Suite 111
Tulsa, OK 74136
Contact Name: Sarah Jurado, Acct Manager
Email Address: sjurado@presidio.com
Phone: (405) 708-4034 Cell (918) 288-3281
FAX: (972) 585-2615

SHI Government Solutions, Inc.
290 Davidson Avenue
Somerset, NJ 08873
Contact Name: David Rounds
Email Address: david_rounds@shi.com
Phone: (800) 509.2295
FAX: (888) 394-5322

Except as expressly amended and modified by this Amendment, all provisions of the Agreement and all prior amendments not affected by this amendment shall remain in full force and effect.



OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION

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January 15, 2016

Mark Weber
NetApp Inc.
1921 Gallows Road, Suite 600
Vienna, VA 22182

Subject: Renewal of Contract C1403

Dear Mr. Weber:

The above referenced contract will expire on February 28, 2015.

In order to provide continuous service to OneNet and OneNet's clients, the Oklahoma State Regents for Higher Education wish to exercise our option to renew this contract for the second of four one year renewal options. The contract period will be effective March 1, 2016 through February 28, 2017. All terms of the original contract and any subsequent amendments will remain in full force and effect.

If you are agreeable to the renewal of the above mentioned contract, please sign in the space provided and return to this office as soon as possible.

If you have any questions, please feel free to contact Liza Hanke at 405-225-9206.

Sincerely,

Amanda Paliotta
Vice Chancellor for Budget & Fiscal Affairs, Information Technology, Telecommunications & OneNet

AGREED TO:

Name/Title

1/26/16

Date



OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION

Improving our future by degrees

January 27, 2015

Mark Weber
NetApp Inc.
1921 Gallows Road, Suite 600
Vienna, VA 22182

Subject: Contract C1403

Dear Mr. Weber:

The above referenced contract will expire on February 28, 2015.

In order to provide continuous service to OneNet and OneNet's clients, the Oklahoma State Regents for Higher Education wish to exercise our option to renew this contract for the first of four one year renewal options. The contract period will be effective March 1, 2015 through February 28, 2016. All terms of the original contract and any subsequent amendments will remain in full force and effect.

If you are agreeable to the renewal of the above mentioned contract, please sign in the space provided and return to this office as soon as possible.

If you have any questions, please feel free to contact Liza Hanke at 405-225-9206.

Sincerely,

Amanda Paliotto
Vice Chancellor for Budget & Fiscal Affairs, Information Technology, Telecommunications & OneNet

AGREED TO:

Name/Title

Date

FEBRUARY 3, 2015

Approved
As To Form

Initials



Oklahoma State Regents for Higher Education

655 Research Parkway, Suite 200
Oklahoma City, OK 73104

Liza Hanke, Director of Purchasing
Tele: 405.225.9206
Fax: 405.225.9230
Email: lhanke@osrhe.edu

Contract No. C1403

NetApp, Inc.

CONTRACT TITLE: NetApp, Inc.

CONTRACT TERM: March 1, 2014 to February 28, 2019

CONTRACT PERIOD: March 1, 2014 to February 28, 2015

WEBSITE ADDRESSES: **OneNet:** <http://onenet.net/services/managed-contracts/>
NetApp: www.netapp.com

Authorized Customers: All state entities identified as counties, school districts, municipalities, vocational-technical schools, institutions within the Oklahoma State System for Higher Education, other state agencies and any entity eligible for direct connection to OneNet under its Client Connection Policy located at <http://onenet.net/new-customers/client-connection-policy/>.

Contract Priority: This is a noncompetitive contract with established education and government discounts. Prior to issuing any orders against this contract, end user customers should ensure that they have followed their appropriate internal purchasing procedures, including any required documentation of a market value comparison or a competitive process leading to the selection of this particular vendor.

Contract Terms and Conditions: All end users agree to abide by the terms and conditions outlined in the attached agreement and agreed to by the Oklahoma State Regents for Higher Education.

Contract Pricing: A fixed discount scheduled is attached hereto as Exhibit B.

Shipping: F.O.B. Destination

Contract Performance: Contract performance will be monitored and any infractions of the Contract by Manufacturer, Customers or Resellers shall be reported to the Purchasing Director for the Oklahoma State Regents for Higher Education.

Contract Administrator:

NetApp, Inc.

Tele: 703-918-7317

FEI#: 77-0307520

Fax: 703-918-7301

Attn: Harry Franks

Email: harry.franks@netapp.com

Authorized Reseller Contact Information: See Attached Reseller Listing

[Reseller]

Tele:

FEI#:

Fax:

Attn:

Email:

**OKLAHOMA STATE
REGENTS FOR HIGHER EDUCATION**

NetApp, Inc.

This Contract, for the acquisition of unified storage hardware, software, and related services is entered into by and between NetApp, Inc., a Delaware corporation located at 495 East Java Drive, Sunnyvale, California 94089 ("NetApp" or "Contractor") and the Oklahoma State Regents for Higher Education located at 655 Research Parkway, Suite 200, Oklahoma City, OK 73104 ("OSRHE").

1. **Contract and Term.** This Contract sets forth the terms and conditions under which NetApp will sell to Customer or OSRHE the Hardware, Support Services and Professional Services, and will license to Customer or OSRHE the Software Products ordered by Customer or OSRHE, as listed on Exhibit B, attached hereto. Terms used in this Contract shall have the meanings set forth below in Section 2, Definitions. This Contract is available for use by all Customers.

The term of this Contract shall be one (1) year commencing on the date of approval by both parties with four (4) one-year renewal options with written approval of the parties. Upon termination of this Contract, all rights and obligations set forth herein shall survive in accordance with their terms as to procurements made by Customers prior to such termination.

2. **Definitions.** Terms used in this Contract shall have the following meanings:

- A. *Customer* – means the entity who, for the purposes of this Contract, is a purchaser or licensee of computer products who acquires such products for its own internal use rather than for distribution or resale. "Customer" means all state entities identified as counties, school districts, municipalities, vocational-technical schools, institutions within the state system, other state agencies, and any entity eligible for direct connection to OneNet under its Client Connection policy
- B. *Manufacturer* – NetApp, Inc.
- C. *Manufacturer Contract Administrator* – the individual as appointed by the Manufacturer to administer this Contract on behalf of the Manufacturer.
- D. *OSRHE* – the Oklahoma State Regents for Higher Education
- E. *Purchase Order* – The Customer's fiscal form or format, which is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, Electronic Purchase Order or other authorized instrument).
- F. *Reseller* – distributor, dealer or value-added reseller designated by the Manufacturer who participates as a primary distribution source for the Manufacturer.
- G. *State Contract Administrator* – the individual as appointed by the OSRHE to administer this Contract on behalf of the OSRHE and the Customers.

3. **Entire Agreement and Order of Precedence.** This Contract; Exhibit A, Reseller's List; Exhibit B, Manufacturer's Discount Schedule; Exhibit C, Manufacturer's End User License Agreement; Exhibit D, Manufacturer's Statement of Work (Direct Custom Firm Fixed Price) and Exhibit E, Manufacturer's Statement of Work (Direct Time and Materials), and Exhibit F, NetApp SupportEdge Services shall constitute the entire agreement between the parties hereto and shall supersede any and all other agreements between the parties relating to the subject matter hereof. In the event of a conflict between the documents listed in this paragraph, the controlling document shall be this Contract, then Exhibit A, then Exhibit B, then Exhibit C, then Exhibit D, then Exhibit E, then Exhibit F. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein, shall be binding or valid. This Contract shall not be changed, modified or altered in any manner except by an instrument in writing (a non-preprinted agreement clearly understood by both parties to be an amendment or waiver) executed by authorized representatives of both parties hereto.

The terms and conditions set forth herein shall govern all transactions by Customers under this Contract. Customers shall not have the authority to modify the terms of this Contract, except as to receive better pricing for a particular procurement than those set forth herein. In such event, the Manufacturer shall furnish a copy of such better offerings to the OSRHE upon request. No additional term or condition of a Purchase Order issued by a Customer can weaken a term or condition of this Contract. In the event of a conflict between a Customer's or OSRHEs' Purchase Order and this Contract, the Contract terms shall control.

4. **Product and Service Offerings.** Products available under this Contract are set forth as any Storage Hardware or Software Products and Software manufactured, supplied or produced by NetApp. Services include any value-added service offered by the Manufacturer that the Manufacturer and/or its Resellers may perform as related to Products available under this Contract.

A. Products. Manufacturer shall maintain a product list including pricing, product descriptions and product specifications for all products offered under this Contract. The product list may be updated at any time, during the term of this Contract to incorporate product model changes or product upgrades, addition of new products and removal of obsolete or discontinued products.

B. Services. Examples of services include, but are not limited to: warranty, support services, professional services, installation and product training. Manufacturer shall maintain a list including pricing and descriptions for all services offered under this Contract. The services lists may be updated at any time, by mutual written agreement, during the term of this Contract to incorporate changes to the service offerings. Support service offerings available are further defined in Exhibit F, attached hereto.

5. **Contract Administration.** The OSRHE and the Manufacturer will each provide a Contract Administrator to support this Contract. Information regarding the Contract Administrators will be posted on the OneNet website designated for this Contract.
- A. **OSRHE Contract Administrator.** The OSRHE will provide a Contract Administrator whose duties will include, but not be limited to: (i) management of this Contract, (ii) advising of Manufacturer's performance under the terms and conditions of this Contract and (iii) periodic verification of product pricing and quarterly reports submitted by the Manufacturer.
- B. **Manufacturer Contract Administrator.** The Manufacturer Contract Administrator shall provide a dedicated Contract Administrator whose duties shall include, but not be limited to: (i) supporting the marketing and management of this Contract, (ii) facilitating dispute resolution between the Manufacturer and a Customer, and (iii) advising the OSRHE of the Manufacturer's performance and status. The OSRHE may reserve the right to require a change in the Manufacturer's then-current Contract Administrator if the administrator is not, in the opinion of the OSRHE, adequately serving the needs of the State.
6. **Use of Resellers.** Manufacturer shall provide service, sales and support resources to serve Customers at multiple geographic purchasing locations throughout the State of Oklahoma. The OSRHE agrees to permit Manufacturer to utilize designated Resellers (Exhibit A) so that sufficient resources are available to insure maximum service capability throughout the State. Such participation is subject to the following conditions:
- A. **Designation of Resellers.** Manufacturer shall designate Resellers (Exhibit A) to participate under this Contract, without the approval of the OSRHE. At any time, the OSRHE reserves the right to rescind any such participation or request that Manufacturer name additional Resellers should the OSRHE determine it is in the best interest of the State.

Manufacturer shall have the right to qualify Resellers and their participation as fulfillment agents under this product line, contracting program (i.e., government/educational sales), geographic region, size/sales volume, technical training or other criteria, provided that: (i) such criteria are uniformly applied to all potential Resellers based upon Manufacturer's established, neutrally applied commercial/governmental program criteria, and not to a particular procurement; and (ii) all general categories of criteria are fully covered by participating Resellers to meet the needs of customers.

All Resellers who have been approved by the Manufacturer in accordance with the foregoing paragraph shall be eligible to quote lower pricing for procurements under this Contract which meet their qualifying criteria. Manufacturer warrants and represents that it shall not, directly or indirectly, by agreement, communication or any other means restrict any Reseller's participation or ability

to quote a particular order; or prohibit Reseller from participating in other procurement opportunities offered through the OSRHE.

- B. Changes in Reseller List. Manufacturer may add and/or delete Resellers (Exhibit A) throughout the terms of the Contract. However, the participating Resellers must geographically provide adequate coverage to the entire State.
- C. Conditions of Reseller Participation. All participating Resellers must meet applicable OSRHE's qualifying requirements.
- D. Responsibility for Reseller Performance and Reporting. Manufacturer shall be fully liable for Resellers performance and compliance with all Contract terms and conditions herein. Manufacturer shall be responsible for reporting all products and services purchased through resellers in accordance with Section 15, Reporting.
- E. Available Products and Services. Products and services ordered directly through Resellers shall be limited to products and services previously approved for inclusion under this Contract in Section 4, Products and Services Offerings, and shall be subject to all terms and conditions of this Contract as a condition of Reseller participation.

7. Pricing.

- A. Price Reduction. Price decreases shall take effect automatically during the contract term where:
 - (i) *List Price is Reduced.* The Manufacturer lowers its pricing for Product and/or services to its customers during the Contract term. In such case, the Manufacturer shall lower Contract pricing in accordance with the established pricing structure as outlined in Exhibit B; or
 - (ii) *Special Offers/Promotions.* The Manufacturer offers any Customer generally during the term of the Contract other more advantageous special promotions with special discount pricing, in which case the maximum discount associated with such offer or promotion, if greater than the discount otherwise available under this Contract ("Contract Discount"), shall, for transactions on the same terms or for the life of such special offer or promotion, be used in lieu of the Contract discount in the calculation of the Contract Price.
 - (iii) *Special Offers/Promotions to Authorized Users Under/Outside of Contract.* The Manufacturer may offer Customers, under either the Contract or any other contracting vehicle, competitive pricing which is lower than the rates set forth herein at any time during the Contract term and such lower rates shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (ii).

- B. Customer Discount. Based on a quantity of one (1), the Customer Discount for all core products will conform to the pricing outline set forth in Exhibit B, attached hereto. Customer may negotiate more advantageous pricing for large volume or project purchases with the Manufacturer.
- C. Shipping and Handling Fees. The price to the Customer under this Contract and/or on the Purchase Order shall include all shipping and handling fees. Shipments shall be F.O.B. Customer's destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited delivery, the Customer will be responsible for any charges for expedited delivery.
- D. Tax-Exempt. Customers and the OSRHE are exempt from all federal and state sales tax.
- E. Changes to Prices. The Manufacturer may change the price of any product or service at any time, but discount levels shall remain consistent with the discount levels specified in Exhibit B. Price decreases shall take effect automatically during this Contract term and the Manufacturer shall pass all price decreases on to the Customer.

The Manufacturer may make product model changes and add new products or product upgrades at any time and the pricing for the same shall incorporate comparable price discount levels as specified in Exhibit B or as mutually agreed upon in writing by authorized representatives of the parties at the time of the proposed changes or additions.

- 8. **Order Processing and Payments.** All Customer Purchase Orders will be placed directly with the Manufacturer or Reseller. Accurate Purchase Orders shall be effective and binding upon the Manufacturer's or Reseller's acceptance of the Purchase Order prior to the termination of the Contract period. Such acceptance shall not be unreasonably withheld.

The Manufacturer shall submit invoices directly to the Customer. All payments for products and/or services purchased under this Contract and any provision of acceptance of such products and/or services are made to the Manufacturer by the Customer. Payment terms shall be net forty-five (45) days from date of accurate invoice.

Invoices shall be timely and accurate. Each invoice shall match Customer's Purchase Order and include any written changes that may apply, as it relates to products, prices and quantities. Invoices shall include the Customer's Purchase Order number or other pertinent information for verification of receipt of the order by the Customer.

Partial payment under this Contract shall not foreclose the right to recover wrongful payments.

9. **Software Licensing Agreement.** Customers purchasing software licenses under this Contract shall hold, use and operate such software subject to compliance with the End User Licensing Agreement set forth in Exhibit C, attached hereto. No changes to the License Agreement Terms and Conditions may be made unless previously agreed to in writing between authorized representatives of the Manufacturer and the OSRHE Office. Customers may not add, delete or alter any of the language in Exhibit C. Resellers shall make the End Users Licensing Agreement Terms and Conditions available to all Customers at the time of applicable Product purchases.

Compliance with the Software Licensing Agreement is the responsibility of the Customer. The OSRHE Office shall not be responsible for any Customer's compliance with the Software Licensing Agreement. If the OSRHE Office purchases software licenses for its own use under this Contract it shall be responsible for its compliance with the Software Licensing Agreement Terms and Conditions.

10. **Service Agreement.** Customers purchasing professional services under this Contract shall execute a Statement of Work or Service Brief with the Manufacturer materially similar as that set forth in Exhibit D and/or Exhibit E, attached hereto. No changes to the Statement of Work terms and conditions may be made unless previously agreed to in writing by the authorized representatives of the Manufacturer and the OSRHE Office. The Statements of Work shall include but not be limited to service descriptions, fees for the services, assumptions, exclusions, engagement dates, responsibilities of the parties and deliverables to be provided, if applicable. Professional Services continues to expand the service offerings available to our customers. The basic offerings include (1) Time and Materials (T&M) based on daily and/or hourly rates, both business and non-business, for which NetApp provides "time" (2) Residency, which provides a dedicated resource, generally onsite typically for 12 months to assist the customer to manage their NetApp product storage, and (3) Project work; some of which is commercial off the shelf (COTS) that is fixed price, documented in a Service Brief and identified in the price list with unique part number(s). Other project work is QUOTE SPECIFIC as the Professional Services team work with customer to specifically evaluate their business requirements for the SOW (i.e. Storage design and implementation, Storage Security Implementation, Assessments (Storage, Application and/or Infrastructure), Application-specific design and implementation (Oracle, SQL, Microsoft and VMware), Homogeneous and Heterogeneous Data Migration, Data Center Transformation, and informal training (e.g. transfer of information).

11. **Warranties.**

- A. **Hardware Products Warranty.** NetApp warrants to Customer or OSRHE, for three (3) years from the date of shipment to Customer or OSRHE, unless otherwise noted in NetApp-published, Product specific documentation, that the hardware Product sold by NetApp will operate in accordance with NetApp's

published specifications in effect on the date the hardware Product is shipped or NetApp will repair or replace the hardware Product, refund the purchase price paid by Customer or OSRHE, at NetApp's discretion. Replacement parts shall be warranted for the remainder of the warranty period in effect on the original hardware Product, unless otherwise mandated by applicable law.

- B. Software Products Warranty.** NetApp warrants to Customer or OSRHE, for a period of ninety days from Customer's OSRHE receipt of software Product that (a) the software Product will materially conform to NetApp's published specifications in effect on the date Customer or OSRHE receives the software Product, and (b) the media containing the software Product (but not the software Product itself) is free from physical defects. NetApp's liability with respect to the software Product or the software Product's performance under any warranty, negligence, strict liability or other theory is limited exclusively to repairing or replacing the software Product or refunding the purchase price paid less reasonable depreciation, at NetApp's option. This warranty covers only problems that are reproducible and verifiable and does not cover software, other items or any services, provided by any persons other than NetApp. Software Product shall not be covered under this warranty if it has been abused, misused, damaged in transport or after delivery to Customer or OSRHE, modified or subjected to unauthorized use or installation, as determined by NetApp.
- C. Support Service Products Warranty.** NetApp warrants that the supports services reference in Exhibit F hereto purchased by Customer or OSRHE shall be performed by NetApp or a NetApp authorized service provider in a professional, workmanlike manner in accordance with industry standards. NetApp agrees that all of the terms and conditions contained herein shall be binding upon NetApp's authorized service providers.
- D. Professional Services Warranty.** NetApp warrants to Customer or OSRHE that professional services performed under this Agreement will be performed in a professional, workmanlike manner accordance with industry standards.
- E. Warranty Exclusions.** Any warranties provided herein do not apply to, nor do NetApp prices include, the maintenance of, repair or diagnosis of damage, malfunctions or product failures caused by the conditions or events set forth in Exhibit F of this Contract. The warranty for any hardware Product shall become void if a hardware component is installed as an add-on and/or replacement part on the original hardware Product and such component part has not been approved by NetApp.
- F. Hazardous Environments.** The Products are not designed or intended for use in on-line control of aircraft, air traffic, aircraft navigation or aircraft communications, or in the design, construction, operation or maintenance of any nuclear facility, or in the operation or in maintenance of any direct life support system, or in other hazardous environments or life threatening operations.

NetApp disclaims any express or implied warranty of fitness for such uses and shall not be liable for any costs, liabilities or damages resulting from the use of the Products in such environments or operations. Customer or OSRHE agrees that it will not use or license the Products for such purposes.

- G. Resale.** Customer or OSRHE represents and warrants that it is the end-user of the Products purchased or licensed hereunder and will only use the Products for internal business use, and that the Products are not being acquired by Customer or OSRHE for the purpose of resale or distribution.
- H. Third-Party Branded Products.** NetApp shall not be deemed to provide any warranty with respect to third-party branded products, and shall not be responsible for fulfillment of any warranty provided by others with respect to third-party branded products. Customer agrees to look to the manufacturer of any third-party branded products it purchases hereunder with respect to product warranty, service and other post-purchase issues.

Prior to purchase of a product, NetApp shall identify to Customers and OSRHE in the quote product description any third-party product which is not warranted by NetApp. Further, all available warranties associated with these third-party manufacturers' products or services can be found on <http://support.netapp.com>.

For purposes of clarification in this Agreement, third-party branded product means a product not manufactured by NetApp but sold under this Agreement in order to provide NetApp's complete recommended solution to Customers and OSRHE.

- I. EXCLUSIVE WARRANTIES.** THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR NON INFRINGEMENT. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS OF IMPLIED WARRANTIES.

NETAPP NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER OR GREATER LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION, SERVICING, MAINTENANCE OR USE OF ITS PRODUCTS, AND NETAPP MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO ANY NONSTANDARD OR THIRD-PARTY BRANDED PRODUCTS SUPPLIED BY IT HEREUNDER.

NETAPP SHALL NOT BE LIABLE UNDER THIS WARRANTY IF ITS TESTING AND EXAMINATION DISCLOSES THAT THE ALLEGED

DEFECT IN THE EQUIPMENT DOES NOT EXIST OR WAS CAUSE BY CUSTOMER'S OR ANY THIRD PERSON'S MISUSE, NEGLIGENCE, IMPROPER INSTALLATION OR TESTING, UNAUTHORIZED ATTEMPTS TO REPAIR, OR ANY OTHER CAUSE BEYOND THE RANGE OF THE INTENDED USE, OR BY ACCIDENT, FIRE, LIGHTNING, OR OTHER HAZARD OR EVENT OF FORCE MAJEURE

J. LIMITATION OF LIABILITY. TO THE EXTENT ANY LIMITATION OF LIABILITY CONTAINED HEREIN IS CONSTRUED BY A COURT OF COMPETENT JURISDICTION TO BE A LIMITATION OF LIABILITY IN VIOLATION OF OKLAHOMA LAW, SUCH LIMITATION OF LIABILITY SHALL BE VOID.

12. Internet Access to Contract. Access by Customers to Contract terms and pricing information shall be made available and posted on the OneNet website, www.onenet.net/services/managed-contracts/.

A. Accurate and Timely Contract Information. If the Manufacturer posts this Contract on its website, Manufacturer warrants and represents that Contract and related information will be accurately and completely posted, maintained and displayed in an objective and timely manner which renders it clearly distinguishable from other, non-Contract offerings at Manufacturer's website. Manufacturer shall reconcile errors or inaccuracies in such information, or from any failure to maintain or timely post Contract information in accordance with this paragraph.

B. Price Data Retention and Audit. Periodic audits of the information posted for this Contract on Manufacturer's website may be conducted by the OSRHE.

C. Use of Access Data Prohibited. If the Manufacturer stores, collects or maintains data electronically as a condition of accessing State Contract information, such data shall only be used internally by the Manufacturer for the purpose of implementing or marketing the Contract, and shall not be disseminated to third parties or used for other marketing purposes. This Contract constitutes a public document under the laws of the State and the Manufacturer shall not restrict access to the Contract terms and conditions, including pricing, i.e., through use of restrictive technology or passwords.

13. Notices. All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Contract shall be in writing and shall be valid on (i) the date of delivery if delivered by email, facsimile transmission, mailed by registered certified mail or hand delivered, or (ii) three business days after being mailed via United States Postal Service. The parties may from time to time specify any address in the United States as its address for purpose of notices under this Contract by giving fifteen (15) days written notice to the other party.

If sent to the OSHRE:

Director of Purchasing
Oklahoma State Regents for Higher Education
655 Research Parkway, Suite 200
Oklahoma City, OK 73104

If sent to the Manufacturer:

NetApp, Inc.
Attn: Legal Department
1921 Gallows Road, Suite 600
Vienna, VA 22182

14. **Handling of Written Complaints.** In addition to other remedies contained in this Contract, a person contracting with the OSRHE may direct their written complaints to the following office:

Director of Purchasing
Oklahoma State Regents for Higher Education
655 Research Parkway, Suite 200
Oklahoma City, OK 73104
Phone: 405-225-9206
Fax: 405-225-9230
Email: lhank@osrhe.edu

15. **Reporting.** The Manufacturer shall be responsible for reporting all products and services purchased through Resellers under this Contract. The OSRHE will have the right to verify required reports and to take any actions necessary to enforce its rights under this paragraph, including but not limited to, audit of the Manufacturer's books applicable to this Contract.

- A. **Detailed Quarterly Report.** The Manufacturer shall electronically provide the OSRHE with a detailed quarterly report in the format required by the OSRHE showing the dollar volume of any and all sales under this Contract for the previous quarter. Reports are due on the twenty-fifth (25th) day following the close of the previous quarter. It is the responsibility of the Manufacturer to collect and compile all sales under this Contract from participating Resellers and submit one (1) quarterly report. The quarterly report shall include the participating individual Reseller's company name, Reseller's sales for the period, the name of each Customer, order date, ship date, quantity, unit price, extended price, product part number, Customer Purchase Order number and other information as required by the OSRHE.

16. **Captions.** The captions contained in this Contract are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

17. **Choice of Law and Venue.** The laws of the State of Oklahoma shall govern the construction and interpretation of this Contract, and venue in any action to enforce the Contract shall be in Oklahoma County, Oklahoma. Nothing herein shall be construed to waive the State's sovereign immunity.
18. **Termination.**
- A. **Termination for Convenience.** The OSRHE may terminate this Contract, at will, at any time, with or without cause, by written notice to the Manufacturer given not less than thirty (30) days prior to the effective date of such notice. After the first six months, the Manufacturer may terminate this Agreement with 30 days' written notice to the OSRHE. In no event shall either party be liable for termination of this Contract pursuant to this Subsection.
- B. **Termination for Cause.** Either party shall have the right to terminate this Contract for cause if the other party:
- (i) Fails to perform any material term or condition of this Contract, and does not remedy the failure within thirty (30) days after receipt of written notice of such default given by the non-defaulting party; or
 - (ii) Becomes insolvent, files or has filed against it a petition under applicable bankruptcy or insolvency laws, proposes any dissolution, composition or financial reorganization with creditors, makes an assignment for the benefit of creditors, or if a receiver, trustee, custodian or similar agent is appointed or takes possession with respect to any property or business of the defaulting party.
- C. **Obligations upon Termination or Expiration.** The termination or expiration of this Contract shall in no way relieve either party from its obligations to pay the other party any sums accrued hereunder prior to such termination or expiration or affect the limitation of liability.
19. **Limitation of Liability.** The parties intend that each shall be responsible for its own intentional and negligent acts or omissions to act. The OSRHE or Customers shall be responsible for the acts and omissions to act of their officers and employees while acting within the scope of their employment according to the Governmental Tort Claims Act, 51 O.S., § 151, *et seq.* The Manufacturer shall be responsible for any damages or personal injury solely caused by the negligent acts or omissions to act by its officers, employees or agents. The Manufacturer agrees to indemnify and hold harmless the OSRHE and the Customer of any claims, demands and liabilities resulting from any act or omission to act on the part of the Manufacturer and/or its agents, servants and employees in the performance of this Contract; provided, however, that the Manufacturer shall not be liable for any actions, damages claims, liabilities, costs, expenses or losses in any way arising out of or relating to the goods provided or services performed hereunder for an

aggregate amount in excess of \$2,000,000 except in cases of fraud or willful or intentional misconduct. The OSRHE and/or the Customer shall promptly notify the Manufacturer of any such claims.

20. **Oklahoma Open Records Act.** Customers are governmental entities of the State of Oklahoma, by virtue of which they are subject to the Oklahoma Open Records Act ("ORA"), codified at 51 O.S., § 24.A.1, *et seq.* The parties agree that any provision of this Contract which conflicts with the ORA is ineffective. The Customers do undertake to protect proprietary information provided by the Manufacturer to the full extent permitted by the ORA.
21. **Employment Status Verification System.** The Manufacturer hereby certifies that it is registered with and participates in a Status Verification System, as defined in 25 O.S. §1312, to verify the work eligibility status of all new employees. The Manufacturer further certifies that all subcontractors approved to perform work under this Contract and which have employees are also registered with and participate in a Status Verification System. The Manufacturer and all approved subcontractors shall remain in compliance with all Federal, State and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract.
22. **Electronic and Information Technology Accessibility.** The Manufacturer must ensure compliance with the Oklahoma Information Technology Accessibility Standards. Pursuant to Title 74, Section 85.7d. and OAC 580:16-7-56 electronic and information technology procurements, solicitations, agreements, and contracts shall comply with applicable Oklahoma Information Technology Accessibility Standards issued by the Oklahoma Office of Management and Enterprise Services,. Standards may be found at [www.ok.gov/cio/Policy and Standards/](http://www.ok.gov/cio/Policy%20and%20Standards/).
 - 1) For Information Technology or Communications Products, Systems and Applications not requiring development and/or customization. The Manufacturer shall provide a description of conformance with the applicable Oklahoma Information Technology Accessibility Standards for the proposed product, system, or application by means of either a Voluntary Product Accessibility Template (VPAT) or other comparable document, upon request.

The Manufacturer shall indemnify and hold harmless the OSRHE of Oklahoma and any Oklahoma Government entity purchasing the products, systems, or applications not requiring development and/or customized by the Manufacturer from any third party claim arising out of the Manufacturer's failure to comply with applicable Oklahoma Information Technology Accessibility Standards subsequent to providing certification of compliance to such Standards; provided, however, that the Manufacturer shall not be liable for any actions, damages claims, liabilities, costs, expenses or losses in any way arising out of or relating to the goods provided or services performed hereunder for an aggregate amount in excess of \$2,000,000 except in cases of fraud or willful or intentional misconduct.

- 2) For Information Technology or Communications Products, Systems or Applications requiring development and/or customization. The Manufacturer shall provide a description of conformance with the applicable Oklahoma Information Technology Accessibility Standards for the proposed product, system, or application developed and/or customized by means of either a Voluntary Product Accessibility Template (VPAT) or other comparable document, upon request. Additional requirements and documentation may be required and compliance shall be necessary on the Manufacturer's part. Such requirements shall be stated in documents such as State Bids, Request for Proposals, Contracts, Agreements, Purchase Orders, and Amendments.

The Manufacturer shall indemnify and hold harmless the OSRHE of Oklahoma and any Oklahoma Government entity purchasing the products, systems, or applications from the Manufacturer, from any third party claim arising out of the Manufacturer's failure to comply with applicable Oklahoma Information Technology Accessibility Standards subsequent to providing certification of compliance to such Standards; provided, however, that the Manufacturer shall not be liable for any actions, damages claims, liabilities, costs, expenses or losses in any way arising out of or relating to the goods provided or services performed hereunder for an aggregate amount in excess of \$2,000,000 except in cases of fraud or willful or intentional misconduct.

The Manufacturer shall provide with any offer, a description of conformance with the applicable Oklahoma Information Technology Accessibility Standards for the proposed product, system or application development/customization by means of either completing a Voluntary Product Accessibility Template (VPAT) or other comparable document, upon request.

23. **Rights to Development.** NetApp will retain all right, title and interest in and to development tools, know-how, methodologies, processes, technologies or algorithms used in providing the services, that are based on trade secrets or proprietary information of NetApp. No license to any patents, trade secrets, trademarks and/or copyrights is deemed to be granted by either party to any of its patents, trade secrets, trademarks and/or copyrights except as otherwise expressly provide in this Contract. Rights associated with any proposed joint development projects will be subject to future discussion and a separate agreement with terms to be mutually agreed upon by both parties.
24. **Data and Recovery.** Customer or OSRHE shall be solely responsible for management of its data back-up, data recovery, and disaster recovery measures. To the extent permitted under Oklahoma law, NetApp shall not be responsible or held liable for any Customer or OSRHE's internal processes, procedures, or requirements to insure the protection, loss, confidentiality or security of Customer or OSRHE data or information.
25. **Export.** Customer or OSRHE acknowledges that the Products and technology supplied by NetApp under this contract are subject to export controls under the laws and regulations of the United States, and other countries as applicable, and that the Products,

and technology may include encryption. Customer or OSRHE agree(s) to comply with such laws and regulations, including, but not limited, to those governing use, export, re-export (to embargoed countries and entities), and transfer of the Products and NetApp-supplied technology. Customer or OSRHE shall obtain all required authorizations, permits, or licenses. Customer or OSRHE agree(s) to maintain full, true and accurate records of exports, re-exports, and transfers of the Products and technology, purchased/licensed and deployed or distributed for a minimum of five (5) years from date of shipment. Customer or OSRHE shall be deemed the principle party of interest (importer of record).

26. **Laws and Regulations.** All applicable state and federal laws, municipal ordinances and the rules and regulations of all authorities having jurisdiction over the project shall apply to this Contract throughout and they will be deemed to be included in this Contract the same as though written out in full herein.
27. **Equal Opportunity Employer.** The Manufacturer must maintain the status of an Equal Opportunity Employer, a provider of services and/or assistance, and in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Orders 11246 and 11375.
28. **Americans with Disabilities Act.** The Manufacturer must comply with the Americans with Disabilities Act of 1990 (Public Law 101-336) and all amendments and requirements imposed by the regulations issued pursuant to this Act.
29. **Federal, State and Local Taxes, Licenses and Permits.** The Manufacturer shall comply with all applicable laws and regulations on taxes, licenses and permits.
30. **Insurance Requirements.** The Manufacturer shall maintain the following insurance for the protection of itself and its officers, employees, agents, while carrying out its service responsibilities, under the provisions of this Contract:
 - A. **Workers' Compensation and Employer's Liability Insurance**
 - B. **Commercial General Liability Insurance** with a minimum combined single limit of \$1,000,000 for bodily injury and property damage and \$2,000,000 General Aggregate for bodily injury and property damage liability
 - C. **Comprehensive Automobile Liability Insurance** with a minimum combined single limit of \$1,000,000 for bodily injury and property damage. Coverage will apply to non-owned and hired vehicles

The Manufacturer shall provide the OSRHE or Customer with a Certificate of Insurance upon request and shall endeavor to provide the OSRHE or Customer written notification of any cancellation or termination of the above policies.

31. **Liens.** The Manufacturer shall keep the OSRHE free and clear from all liens asserted by any person or firm for any reason arising from the furnishing of services or materials by or to the Manufacturer.
32. **Intellectual Property Indemnity**
- A. **Indemnity.** NetApp shall defend and indemnify Customer or OSRHE against any claim made against it by an unaffiliated third party alleging that the Products infringe the third party's United States patents, copyrights or trademarks, as of the date the Products are shipped to Customer or OSRHE (the "Claim"); Provided that Customer or OSRHE has notified NetApp of the Claim promptly in writing, provided full information and reasonable assistance to NetApp, and to the extent permitted by Oklahoma law, give NetApp full and sole authority and opportunity to direct the defense and settlement thereof.
- B. **Limitations.**
- i) **Damages.** NetApp's liability with respect to any Claim shall be limited to paying damages arising therefrom (including reasonable attorneys' fees and court costs) as awarded by a court of competent jurisdiction in a final judgment against Customer or OSRHE or, if settled, to paying any amount owed pursuant to a settlement agreement entered into by NetApp.
- ii) **Exclusions.** NetApp shall have no liability for either Claims or related damages resulting from (a) unauthorized modification or use of the Products when the Claim or damages would not have occurred but for such modification or use; (b) combination, operation, or use of the Products with any products not provided by NetApp when the Claim or damages would not have occurred but for such combination, operation or use; or (c) Customer's or OSRHE failure to install an upgrade or new version available from NetApp when the Claim or damages would not have occurred but for such failure. To this extent permitted under Oklahoma law, Customer or OSRH shall reimburse NetApp for any costs or damages that result from these actions.
- C. **Options.** In the event NetApp wishes to reduce its potential liability hereunder or the Products become subject to an injunction, Customer or OSRHE agrees to permit NetApp, at NetApp's option, to take any of the following actions, in the order as provide (a) obtain for Customer or OSRHE, at NetApp's expense, the right to continue use of the Product, (b) replace the Product with a functional equivalent; (c) modify the Product as long as it remains a functional equivalent; or (d) take back the Product and refund to Customer or OSRHE the purchase price paid therefor (not including fees for Services performed), less depreciation amortized on a straight line basis over a three (3) year period from date of shipment.
- D. **Product Coverage.** Section 32A shall apply only to Products purchased or licensed under this Contract, which are not third party-branded Products. NetApp shall not be deemed to provide any indemnification with respect to third party-

branded products and Customer or OSRHE shall look solely to the manufacturer of such products with respect to intellectual property claims. Descriptions of manufacturer indemnifications applicable to third party-branded products purchased from NetApp will be available upon request.

- E. Remedies.** TO THE EXTENT ANY LIMITATION OF LIABILITY CONTAINED HEREIN IS CONSTRUED BY A COURT OF COMPETENT JURISDICTION OT BE A LIMITATION OF LIABILITY IN VIOLATION OF OKLAHOMA LAW, SUCH LIMITATION OF LIABILITY SHALL BE VOID. Other than with respect to the preceding statement, this Section 32 sets out NetApp's entire obligation and Customer's and OSRHE's sole and exclusive remedy regarding any and all intellectual property claims.
33. **Force Majeure.** Neither party shall be liable to the other for any alleged loss or damages resulting from the delivery or warranty of the Products, or performance of Services being delayed by acts of the OSRHE or Customer, acts of civil or military authority, governmental priorities, fire, floods, earthquakes, epidemics, quarantine, energy crises, strikes, labor trouble, terrorism, war, riots, accidents, shortages, delays in transportation, or any other causes beyond the reasonable control of the Manufacturer.
34. **Survival.** The sections of this Contract which by their essential purpose shall survive any expiration or termination, will survive such expiration or termination.
35. **Waiver.** A waiver by either party of any default, or of any of the terms and conditions of this Contract shall not be deemed to be a waiver of any other default or of any other term or condition. Either party's exercise of any right or remedy provided in this Contract shall be without prejudice to its right to exercise any other right or remedy.
36. **Severability.** In the event any provision of this Contract shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that the obligations of the parties shall remain in full force and effect and the rights of the parties shall not in any way be affected or impaired thereby.
37. **Assignment.** This Contract and the licenses granted hereunder are personal to the OSRHE or Customer. No party shall assign, sublicense or transfer this Contract or any of the licenses without prior written approval of the other applicable party; such approval shall not be unreasonably withheld. Any attempt to assign without prior written approval will be void.
38. **Independent Contractors.** Both parties are acting solely as independent contractors and not as an agent of the other party. Consultants and independent contractors furnished by the respective parties shall be solely the employees or agents of such parties, respectively, and shall be under the sole and exclusive direction and control of such parties. They shall not be considered employees of the other party for any purpose.

39. **Non-Exclusivity.** For the duration of the contractual agreement, the OSRHE will retain the right to utilize the services of other vendors, including in-house resources, for projects not assigned to the Manufacturer.
40. **Access to Records.** Manufacturer shall maintain all fiscal records and any other records relating to this Contract in such a manner as to clearly document the Manufacturer's performance hereunder for a period of six years from the end of each contract year. The OSRHE or any of its duly authorized representatives shall have access to any books, documents, papers and records of the Manufacturer which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions.
41. **US Government Acquisition.**
- A. **Restricted U.S. Government Rights.** If Customer of OSRHE is an agency or instrumentality of the United States Government: software Product is provided with Restricted Rights under Department of Defense (DOD) Supplemental to the Federal Acquisition Regulations (DFARS); the software Product has been developed at private expense; no portion of the software Product has been developed with U. S. Government funds; the software Product contains trade secrets and proprietary information of NetApp; and the ownership of the software Product and any reproductions shall remain with NetApp. Use, duplication or disclosure by the U. S. Government is subject to restrictions as set forth in subparagraph (c)(ii) of the Rights in Technical Data and Computer Software clause of DFARS 252.227-7013 of subparagraph (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable.
- B. **Government Acquisition.** If Customer or OSRHE is acquiring the software Product and accompanying software documentation on behalf of the U. S. Government, special provisions apply. If the software Product is supplied to the DOD, the software Product is subject to "Restricted Rights," as the term is defined in the DFARS in paragraph 252.227-7013(c)(1). If the software Product is supplied to any unit or agency of the United States Government other than DOD, the Government's rights in the software Product will be defined in paragraph 52.227-19(c)(1) or (2) of the Federal Acquisition Regulations (FAR), as applicable. Use, duplication, reproduction or disclosure by the Government is subject to such restrictions or successor provisions. Contractor/Manufacturer is NetApp, Inc., 495 East Java Drive, Sunnyvale, CA 94089. Except as expressly licensed hereunder, all rights are reserved.

IN WITNESS WHEREOF, the authorized representatives of the parties therefore hereby execute their mutual agreement to the terms of this Contract. This Contract shall be executed and shall be a binding Contract between the parties.

NetApp, Inc.

By: 

Name: MARK WEDER

Title: SB Vice President

Date: 8/24/2014

Oklahoma State Regents for Higher Education

By: 

Name: Amanda Paliotta

Title: Vice Chancellor for Budget &
Fiscal Affairs, Information
Technology, Telecommunications &
OneNet

Date: 8/21/14

Approved
As To Form
Initials 

EXHIBIT A

Authorized Sales Partners (Resellers)

CDW-G
230 N Milwaukee Ave
Vernon Hills, IL 60061
Contact Name: Matt Davidson, SLED Account Manager
Email Address: matdavi@cdwg.com
Phone: (312) 705-4502
FAX: (312) 705-9429

DLT Solutions, LLC
13861 Sunrise Valley Dr., Ste. 400
Herndon, VA 20171
Contact Name: Susan Patrick-Britton
Email Address: susan.patrick@dlit.com
Phone: (703) 773-8985
FAX: (866) 708-7033

ISG Technology Inc.
127 N 7th St
Salina, KS 67401
Contact Name: Donna Bond
Email Address: dbond@isgtech.com
Phone: (405) 516-7478
FAX: (405) 773-2711

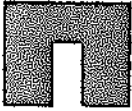
Lumenate
17000 Dallas Parkway #120
Dallas, TX 85248
Contact Name: Mike Fields
Email Address: mike.fields@lumenate.com
Phone: (972) 248-8999 X 134
FAX: (972) 248-8998

Peak Methods Inc., dba Peak Uptime
823 S Detroit Ave #200
Tulsa, OK 74120
Contact Name: Lacey Taylor
Email Address: lacey.taylor@peakuptime.com
Phone: (918) 591-2269
FAX: (918) 585-5615

Presidio Networked Solutions, Inc.
705 S. Yale Ave, Suite 111
Tulsa, OK 74136
Contact Name: David Dollar, Account Manager
Email Address: ddollar@presidio.com
Phone: (918) 925-9453 Cell (918) 408-9868
FAX: (972) 956-9518

EXHIBIT B**NetApp, Inc.****Oklahoma OSHRE Discount Schedule**

Category	Type	Description	Discount from List
A	Hardware	Legacy discount category. Enterprise platform controllers and related misc. hardware	18%
B	Storage	Legacy discount category. Enterprise platform storage and related misc. hardware	18%
C	Third Party	Third party bundled hardware, software and maintenance	5%
D	Hardware/Storage	Entry platform controllers, storage, bundles and other related misc. hardware	10%
E	Software	Enterprise heterogeneous storage monitoring software	18%
J	Software	Legacy discount category. Enterprise platform software	18%
K	Software	Entry platform software	10%
L	Hardware	Enterprise platform controllers and related misc. hardware	18%
M	Storage	Enterprise platform storage and related misc. hardware	18%
N	Software	Enterprise platform software	18%
P	Professional Services	Professional services	15%
S	Support	Support and services for A, B, J, D, K products	15%
T	Support	Support and services for L, M, N products	15%
V	Support	Support services renewals for L, M, N products	15%
W	Support	Support services renewals for A, B, J, D, K products	15%



NetApp

Exhibit C

END USER LICENSE AGREEMENT

This end user license agreement ("Agreement") is a contractual agreement between you ("You" or "Your") and NetApp ("NetApp"), and provides the terms under which NetApp licenses its i) software, including where relevant, backup and recovery, disaster recovery, storage efficiency and management software, operating systems, protocols, updates and upgrades ("Software"), and ii) technical documentation describing the Software ("Documentation") to You, whether supplied by NetApp, Your NetApp distributor, reseller or partner. Any support is provided under a separate agreement.

1. Intentionally omitted.

2. License Grant. Subject to the terms of this Agreement, NetApp grants to You a personal, non-exclusive, worldwide, limited and terminable license, without the right to sublicense, to i) install and use the Software (in object code form) for Your internal business purposes, and ii) use the Documentation in support of Your use of the Software. The Software may either be licensed for use with i) a specific storage controller identified by a unique serial number ("Controller-based licenses"), or ii) independent of a storage controller ("Standalone licenses"). Software is licensed in accordance with one of the following license types:

- a) "Life-of-controller licenses": Controller-based licenses granted for the period of time during which Your controller is operable;
- b) "Perpetual licenses": Standalone licenses granted in perpetuity;
- c) "Term licenses": Controller-based licenses or Standalone licenses granted for a fixed period of time;
- d) "Capacity licenses": Controller-based licenses or Standalone licenses granted for a specified amount of storage capacity or usage; and
- e) "Subscription licenses": Term licenses or Capacity licenses which may be purchased on a periodic basis.

Certain license types may require the installation and use of AutoSupport™.

Each storage controller deployed in a cluster or a high-availability pair or group must have the same Controller-based licenses as the other storage controllers in that cluster, high-availability pair or group. Subject to NetApp's prior written agreement, and in the context of non-disruptive operations within a cluster, You may deploy storage controllers with different Controller-based licenses and failover from one storage controller to another for the time required to remedy a failure, provided that all storage controllers in the cluster have the same hardware and software support offerings in effect at all times.

Use of the Software outside of the scope of this Agreement constitutes a material breach and You agree to promptly pay to NetApp any additional license fees notified by NetApp, calculated in accordance with NetApp's price list.

3. License Restrictions. Except as otherwise expressly licensed to You, You shall not, nor shall You allow any third party to:

- a) reverse-engineer, decompile or disassemble the Software or otherwise reduce it to human-readable form except to the extent required for interoperability purposes under applicable laws or as expressly permitted in open-source licenses;
- b) remove or conceal any product identification, copyright, proprietary, patent or other notices in the Software and Documentation;
- c) assign or otherwise transfer, in whole or in part, the Software and Documentation licenses to another party or Controller-based licenses to a different storage controller;
- d) use the Software and Documentation to perform services for third parties in a service bureau, managed services, commercial hosting services or similar environment;
- e) modify, adapt or create a derivative work of the Software and Documentation; and
- f) publish or provide any Software benchmark or comparison test results.

4. Intellectual Property Rights And Protection. The Software and Documentation is licensed, not sold, to You. It is protected by intellectual property laws and treaties worldwide, and contains trade secrets, in which NetApp and its



NetApp

Exhibit C

licensors reserve and retain all rights not expressly granted to You. No right, title or interest to any trademark, service mark, logo or trade name, of NetApp or its licensors is granted to You.

NetApp will defend You against claims brought by a third party alleging that the Software infringes any patent, trademark or copyright ("IP Claim") and indemnify You for a settlement amount or the judgment amount finally awarded for such IP Claim (collectively, "Damages") provided that You have:

- a) promptly notified NetApp in writing of the IP Claim;
- b) provided information and assistance to NetApp; and
- c) given NetApp sole control of the defense and settlement negotiations.

NetApp has no liability for claims that arise from:

- a) unauthorized modification or use of the Software by You or a third party;
- b) combination, operation, or use of the Software with any products not provided by NetApp;
- c) services offered by You or revenues earned by You for such services;
- d) NetApp's compliance with or use of Your designs, specifications, instructions or technical information provided by You or a third party on Your behalf; or
- e) Your failure to install an upgrade, new version, change or modification made available or requested by NetApp.

NetApp may, at its discretion:

- a) substitute the Software with a functional equivalent in all material respects;
- b) modify the Software so long as it remains a functional equivalent in all material respects;
- c) obtain for You, at NetApp's expense, the right to continue use of the Software; or
- d) take back such Software and refund to You the purchase price paid for it, less depreciation amortized on a straight line basis over a three (3) year period from date of first delivery of the Software to You.

NetApp's cumulative aggregate liability arising under this section 4 will not exceed USD\$500,000. To the extent permitted by applicable laws, this section 4 sets out Your exclusive remedies for any IP Claim.

5. Direct Warranty. NetApp warrants to You that for a period of ninety (90) days from the date of first delivery of the Software to You, Your NetApp distributor, reseller or partner, whichever is the earlier, or such other minimum periods under applicable laws, (the "Software Warranty Period"), for the initially-shipped version of such Software, that i) the Software will materially conform to the then-current Documentation in effect on the date of Software delivery, and ii) the media containing the Software will be free from physical defects. NetApp does not warrant that Your use of the Software will be error-free or uninterrupted. In the event of any material defect in the Software during the Software Warranty Period, NetApp will, at its sole discretion and expense, repair or replace the Software, or refund the purchase price paid by You for the non-conforming Software. This warranty covers only material defects in the Software that are reproducible and verifiable and does not cover software, other items, or any services provided by persons other than NetApp or a NetApp distributor, reseller or partner. The Software warranty will be void if You or any third parties misuse, neglect, improperly install or test, attempt to repair or modify (except as authorized by NetApp in writing), or use the Software beyond the range of the intended use. **TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND NO OTHER WARRANTY OR REMEDY, WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED. NETAPP SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, ACCEPTABLE QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.**

6. Intentionally omitted.

7. Audit. You grant NetApp and its independent accountants the right to examine Your Software usage once annually during regular business hours upon reasonable notice to verify compliance with this Agreement. If the audit discloses material non-compliance, You shall promptly pay to NetApp any additional license fees notified by NetApp, calculated in accordance with NetApp's price list, and the reasonable costs of conducting such audit, if any. Following any non-compliance, you may be subjected to more frequent audits.



Exhibit C

8. Termination. This Agreement is effective until terminated. You may terminate the Agreement at any time on written notice to NetApp. NetApp may terminate this Agreement immediately on written notice to You if You commit a material breach of the Agreement, including remitting payments when due (whether payable to NetApp or its authorized third party financing partners in connection with an Approved Financing Agreement, described in section 13 below) and, in the event that the breach is remediable, fail to remedy it within thirty (30) days of NetApp's written notice requiring You to do so. Upon termination of this Agreement, all rights to use the Software and Documentation cease and You shall, at NetApp's request, promptly return or destroy all copies of the Software and Documentation, including any license enablement keys, in Your possession or under Your control. Sections 1, 3, 4, 5, 6, 8, 10, 11, 12, 13, 14 and 15 shall survive termination of this Agreement.

9. Software Copyright Information And Notices. Software copyright information and other related details are included as part of notices in the Documentation or other documentation published by NetApp (e.g. NOTICES.TXT or NOTICES.PDF).

10. U.S. Government Regulations. Software and Documentation license rights granted to governments and other public sector entities include only those rights customarily provided to commercial end-user customers. In particular, NetApp provides the licenses for Software and Documentation in this Agreement to the U.S. federal government pursuant to FAR 12.211 (Technical Data) and 12.212 (Computer Software) and for the Department of Defense pursuant to DFARS 252.227-7015 (Technical Data - Commercial Items) and DFARS 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation).

Some Software components have been designed to enable compliance with 'non-rewriteable and non-erasable' US government regulations. When enabled, they i) will preserve data in a non-rewriteable and non-erasable format, ii) may disable other Software restoration functionality, and iii) could limit support and recovery procedures, if relevant. You will ensure that Your internal processes and systems, including but not limited to the use of the Software, comply with all applicable "non-rewriteable and non-erasable" US government regulations. NetApp fully disclaims any associated liability.

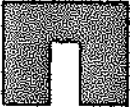
11. Export Control Laws And Regulations. The Software and Documentation is subject to applicable export control laws and regulations of the United States and other countries and You agree to comply with them. You represent and warrant that You:

- a) will not, directly or indirectly, export or re-export the Software and Documentation to, or use the Software and Documentation in, countries subject to U.S. embargoes or trade sanctions programs, unless authorized by U.S. export licenses or other government authorizations (as of December 2012, these countries are: Cuba, North Korea, Iran, Sudan and Syria);
- b) will comply with any updates and revisions that the U.S. Government makes to the sanctions, embargoes and the list of countries specified in section 11(a) above;
- c) are not a party, nor will you export or re-export to a party, identified on any government export exclusion lists, including but not limited to the U.S. Denied Persons, Entity, and Specially Designated Nationals Lists; and
- d) will not use the Software and Documentation for any purposes prohibited by United States law, including but without limitation, the development, design, manufacture or production of nuclear, missile, chemical, biological weaponry or other weapons of mass destruction.

12. Data Privacy. You have sole responsibility for personal data managed or stored using the Software and agree to comply with all applicable data privacy laws.

13. Financed Software. This Agreement also applies to "Financed Software," which means Software and Documentation licensed to You for a limited period of use pursuant to the terms of a financing agreement between You and NetApp or its authorized third party financing partner (an "Approved Financing Agreement"), subject to the following:

- a) The particular Financed Software, period of use, installation site and other transaction-specific conditions shall be as agreed in the applicable Approved Financing Agreement; and
- b) Notwithstanding any contrary terms in this Agreement, all licenses for Financed Software terminate at the expiration of the term of the Approved Financing Agreement or when sooner terminated by NetApp (whether in accordance with this Agreement or the Approved Financing Agreement).



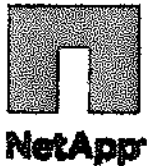
NetApp

Exhibit C

You agree that the license granted under section 2 above and NetApp's termination rights under section 8 above may be affected by an authorized third party financing partner's rights under the applicable Approved Financing Agreement, even if such partner has paid to NetApp all or any portion of the license fees for the Financed Software.

14. Evaluation Software. Subject to the terms of this Agreement, as amended by this section 14, NetApp may grant to You evaluation licenses for the Software and Documentation at no cost for a ninety (90) days period from the initial delivery of the Software to You, Your NetApp distributor, reseller or partner, whichever is the earlier, or such other period as agreed by NetApp in writing. Such licenses may only be used in a non-production environment to assess the suitability of the Software and Documentation for Your needs. Notwithstanding section 5 above, the evaluation Software and Documentation is licensed to You on an "AS IS" basis and all warranties, whether express, implied, statutory or otherwise are excluded to the maximum extent permitted by applicable laws.

15. General. If required by NetApp's agreement with a third party licensor, NetApp's licensor shall be a direct and intended third party beneficiary of this Agreement and may enforce it directly against You.



**NetApp Professional Services
Statement of Work
(Direct Custom Firm Fixed Price)**

S/O No. [_____]

**EXHIBIT D
Firm Fixed Price
Statement of Work**

This Statement of Work ("SOW") is entered on this _____ day of _____, 201_ ("SOW Effective Date") by and between **NetApp, Inc.**, a Delaware corporation located at 495 East Java Drive, Sunnyvale, California 94089 ("NetApp") and *<Insert complete Customer name>* located at *<Insert complete Customer address>* ("Customer"). This SOW is governed by the terms and conditions of the Contract No. C1403 Agreement between NetApp, Inc. and Oklahoma State Regents for Higher Education with an Effective Date of March 1, 2014 (the "Agreement"). Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

Summary of Terms

Service Background

Project Name/Solution: *<Insert project name>*

Customer has requested NetApp to provide technical consulting services ("Professional Services") in connection with Customer's Data Storage Environment, utilizing, among other third party equipment, the NetApp manufactured and/or distributed equipment which is owned or licensed by Customer ("Customer Equipment") as listed in Section 3. NetApp will provide the Professional Services defined in Section 1 on a Custom Firm-Fixed Price ("CFFP") basis in accordance with the terms of this SOW.

Fees

Customer will pay to NetApp for the performance of the Professional Services the fees as set forth in Section 7 below the ("SOW Fees").

The SOW Fees are based on the terms and scope of the Professional Services set forth in Section 1 of this SOW which together constitutes the entire agreement and understanding of the parties in relation to the Professional Services being performed under this SOW. Any change to the terms of this SOW or the scope of Professional Services whether by the failure to meet a responsibility, a Change Request Form, or a Constructive Change may result in a modification to the SOW Fees.

Approval

The authorized representatives of the parties hereby bind the parties to the terms of this SOW by signing below:

Identification of Parties			
Customer		NetApp	
Company Name:		Entity Name:	
Signature		Signature	
Name (print)		Name (print)	
Title		Title	
Date		Date	
Customer Address	<Insert address of Customer Signatory>	NetApp Address:	1921 Gallows Road, Suite 600 Vienna, VA 22182

<Note to EM: If you are using EchoSign modify or remove this instruction block.> Instructions: Please print two copies of this SOW, sign both copies, and mail both signed copies to: NetApp, Inc., Attention: <Insert PS Signatory's name and office address or insert EMAIL contact>. NetApp will execute both SOW copies and will return a fully executed copy of the SOW to the Customer Project Lead listed in Section 8.

1. PROFESSIONAL SERVICES

NetApp will provide the following Professional Services to the Customer under this SOW.

1.1 Detailed Tasks

As part of the Professional Services, NetApp will perform the following detailed tasks:

1.2 Deliverables

In connection with the Professional Services, NetApp will provide the following supplementary, collateral materials (the "Deliverables") to Customer in a format or method mutually agreed upon between the parties:

1.3 Project Exclusions/Out of Scope Activities *<if applicable>*

Project exclusions are any items that are not expressly included in this SOW, and include the items below. Any changes may require a Change Request in accordance with the Project Change Process defined in Section 6.

- a. *<Insert any exclusions or out of scope activities specific to this engagement>*

1.4 Project Scope Assumptions and Customer Responsibilities *<if applicable>*

The following assumptions are hereby acknowledged by the parties and apply to the performance of the Professional Services under this SOW. If any information is inaccurate, incorrect or incomplete during the project, or if Customer fails to meet the responsibilities identified in this SOW, a Change Request may be required in accordance with the Project Change Process defined in Section 6.

- a. Customer is required to provide NetApp with five (5) business days advanced notice of any change to a scheduled event. Should the Customer be unable to provide this advanced notice for any reason and/or if the change to the scheduled event extends the project duration, a Change Request may be required in accordance with Section 6.
- b. Customer will upgrade Customer Equipment in Section 3.1 (e.g. revisions, patches, etc.) as identified in the Interoperability Matrix Tool Report, previously provided prior to commencement of the Professional Services
- c. *<Insert any additional assumptions specific to this engagement>*
- d. *<Note to EM: Add where Project Plan is applicable>*
 - Within the first *<#>* of days of project initiation, a detailed Project Plan, including all critical path items relating to Customer responsibilities, will be created. If for any reason said critical path Customer responsibilities are delayed, a Change Request may be required in accordance with the Project Change Process defined in Section 6.

2. SCHEDULE OF PERFORMANCE

Estimated Professional Services Start Date: _____

Professional Services End Date: _____ delivery duration is based upon *<insert number>* consecutive *<weeks/months>* from the actual start date

NetApp will use commercially reasonable efforts to commence performance of the Professional Services within *<four (4)>* weeks from the date of Customer's approved purchase order and the signed Statement of Work.

Failure to complete the project by the Professional Services End Date specified above may require a NetApp Change Request Form signed by both parties in accordance with the Project Change Process defined in Section 6 below. Any extension of the project's duration for any reason other than delays caused solely by NetApp may require an increase in the SOW Fees.

3. CUSTOMER SITES & EQUIPMENT

The Professional Services may be performed on the Customer Equipment located at the Customer sites (the "Customer Site") specified below:

Customer Site (City & State)	Customer Equipment (Serial # and/or Model #)

<Note to SP: List the City & State of each location where work is to be performed. Indicate if the work is to be "remotely" performed, or done "on-site". Include specificity, such as "site of origin" and/or "site of destination" as appropriate. If there are additional sites required during the course of the project, a Change Request may be created to expand the Customer Site list.>

4. ASSUMPTIONS AND RESPONSIBILITIES

4.1 Assumptions

The following assumptions are hereby acknowledged by the parties and apply to the performance of the Professional Services under this SOW:

- NetApp is not responsible for any application or host system access that encompasses coding, scripting, application analysis, system performance, troubleshooting, or applications logins outside of the Professional Services expressly described in this SOW. Changes to this SOW will be documented using a Project Change Request Form in accordance with the process outlined in Section 6 of this SOW.
- Professional Services not requiring presence onsite may be performed remotely at NetApp facilities.
- NetApp may submit weekly written status reports on the Professional Services being performed under this SOW.
- This SOW applies to Professional Services only. Customer is solely responsible to separately obtain and/or prepare any and all hardware and software required by Customer in relation to the Professional Services.
- Unless otherwise agreed in writing between the parties, NetApp reserves the right to subcontract any or all portions of the Professional Services that NetApp is obligated to perform under this SOW.
- NetApp will provide a remote or onsite Project Lead ("NetApp Project Lead") with the qualifications, expertise, and knowledge to lead, coordinate and manage NetApp's obligations under this SOW.

4.2 Customer Responsibilities

Completion of the Professional Services by NetApp is contingent upon Customer fulfilling the following responsibilities. Any inability or delay in fulfilling these responsibilities may require a Change Request in accordance with the Project Change Process described in this SOW.

- a. Customer will complete all necessary facilities arrangements prior to the commencement of the Professional Services which will include but not be limited to such items as power, network connections, floor space, and cooling. Such required facility arrangements must be in place for the duration of this SOW.
- b. Customer shall be solely responsible for management and adequacy of its data backup, data recovery, and disaster recovery measures. Notwithstanding anything to the contrary, NetApp shall not be responsible or held liable for any Customer internal processes, procedures, or requirements, or otherwise to ensure the protection against loss or corruption, availability, confidentiality, resulting project delays and/or Customer downtime or security of data or information or lack thereof.
- c. Customer will make knowledgeable staff and system administrators available to NetApp promptly upon a request via pager, telephone, or cell phone. These contacts are to provide background information and clarification of information required to perform the Professional Services for the duration of the SOW.
- d. Documentation and information provided to NetApp staff by Customer must be accurate, complete, and up-to-date (e.g. ensure correct configuration).
- e. Customer will be responsible for any business and data application testing and all necessary data backup in preparation for and during the performance of the Professional Services.
- f. Customer will provide NetApp consultants adequate onsite access to office space, equipment, and telephones with outside lines and standard Internet and remote access, for the duration of this SOW, as required.
- g. Should the project plan rely on electronic/network transfer of data, Customer will provision and enable any network components or services required to facilitate the data transfer, or provide remote access as required.
- h. Customer will provide security passes to allow NetApp access, the ability to enter and leave Customer Sites with laptop personal computers, and any other materials related to the Professional Services.
- i. If required by NetApp, Customer will participate in testing as directed by NetApp.
- j. Customer is responsible for all communication to Customer's internal users, including notification of maintenance and migration windows, as required.
- k. Customer will run and verify successful data backups prior to NetApp's arrival on-site.
- l. Customer will provide a Project Lead ("Customer Project Lead") with the qualifications, expertise, and knowledge who is authorized by Customer to act as a liaison between Customer and NetApp. The Customer Project Lead will assume the responsibilities detailed in this SOW.
- m. Customer warrants that it has obtained any and all permissions and/or licenses from third parties necessary for NetApp or a NetApp subcontractor to successfully perform the Professional Services, and hereby grants NetApp and its subcontractors all necessary licenses for NetApp or a NetApp subcontractor to successfully perform the Professional Services.
- n. If the engagement is related to or in support of an opportunity which includes classified information, the Customer shall provide to NetApp the DD-254, or appropriate equivalent documentation regarding safeguarding classified information no less than five (5) days prior to work commencement.
- o. Customer shall execute a Certificate of Completion, in accordance with Section 5 herein.

5. CERTIFICATE OF COMPLETION

5.1 Initial Presentation

NetApp will present Customer with a Certificate of Completion ("CoC"), either physically or electronically, in the form of Attachment B to this SOW, upon completion of the Professional Services (and upon completion of each Phase listed in Section 1, if applicable). Customer will execute and return the CoC, or provide electronic (email) acceptance, acknowledging acceptance of the Professional Services and will return the CoC to NetApp, in accordance with the mailing instructions described in Attachment B below, within five (5) business days from the date of Customer's receipt of the CoC.

5.2 Notification of Non-Approval

If Customer reasonably believes that NetApp did not complete the Professional Services in substantial conformance with Section 1 of this SOW, Customer will notify NetApp in writing of its specific reasons for rejection of the Professional Services within five (5) business days from delivery of the CoC to Customer. NetApp will address Customer's issues and then will re-present the CoC for Customer's execution in accordance with the requirements of this Section 5.

5.3 Final Acceptance

"If NetApp does not receive the signed or electronic (email) acceptance of the CoC, or a written notification of the reasons for the rejection of Professional Services from Customer within five (5) business days of delivery of a CoC to Customer, NetApp shall contact the Customer for final written acceptance, which shall not be unreasonably withheld."

6. PROJECT CHANGE PROCESS

The Professional Services described in the SOW are based upon NetApp's understanding of Customer's Sites and Data Storage Environment as of the SOW Effective Date. Any substantive change to the Customer Sites, the IT environment or any latent or unusual conditions that impact the scope, cost, manner, method, or schedule to perform; if Customer fails to meet their responsibilities or provide accurate, correct and complete information, or does not provide requested information in a timely fashion, or requests that alter scope tasks, deliverables, assumptions or schedule will be subject to the Project Change Process.

6.1 Change Initiation

The Professional Services described in the SOW are based upon NetApp's understanding of Customer's Sites and IT environment as of the SOW Effective Date.

Either party may initiate change requests for reasons that may include regulatory changes, changes in the technical scope, or other detailed project issue(s) or requirement(s) (each a "Change Request"). The Initiating Project Lead will submit each Change Request Form to the other party's Project Lead as listed in Section 8, and then both parties will review such Change Request to ensure feasibility.

Change Requests must be submitted using the Change Request Form set forth in Attachment A, (the "Change Request Form"). Both NetApp and Customer must agree within one (1) business day of the receipt of the Change Request Form by the non-initiating party whether or not to continue performance of the Professional Services or to stop all Professional Services being performed until a mutually agreed upon Change Request Form has been signed by both parties.

6.2 Change Request Review

Upon receipt and review of a Change Request Form, the NetApp Project Lead will review it to determine feasibility and acceptability of the Change Request, and inform the Customer. NetApp reserves the right to reject any Change Request at its discretion.

6.3 Cost Estimate Preparation

If the NetApp Project Lead determines that the Change Request impacts the pricing or scheduling of Professional Services of this SOW, NetApp will provide Customer with a cost estimate based on the scope contained in the Change Request Form.

6.4 Change Implementation

Implementing any Change Request requires a Change Request Form executed by NetApp and Customer which shall be incorporated herein by reference. Additionally, when pricing is impacted by the Change Request, receipt of Customer's Change Order to Customer's existing purchase order, or an additional purchase order is also required.

7. FEES DESCRIPTION AND PAYMENT

7.1 Professional Services SOW Fees

Customer will pay to NetApp the fees stated in NetApp Sales Quote # QQQQ dated DDDD for the performance of the Professional Services under this SOW.

7.2 Purchase Order Requirement

Prior to commencement of the Professional Services NetApp requires an executed purchase order, acceptable to NetApp, reflecting the total amount shown in 7.1 above.

7.3 Payments *<Select from the following options for invoicing the SOW Fees >*

<Note to EM: If the project duration is > 12 months, please create 2+ lines in the CLIPS which trigger invoicing prior to the end of the first year of the project. The multiple lines need to be captured in the "Instructions to the Quoter". Each line should be based on acceptance of a specific phase(s) and based on LOE. The purpose is to avoid delivering an entire project when the Customer expired the P.O., because NetApp did not invoice until the project's completion. Select Option 3 below and follow the instructions for Milestone Invoicing in the Best Practices document (<http://communities.netapp.com/docs/DOC-6975>) to create a table showing the invoicing schedule.>

Option # 1: For a FFP Part Number or a combination of FFP and CFFP Part Numbers, insert the following language and remove quotation marks:

"SOW Fees, as described in Section 7.1 above, will be billed upon acceptance of Customer's purchase order."

Option # 2: For a CFFP Part Number, insert the following language and remove quotation marks:

"SOW Fees, as described in Section 7.1 above, will be billed upon project's acceptance as identified in Section 5."

Option # 3: For Milestone invoicing:

"SOW Fees, as described in Section 7.1 above, will be billed upon acceptance of each Phase as identified in the table below." *<Insert table following directions from the Best Practices document referenced in the note above>*

7.4 Travel & Expenses <Select from the following options for invoicing T&E>

"Travel and Expenses ("T&E") are included in the SOW Fees in Section 7.1, unless otherwise identified separately."

8. PROJECT LEAD CONTACT LIST & RESPONSIBILITIES

Both the NetApp and Customer Project Leads identified will ensure the following responsibilities are met as are reasonably applicable to the Professional Services being performed:

8.1 Authorized Representative

Each Project Lead will ensure that an authorized representative of their respective party will approve Professional Services documentation.

8.2 Responsibilities

Coordinate, schedule and monitor all resources and activities related to the Professional Services described in this SOW, and all activities related to the Project Change Process described in this SOW.

8.3 Single Point of Contact

Act as the focal points for communications between Customer and NetApp during the provision of the Professional Services, manage and execute the Project Change Process, and attending all meetings, as applicable.

Customer Project Lead Contact		NetApp Project Lead Contact	
Name		Name	
Title		Title	
Email		Email	
Phone		Phone	

9. TERM OF SOW

The SOW Term will begin on the SOW Effective Date. The SOW Term will end (i) upon Customer's signature on the Certificate of Completion, (ii) upon deemed or electronic acceptance as described in Section 5, or (iii) unless terminated earlier by either party under the termination clause. If performance of the Professional Services does not commence within ninety (90) days of the SOW Effective Date, the SOW will automatically terminate in the absence of a written SOW Change Request rescheduling the Professional Services. Unless this SOW is executed by Customer within forty-five (45) days from the SOW Effective Date, this SOW will automatically expire on the forty-sixth (46th) day, unless otherwise agreed upon by NetApp.



Attachment A

NetApp Change Request Form

Customer Company Name	Change Request Number	Change Request Submittal Date
Project Name	Request Originator [NetApp / Customer]	
Cost/Price Impact	PSA Project Number <optional>	
NetApp Part #	Schedule Impact: <input type="checkbox"/> No <input type="checkbox"/> Yes	
NetApp SO Line # <If applicable>	Terms Impact: <input type="checkbox"/> No <input type="checkbox"/> Yes <Describe the specific terms which changed in the below "Description of SOW Change" section>	

Description of SOW Change

The following revisions are made to the SOW referenced above:

<1. Section 1 Scope is revised to add/delete the following:>

<2. Section 2 Schedule of Performance is revised to extend the Professional Services End Date to _____.>

<3. Section 7.1 Professional Services SOW Fees are revised as follows:

<Note to PM: Please use SOW Change Request deck for instructions for increase/decrease Adjusted SOW Fees at: <http://communities.netapp.com/docs/DOC-6590>>

< Note to PM: Original Sales Order SOCs report or original quote and executed SOW must be submitted to PS Contracts with Change Request for review. >

Adjusted SOW Fees will be Invoiced in accordance with Section 7.3 of the SOW.

<4. Section 8 Project Lead Contact List is revised as follows:>

With the exception of the changes described above, all other Sections of the SOW remain unchanged and in force as originally agreed.

Change Request Approval

Approval of this Change Request Form, as written, is affirmed by the signatures of the duly authorized representatives of the parties below:

Change Request Approval

Approval of this Change Request Form, as written, is affirmed by the signatures of the duly authorized representatives of the parties below:

Identification of Parties			
Customer		NetApp	
Company Name:		Company Name:	
Signature		Signature	
Name (print)		Name (print)	
Title		Title	
Date		Date	
Phone Number		Phone Number	

For internal use only: P.O. Required? ☐ No ☐ Yes P.O. Received? ☐ No ☐ Yes

 NetApp	Attachment B NetApp Certificate of Completion
--	--

Customer Company Name	NetApp Sales Order(s) and Line Number(s)		
Customer Contact Name / Phone Number	NetApp Project Lead / Phone Number		
Customer Service Delivery Address	PSA Project Number <optional>		
Customer Purchase Order Number	Project Name or Name of Professional Services		
Are all of the Professional Services and Deliverables for this entire Sales Order complete?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Are all of the Professional Services and Deliverables for this entire SOW complete?			<input type="checkbox"/> Yes <input type="checkbox"/> No

Dates of Service	PS Part Number	Sales Order Line Item #	Description of Professional Services	Complete? Yes or No
	<PS-SOW-SOL-MIGRATE>		<Insert PS Part Number Description, e.g. "Data Migration Consulting, Custom"> <u><Non-standard option Project Completion:</u> If Customer requires additional description to sign the Certificate, insert the following: "Data Migration Consulting, Custom". See attached SOW Scope Section 1 and any executed Change Request(s).> <Note to SP: If at project completion there were NO Change Requests, please delete "and any executed Change Request(s)" throughout the CoC.>	

Acknowledgment by duly authorized representatives of both Parties: Upon signing by Customer's duly authorized representative, Customer acknowledges Professional Services and Deliverables were delivered as detailed in the SOW and executed Change Request(s).

Identification of Parties			
Customer		NetApp	
Company Name:		Company Name:	
Signature		Signature	
Name (print)		Name (print)	
Title		Title	
Date		Date	

Mailing instructions: Please return all Certificates of Completion and any exceptions to the NetApp Project Lead email to <Insert PBM or Project Lead's email address> or fax to <Insert PBM Fax # >.



NetApp Professional Services
Statement of Work
(Direct Time and Materials)

S/O No. [_____]

EXHIBIT E
Time and Materials
Statement of Work

This Statement of Work ("SOW") is entered on this <date> day of <month>, 201_ ("SOW Effective Date") by and between NetApp, Inc., a Delaware corporation located at 495 East Java Drive, Sunnyvale, California 94089 ("NetApp") and <insert official and complete Customer name>, located at <insert official and complete Customer address> ("Customer"). This SOW is governed by the terms and conditions of the Contract No. C1403 Agreement between NetApp, Inc. and Oklahoma State Regents for Higher Education with an Effective Date of March 1, 2014 (the "Agreement"). Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

Summary of Terms

Service Background

Resource Type : <Insert Engineer, Consultant, Project Manager, Enterprise Infrastructure Architect>

Customer has requested NetApp provide technical consulting services ("Professional Services") in connection with Customer's Data Storage Environment, utilizing, among other third party equipment, the NetApp manufactured and/or distributed equipment which is owned or licensed by Customer ("Customer Equipment") as listed in Section 3. NetApp will provide the Professional Services defined in Section 1 on a Time and Materials ("T&M") basis in accordance with the terms of this SOW.

Fees

Customer will pay to NetApp for the performance of the Professional Services the fees as set forth in Section 7 below the ("SOW Fees").

The SOW Fees are based on the terms and scope of the Professional Services set forth in Section 1 of this SOW which together constitutes the entire agreement and understanding of the parties in relation to the Professional Services being performed under this SOW. Any change to the terms of this SOW, the scope of Professional Services, or failure to meet a responsibility, may require documenting the change in the Change Request Form and a substantive change may result in a modification to the SOW Fees, as detailed in Section 6 below.

Approval

The authorized representatives of the parties hereby bind the parties to the terms of this SOW by signing below:

Identification of Parties			
Customer		NetApp	
Company Name:		Entity Name:	
Signature		Signature	
Name (print)		Name (print)	
Title		Title	
Date		Date	
Customer Address	<Insert address of Customer Signatory>	NetApp Address:	1921 Gallows Road, Suite 600 Vienna, VA 22182

Instructions: Please print two copies of this SOW, sign both copies, and mail both signed copies to: NetApp, Inc., Attention: <Insert PS Signatory's name and office address or insert EMAIL contact>. NetApp will execute both SOW copies and will return a fully executed copy of the SOW to the Customer Project Lead listed in Section 6.

1. PROFESSIONAL SERVICES

During the term of performance set forth in Section 2 below, NetApp will make available to Customer an engineering resource who will work at the request and under the direction of the Customer for no more than the total amount of hours or days set forth in Section 7 below. The Professional Services performed will be defined and directed by the Customer.

<Note: If Customer requires a task list, use <http://communities.netapp.com/docs/DOC-6713> to modify this SOW Template or use the T&M Service Brief with Tasks.>

2. SCHEDULE OF PERFORMANCE

Estimated Professional Services Start Date: _____

Professional Services End Date: Expires 12 months from the PO date or upon completion of PS purchased in Section 7.1.

NetApp will use commercially reasonable efforts to commence performance of the Professional Services within <four (4)> weeks from the date of Customer's approved purchase order and the signed Statement of Work.

Failure to complete the project by the Professional Services End Date specified above may require a NetApp Change Request Form signed by both parties in accordance with the Project Change Process defined in Section 6 below. Any extension of the project's duration for any reason other than delays caused solely by NetApp may require an increase in the SOW Fees.

3. CUSTOMER SITES & EQUIPMENT

The Professional Services may be performed on the Customer Equipment located at the Customer sites (the "Customer Site") specified below:

Customer Site (City & State)	Customer Equipment (Serial # and/or Model #)

<Note to EM: List the City & State of each location where work is to be performed. Indicate if the work is to be "remotely" performed, or done "on-site". Include specificity, such as "site of origin" and/or "site of destination" as appropriate. If there are additional sites required during the course of the project, a Change Request may be created to expand the Customer Site list.>

4. ASSUMPTIONS AND RESPONSIBILITIES

4.1 ASSUMPTIONS

The following assumptions are hereby acknowledged by the parties and apply to the performance of the Professional Services under this SOW:

- a. NetApp is not responsible for any application or host system access that encompasses coding, scripting, application analysis, system performance, troubleshooting, or applications logins outside of the Professional Services expressly described in this SOW. Changes to this SOW will be documented using a Project Change Request Form in accordance with the process outlined in Section 6 of this SOW.
- b. Professional Services not requiring presence onsite may be performed remotely at NetApp facilities.
- c. NetApp may submit weekly written status reports on the Professional Services being performed under this SOW.
- d. This SOW applies to Professional Services only. Customer is solely responsible to separately obtain and/or prepare any and all hardware and software required by Customer in relation to the Professional Services.
- e. Unless otherwise agreed in writing between the parties, NetApp reserves the right to subcontract any or all portions of the Professional Services that NetApp is obligated to perform under this SOW.
- f. NetApp will provide a remote or onsite Project Lead ("NetApp Project Lead") with the qualifications, expertise, and knowledge to lead, coordinate and manage NetApp's obligations under this SOW.

4.2 CUSTOMER RESPONSIBILITIES

Completion of the Professional Services by NetApp is contingent upon Customer fulfilling the following responsibilities. Any inability or delay in fulfilling these responsibilities may require a Change Request in accordance with the Project Change Process described in this SOW.

- a. Customer will complete all necessary facilities arrangements prior to the commencement of the Professional Services which will include but not be limited to such items as power, network connections, floor space, and cooling. Such required facility arrangements must be in place for the duration of this SOW.
- b. Customer shall be solely responsible for management and adequacy of its data backup, data recovery, and disaster recovery measures. Notwithstanding anything to the contrary, NetApp shall not be responsible or held liable for any Customer internal processes, procedures, or

requirements, or otherwise to ensure the protection against loss or corruption, availability, confidentiality, resulting project delays and/or Customer downtime or security of data or information or lack thereof.

- c. Customer will make knowledgeable staff and system administrators available to NetApp promptly upon a request via pager, telephone, or cell phone. These contacts are to provide background information and clarification of information required to perform the Professional Services for the duration of the SOW.
- d. Documentation and information provided to NetApp staff by Customer must be accurate, complete, and up-to-date (e.g. ensure correct configuration).
- e. Customer will be responsible for any business and data application testing and all necessary data backup in preparation for and during the performance of the Professional Services.
- f. Customer will provide NetApp consultants adequate onsite access to office space, equipment, and telephones with outside lines and standard Internet and remote access, for the duration of this SOW, as required.
- g. Should the project plan rely on electronic/network transfer of data, Customer will provision and enable any network components or services required to facilitate the data transfer, or provide remote access as required.
- h. Customer will provide security passes to allow NetApp access, the ability to enter and leave Customer Sites with laptop personal computers, and any other materials related to the Professional Services.
- i. If required by NetApp, Customer will participate in testing as directed by NetApp.
- j. Customer is responsible for all communication to Customer's internal users, including notification of maintenance and migration windows, as required.
- k. Customer will run and verify successful data backups prior to NetApp's arrival on-site.
- l. Customer will provide a Project Lead ("Customer Project Lead") with the qualifications, expertise, and knowledge who is authorized by Customer to act as a liaison between Customer and NetApp. The Customer Project Lead will assume the responsibilities detailed in this SOW.
- m. Customer warrants that it has obtained any and all permissions and/or licenses from third parties necessary for NetApp or a NetApp subcontractor to successfully perform the Professional Services, and hereby grants NetApp and its subcontractors all necessary licenses for NetApp or a NetApp subcontractor to successfully perform the Professional Services.
- n. Customer is required to provide NetApp with five (5) business days' notice of any change to a scheduled event. Should the Customer be unable to provide this notice for any reason and/or if the change to the scheduled event extends the project duration, a Change Request may be required in accordance with Section 6.
- o. If the engagement is related to or in support of an opportunity which includes classified information, the Customer shall provide to NetApp the DD-254, or appropriate equivalent documentation regarding safeguarding classified information no less than five (5) days prior to work commencement.

5. INTENTIONALLY LEFT BLANK

6. PROJECT CHANGE PROCESS

The Professional Services described in the SOW are based upon NetApp's understanding of Customer's Sites and Data Storage Environment as of the SOW Effective Date. Any substantive change to the Customer Sites, the IT environment or any latent or unusual conditions that impact the scope, cost, manner, method, or schedule to perform; if Customer fails to meet their responsibilities or provide accurate, correct and complete information, or does not provide requested information in a timely fashion, or requests that alter scope tasks, deliverables, assumptions or schedule will be subject to the Project Change Process.

6.1 CHANGE INITIATION

The Professional Services described in the SOW are based upon NetApp's understanding of Customer's Sites and IT environment as of the SOW Effective Date.

Either party may initiate change requests for reasons that may include regulatory changes, changes in the technical scope, or other detailed project issue(s) or requirement(s) (each a "Change Request"). The Initiating Project Lead will submit each Change Request Form to the other party's Project Lead as listed in Section 8, and then both parties will review such Change Request to ensure feasibility.

Change Requests must be submitted using the Change Request Form set forth in Attachment A, (the "Change Request Form"). Both NetApp and Customer must agree within one (1) business day of the receipt of the Change Request Form by the non-initiating party whether or not to continue performance of the Professional Services or to stop all Professional Services being performed until a mutually agreed upon Change Request Form has been signed by both parties.

6.2 CHANGE REQUEST REVIEW

Upon receipt and review of a Change Request Form, the NetApp Project Lead will review it to determine feasibility and acceptability of the Change Request, and inform the Customer. NetApp reserves the right to reject any Change Request at its discretion.

6.3 COST ESTIMATE PREPARATION

If the NetApp Project Lead determines that the Change Request impacts the pricing or scheduling of Professional Services of this SOW, NetApp will provide Customer with a cost estimate based on the scope contained in the Change Request Form.

6.4 CHANGE IMPLEMENTATION

Implementing any Change Request requires a Change Request Form executed by NetApp and Customer which shall be incorporated herein by reference. Additionally, when pricing is impacted by the Change Request, receipt of Customer's Change Order to Customer's existing purchase order, or an additional purchase order is also required.

7. FEES DESCRIPTION AND PAYMENT**7.1 PROFESSIONAL SERVICES SOW FEES**

Customer will pay to NetApp the fees set forth in the following table.

Project Description (PS Part Number)	# of Resources	Rate per	Total	Total Fees
		[] Hour [] Days	[] Hours [] Days	
TOTAL				

7.2 PURCHASE ORDER REQUIREMENT

Prior to commencement of the Professional Services, NetApp requires an executed purchase order, acceptable to NetApp, reflecting the total amount of the SOW Fees.

7.3 USE OF HOURS OR DAYS

Time and Materials Professional Services will be available to Customer for one (1) year from the date NetApp receives the Customer's purchase order for the T&M Professional Services. NetApp will use commercially reasonable efforts to notify Customer of the pending expiration of Customer's unused T&M prior to the expiration date. At the date of order's expiration, any unused T&M will be de-booked.

T&M Professional Services purchased as hours will be performed in minimum increments of four (4) consecutive hours. T&M Professional Services purchased as days constitute at least four (4) hours but not more than eight (8) hours of performance in a single calendar day.

7.4 TRAVEL & EXPENSES <SELECT FROM THE FOLLOWING OPTIONS FOR INVOICING T&E>

"Travel and Expenses ("T&E") are included in the SOW Fees in Section 7.1, unless otherwise identified separately."

7.5 PROFESSIONAL SERVICES BUSINESS HOURS

Standard hours for the performance of T&M Professional Services will be Monday through Friday between 8:00 a.m. and 6:00 p.m. local Customer time. Non-business hours for the performance of T&M Professional Services will be during weekends and week days after 6:00 p.m. and before 8:00 a.m. local Customer time.

8. PROJECT LEAD CONTACT LIST & RESPONSIBILITIES

Both the NetApp and Customer Project Leads identified will ensure the following responsibilities are met as are reasonably applicable to the Professional Services being performed:

8.1 AUTHORIZED REPRESENTATIVE

Each Project Lead will ensure that an authorized representative of their respective party will approve Professional Services documentation.

8.2 RESPONSIBILITIES

Coordinate, schedule and monitor all resources and activities related to the Professional Services described in this SOW, and all activities related to the Project Change Process described in this SOW.

8.3 SINGLE POINT OF CONTACT

Act as the focal points for communications between Customer and NetApp during the provision of the Professional Services, manage and execute the Project Change Process, and attending all meetings, as applicable.

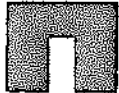
Customer Project Lead Contact		NetApp Project Lead Contact	
Name		Name	
Title		Title	
Email		Email	
Phone		Phone	

9. TERM OF SOW

The term of this SOW will begin on the SOW Effective Date. The SOW Term will end (i) upon delivery completion of time identified in Section 7, or (ii) upon the expiration of the purchase order from date of issuance, (iii) unless terminated earlier by either party under the termination clause. If performance of the Professional Services does not commence within ninety (90) days of the SOW Effective Date, the SOW will automatically terminate in the absence of a written SOW Change Request rescheduling the Professional Services. Unless this SOW is executed by Customer within forty-five (45) days from the SOW Effective Date, this SOW will automatically expire on the forty-sixth (46th) day, unless otherwise agreed upon by NetApp.

10. INCORPORATED TERMS

In the absence of an effective, written agreement between the parties, expressly governing the Professional Services, this SOW and the Professional Services provided hereunder are subject to, limited and governed by the NetApp, Inc. Professional Services Terms and Conditions, posted at <http://www.netapp.com/us/how-to-buy/stc.html> as of the SOW Effective Date of this SOW ("NetApp Standard PS Terms"), which are incorporated herein by reference.

 NetApp		Attachment A NetApp Change Request Form	
Customer Company Name	Change Request Number	Change Request Submittal Date	
Project Name	Request Originator (NetApp/Customer)	PSA Project Number <optional>	
SOW Fees Price Impact	Change Request Quote # <If available>	Original SO and Line #	
<i><Note to PM: Insert SOW Fee increase/decrease></i>			
NetApp Part #	Schedule Impact: [] No [] Yes		
Terms Impact: [] No [] Yes <Describe the specific terms which changed in the "Description of SOW Change" section below>			

Description of SOW Change

The purpose of this Change Request is to modify SOW Sections < >, < >, < >, and < >.

The following revisions are made to the SOW referenced above:

- <1. Section 1 Scope of Professional Services and Executive Summary is revised to <add> <delete> the following:>
- <2. Section 2 Schedule of Performance is revised to extend the Professional Services End Date to _____.>
- <3. Section 7.1 Professional Services SOW Fees are revised as follows:

<Note to PM: Please use SOW Change Request deck for instructions for increase/decrease Adjusted SOW Fees at: <http://communities.netapp.com/docs/DOC-6590>>

< Note to PM: Original Sales Order SOC's report or original quote and executed SOW must be submitted to PS Contracts with Change Request for review. >

Adjusted SOW Fees will be invoiced in accordance with Section 7.3 of the SOW.

- <4. Section 8 Project Lead Contact List is revised as follows:>

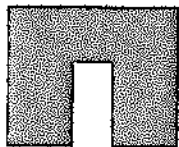
With the exception of the changes described above, all other Sections of the SOW remain unchanged and in force as originally agreed.

Change Request Approval

Approval of this Change Request Form, as written, is affirmed by the signatures of the duly authorized representatives of the parties below:

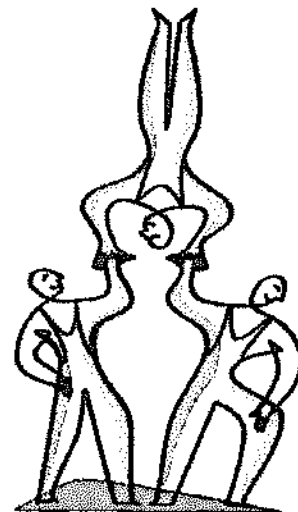
Identification of Parties			
Customer		NetApp	
Company Name:		Company Name:	
Signature		Signature	
Name (print)		Name (print)	
Title		Title	
Date		Date	
Phone Number		Phone Number	

For internal use only: P.O. Required? ☐ No ☐ Yes P.O. Received? ☐ No ☐ Yes



NetApp

EXHIBIT F



Datasheet

SupportEdge Services

Expert support services designed to address
business and mission-critical data environments

The Simple, Effective Way to Optimally Manage Your Storage Investment

At NetApp, we have one goal: to simplify data management. With the industry's most innovative solutions, we've helped thousands of enterprises optimize performance and availability as well as achieve operational success. But we don't stop there. Because we're committed to your long-term success, we continue to monitor, develop, and grow proactive support capabilities that address your business needs and simplify your storage management while providing maximum value.

The Three Pillars of Our Proactive Support Our people

NetApp employs the world's foremost experts in storage networking, with the proven expertise to understand and quickly solve even the most challenging data storage problems.

Our processes

NetApp Technical Support Centers (TSCs) are passionate about solving enterprise business challenges in ways that enhance your investment in storage technologies. All TSCs use consistent, proven procedures to deliver accurate and timely solutions across organizations to help deliver measurable results.

Our technology expertise

NetApp is committed to providing customers with leading-edge support technology that relieves staff of redundant, remedial tasks that can be automated, while preserving customer control.

Comprehensive Support Services

Let NetApp mitigate support issues and help you achieve the highest availability for your enterprise data environment. NetApp's innovative, proactive support means that you'll have fewer and less severe support cases. But if a problem does arise, our award-winning technical support staff won't rest until it's solved.

Let's Get Started

To find out more about SupportEdge Services, contact a NetApp representative today.

Web

www.netapp.com/us/support

Phone

(800) 443-4537

Other contact information

www.netapp.com/us/contact-us

About NetApp

NetApp creates innovative storage and data management solutions that deliver outstanding cost efficiency and accelerate business breakthroughs. Discover our passion for helping companies around the world go further, faster at www.netapp.com.

Go further, faster.

FEATURE	HW WARRANTY/ EXTENDED WARRANTY HW SUPPORT	SUPPORTEDGE STANDARD	SUPPORTEDGE PREMIUM
24/7 Remote HW Technical Support	•	• ¹	• ¹
Replacement Parts	•	• ¹	• ¹
Replacement Parts Delivery, Target Response Objective, and Installation	Next business day. Customer self-installs all replacement parts.	Choose one of the following: ² <ul style="list-style-type: none"> • 4 hours, 24/7 (NetApp installs all replacement parts) • 4 hours, 24/7 basis (Customer self-installs all replacement parts) • Next business day (NetApp installs all replacement parts) 	Choose one of the following: ² <ul style="list-style-type: none"> • 2 hours, 24/7 • 4 hours, 24/7 • Next business day NetApp installs all replacement parts.
Access to the NetApp Support Web Site	•	• ¹	• ¹
AutoSupport ³ and Remote Support Diagnostics Tool	•	• ¹	• ¹
Target Response Objective for Remote Technical Support		<ul style="list-style-type: none"> • Priority 1: 2 hrs, 7/24 • Priority 2: 4 hrs, 7/24 • Priority 3: 16 hrs, 7/24 • Priority 4: 36 hrs, 7/24 	<ul style="list-style-type: none"> • Priority 1: 30 min: 7/24 • Priority 2: 2 hrs; 7/24 • Priority 3: 8 hrs; 7/24 • Priority 4: 24 hrs; 7/24
Software Support Plan		•	•
Onsite Troubleshooting			•
NetApp Unified Support			•
Installation of Remedial Software Updates			•

1. These features are included with HW Warranty and Extended Warranty HW Support.

2. Target response objective availability based on location of installation site.

FEATURE	SOFTWARE SUPPORT PLAN
24/7 Remote SW Technical Support	•
Access to the NetApp Support Web Site	•
Software Updates	•

ADDITIONAL GLOBAL SUPPORT SERVICES

NetApp Support Advisor³

NetApp Support Account Manager⁴

3. Available for purchase to qualifying SupportEdge Premium customers. For additional information, see the NetApp Support Advisor datasheet.

4. Available for purchase to qualifying SupportEdge Premium or SupportEdge Secure for Government customers. For additional information, see the NetApp Support Account Manager datasheet.

Most NetApp® hardware is under warranty for 3 years.

Extended warranty versions of SupportEdge Standard and Premium are available for purchase and come bundled with Extended Warranty Hardware Support.

View Support Offerings Terms and Conditions of Sale for specific definitions, responsibilities, and exclusions. Product descriptions are subject to change without notice.



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