



CONTRACT RENEWAL NO. 2

This amendment by and between the Supplier and State Entity defined below shall be effective as of the date this Amendment is fully executed.

STATE OF GEORGIA CONTRACT	
State Entity's Name:	Department of Administrative Services
Contractor's Full Legal Name:	Net App, Inc.
Contract No.:	99999-SPD-T20150930-0001
Solicitation No./Event ID:	Master Agreement No.: MNWNC-121
Solicitation Title/Event Name:	WSCA-NASPO VALUEPOINT COOPERATIVE PURCHASING PROGRAM - COMPUTER EQUIPMENT
Contract Award Date:	October 2, 2015
Current Contract Term:	April 1, 2017 – March 31, 2018
Amendment No.:	3

WHEREAS, the Contract is in effect through the Current Term provided above.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:


1. **CONTRACT RENEWAL.** The parties hereby agree that the contract will be renewed for an additional period of time as follows:

NEW CONTRACT TERM	
Beginning Date of New Contract Term:	April 1, 2018
End Date of New Contract Term:	August 31, 2018

2. The parties agree the contract will expire at midnight on the date defined as the "End Date of the New Contract Term" unless the parties agree to extend the contract for an additional period of time.
3. **SUCCESSORS AND ASSIGNS.** This Amendment shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.
4. **ENTIRE AGREEMENT.** Except as expressly modified by this Amendment, the contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Amendment and the contract (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto. Should the State of Georgia (DOAS) enter into a new contract for Storage/Backup and Recovery during the term of this Amendment #3, the new contract shall supersede this Amendment #3.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their authorized representatives.

CONTRACTOR

Contractor's Full Legal Name: (PLEASE TYPE OR PRINT)	NetApp, Inc.
Authorized Signature:	 <small>Robert Stein (Jan 10, 2018)</small>
Printed Name and Title of Person Signing:	Robert Stein, VP Sales
Date:	01/10/2018
Company Address:	1921 Gallows Rd, Suite 600 Vienna, VA 22182

STATE ENTITY

Authorized Signature:	
Printed Name and Title of Person Signing:	Lisa Eason Deputy Commissioner State Purchasing Division
Date:	2-26-18
Company Address:	200 Piedmont Avenue, S.E., Suite 1302, West Tower Atlanta, Georgia 30334-9010



CONTRACT RENEWAL NO. 1

This amendment by and between the Supplier and State Entity defined below shall be effective as of the date this Amendment is fully executed. To the extent the contract requires the State Entity to issue a Notice of Award Amendment for purposes of exercising the renewal option, this written document shall serve as such Notice of Award Amendment.

STATE OF GEORGIA CONTRACT	
State Entity's Name:	Georgia Department of Administrative Services
Supplier's Full Legal Name:	Net App, Inc.
Contract No.:	99999-SPD-T20150930-0001
Solicitation No./Event ID:	Master Agreement No: MNWNC-121
Solicitation Title/Event Name:	WSCA-NASPO VALUEPOINT COOPERATIVE PURCHASING PROGRAM - Computer Equipment
Contract Award Date:	October 2, 2015
Current Contract Term:	March 31, 2017
Amendment No.:	2

WHEREAS, the Contract is in effect through the Current Contract Term as defined above; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. **CONTRACT RENEWAL/EXTENSION.** The parties hereby agree that the contract will be renewed/extended for an additional period of time as follows:

NEW CONTRACT TERM	
Beginning Date of New Contract Term:	April 1, 2017
End Date of New Contract Term:	March 31, 2018


The parties agree the contract will expire at midnight on the date defined as the "End Date of the New Contract Term" unless the parties agree to renew/extend the contract for an additional period of time.

CONTRACT NUMBER: 99999-SPD-T20150930-0001


2. **SUCCESSORS AND ASSIGNS.** This Amendment shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.
3. **ENTIRE AGREEMENT.** Except as expressly modified by this Amendment, the contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Amendment and the contract (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their authorized representatives.

CONTRACTOR

Contractor's Full Legal Name: (PLEASE TYPE OR PRINT)	NetApp, Inc.
Authorized Signature:	
Printed Name and Title of Person Signing:	Robert Stein, VP Sales
Date:	01/24/17
Company Address:	1921 Galois Rd, Suite 600 Vienna, VA 22182.

STATE ENTITY

Authorized Signature:	
Printed Name and Title of Person Signing:	Lisa Eason Deputy Commissioner, State Purchasing Division
Date:	2-20-17
Company Address:	200 Piedmont Avenue, S.E., Suite 1302, West Tower Atlanta, GA 30334



CONTRACT AMENDMENT

This amendment by and between the Contractor and State Entity defined below shall be effective as of the date this Amendment is fully executed.

STATE OF GEORGIA CONTRACT	
State Entity's Name:	Georgia Department of Administrative Services
Contractor's Full Legal Name:	NetApp, Inc.
Contract No.:	99999-SPD-T20150930-0001
Solicitation Title/Event Name:	Storage/Backup and Recover
Contract Award Date:	October 2, 2015
Current Contract Term:	October 2, 2015 – March 31, 2017
Amendment No.:	1

BACKGROUND AND PURPOSE. The Contract is in effect through the Current Term provided above. The parties desire to amend the contract to incorporate language to address a newly enacted law, to incorporate language to allow for the implementation of ePayables solution to facilitate electronic payment by DOAS and Authorized Users to the Contractor, and to revise the reporting requirements of the Contract.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

- 1. IMPLEMENTATION OF REQUIREMENTS OF SENATE BILL 327 (passed during 2016 Georgia Legislative Session):** The Contract is amended to include the following new certification: Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this Contract, including any renewals or extensions thereof, not to engage in, a boycott of Israel, as defined in O.C.G.A. § 50-5-85.
- 2. IMPLEMENTATION OF E-PAYABLES SOLUTION:** DOAS administers a program which provides a purchasing card (hereinafter, "State of Georgia PCard") to be used by authorized government employees of certain governmental entities electing to participate in the program to purchase necessary supplies. Pursuant to Section 3.4 of the Solicitation identified above, Contractor does not impose a fee on either DOAS or any Authorized User for the use of the PCard pursuant to the statewide contract awarded pursuant to the RFP. DOAS has entered into a Contract with its P-Card provider, Bank of America, to provide the ePayables solution which will allow DOAS and Authorized Users to facilitate electronic payment by DOAS and Authorized Users to the Contractor.

The Contractor agrees to accept payment via ePayables and shall impose no fee on either DOAS or any Authorized User for the use of ePayables pursuant to this Statewide Contract. All purchases made by Authorized Users representatives utilizing State of Georgia ePayables shall be exempt from sales tax. It is the responsibility of the Authorized User representative to provide the Authorized User's tax identification number as needed at the point of sale.

The Contractor shall keep the State of Georgia ePayables numbers confidential and shall not disclose the State of Georgia ePayables numbers except as expressly authorized by DOAS. The Contractor represents that State of Georgia ePayables numbers will be processed, transmitted and stored in compliance with the Payment Card Industry Data Security Standard. The Contractor shall provide immediate written notice to the current DOAS contract administrator in the event of (1) any unauthorized disclosure of State of Georgia ePayables Numbers or (2) Contractor's failure to maintain compliance with the Payment Card Industry Data Security Standard in the Contractor's contract performance. The Contractor agrees to cooperate with DOAS, Authorized Users, and DOAS contractual partner(s) for ePayables in resolving any issues or disputes.

3. **REVISION OF REPORTING REQUIREMENTS:** Pursuant to O.C.G.A. Section 50-5-51(10), DOAS has the authority to collect moneys, rebates, or commissions payable to the State that are generated by supply contracts established pursuant to O.C.G.A. Section 50-5-57. Section 3.5 (a) of the RFX, which is incorporated in the State of Georgia Statewide Contract document, contains due dates for both quarterly sales report and administrative fees. Section 3.5 (a) of the RFX document is also referenced by in the State of Georgia Statewide Contract Attachment 1 Contract Terms and Conditions for Goods and Ancillary Services, Section A.4 "Reporting Requirements". The parties desire to amend the reporting requirements as follows:

- A. Delete the language "The Fees and the Quarterly Sales Report must be received by DOAS on or before the Contractor's Payment Due Date as defined in the table below" and replace with the following language:

"The Quarterly Sales Report must be received by DOAS twenty (20) days after the end of the Fiscal Quarter through submission within the Contractor Portal of Team Georgia Marketplace, and the Fees must be received as a response to an invoice generated by DOAS between the time of receipt of the invoice and forty-five (45) days after the end of the fiscal quarter as defined by the table below:"

- B. Delete the table referenced in 3.5 (a), and replace with the following table:

<i>DOAS' Fiscal Quarters</i>	<i>Months</i>	<i>Contractor's Quarterly Sales Report Due Date</i>	<i>Contractor's Payment Due Date (In Response to DOAS generated Invoice)</i>
<i>Quarter 1</i>	<i>July 1st – September 30th</i>	<i><u>October 20th</u></i>	<i><u>November 15th</u></i>
<i>Quarter 2</i>	<i>October 1st – December 31st</i>	<i><u>January 20th</u></i>	<i><u>February 15th</u></i>
<i>Quarter 3</i>	<i>January 1st – March 31st</i>	<i><u>April 20th</u></i>	<i><u>May 15th</u></i>
<i>Quarter 4</i>	<i>April 1st – June 30th</i>	<i><u>July 20th</u></i>	<i><u>August 15th</u></i>
<i>-----</i>	<i>-----</i>	<i>-----</i>	<i>30 calendar days following the termination of this Statewide Contract for any reason</i>

- C. Delete the language "At the end of each state fiscal quarter as defined above, Contractor shall prepare the Quarterly Sales Report. In the event no sales have occurred, the Contractor must complete and submit the Quarterly Sales Report, indicating no sales have occurred. No later than the date identified above as the "Contractor's Payment Due Date" for each fiscal quarter, Contractor shall remit a payment of fees to DOAS through one of the following methods" and replace with the following language:

"At the end of each state fiscal quarter as defined above, Contractor shall prepare the Quarterly Sales Report and submit the file through the Contractor Portal of Team Georgia Marketplace, including the Contractor's most up-to-date Invoice Contact Name (Billing Contact), Contractor Billing Address, and Contractor Billing E-Mail. In the event that no sales have occurred, the Contractor must complete and submit the Quarterly Sales Report, indicating that no sales have occurred, and submit the file through Contractor Portal of Team Georgia Marketplace. No later than the date identified above as the "Contractor's Payment Due Date" for each fiscal quarter, the Contractor shall remit a payment of fees to DOAS in response to a DOAS generated invoice, through one of the following methods"

4. **SUCCESSORS AND ASSIGNS.** This Amendment shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.
5. **ENTIRE AGREEMENT.** Except as expressly modified by this Amendment, the contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Amendment and the contract (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.


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IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their authorized representatives.

CONTRACTOR:

Contractor's Full Legal Name: (Please Type or Print)	NetApp, Inc.
Authorized Signature:	 Mary Dorr (Dec 20, 2016)
Printed Name and Title of Person Signing:	Mary Jo Dorr, Controller
Date:	December 20, 2016
Company Address:	495 East Java Dr., Sunnyvale, CA 94089
Invoice Contact Name: (Contractor's Billing Contact)	
Contractor's Billing Address:	Dept 33060, PO Box 39000, San Francisco, CA 94139-3060
Contractor's Billing E-Mail:	

STATE ENTITY:

Authorized Signature:	
Printed Name and Title of Person Signing:	Lisa Eason <i>Beverly Alexander, Group Category Mgrs.</i> Deputy Commissioner, State Purchasing Division
Date:	<i>12/20/16</i>
Company Address:	200 Piedmont Avenue, S.E., Suite 1302, West Tower Atlanta, GA 30334



CONTRACT AMENDMENT #1

This amendment by and between the Contractor and State Entity defined below shall be effective as of the date this Amendment is fully executed.

STATE OF GEORGIA CONTRACT	
State Entity's Name:	Department of Administrative Services
Contractor's Full Legal Name:	NetApp, Inc
Contract No.:	99999-SPD-T20150930-0002
Master Agreement Number:	MNWNC-121
Solicitation Title/Event Name:	Storage/Backup Recovery
Contract Award Date:	10/16/2015
Current Contract Term:	03/31/2017
Amendment No.:	1

WHEREAS, the Contract is in effect through the Current Contract Term as defined above; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Change Contract number to 99999-SPD-T20150930-0001.
2. All purchase orders issued by purchasing entities with jurisdiction of this Addendum must include Participating State Contract Number: 99999-SPD-T20150930-0001 and the Master Price Agreement Number: MNWNC-121.


2. **SUCCESSORS AND ASSIGNS.** This Amendment shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.
3. **ENTIRE AGREEMENT.** Except as expressly modified by this Amendment, the contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Amendment and the contract (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their authorized representatives.

CONTRACTOR

Contractor's Full Legal Name: (PLEASE TYPE OR PRINT)	NetApp, Inc.
Authorized Signature:	Mary Jo Dorr, Controller
Printed Name and Title of Person Signing:	Mary Jo Dorr, Controller
Date:	6/16/16
Company Address:	1921 Gallows Rd, Suite 600 Vienna, VA 22812

STATE ENTITY

Authorized Signature:	
Printed Name and Title of Person Signing:	Beverly Alexander Denson Group Category Manager – IT DOAS - SPD
Date:	6/16/16
State Entity Address:	200 Piedmont Avenue, SE Suite 1308, West Tower Atlanta, GA 30334

PARTICIPATING ADDENDUM
99999-SPD-T20150930-0002
WSCA-NASPO COOPERATIVE PURCHASING PROGRAM
Computer Equipment
Administered by the State of Minnesota (hereinafter "Lead State")
MASTER AGREEMENT
Master Agreement No. MNWNC-121

NetApp, Inc. (hereinafter "Contractor")
And

Georgia Department of Administrative Services (hereinafter "DOAS" or "Participating State/Entity")

1. Scope: This addendum allows for purchase of Computer Equipment/Services pursuant to WSCA-NASPO Master Agreement for: Computer Equipment, Request for Proposal 19512 led by the State of Minnesota along with a multi-state sourcing team for use by state agencies and other entities located in the Participating State/Entity that is authorized by that state's statutes to utilize state /entity contracts, and which receives prior written approval of the state's chief procurement official.

The original solicitation contains the requirements and definitions establishing the following Product Bands allowed on the Master Agreement. The Master Agreement identifies the bands awarded to the Contract Vendor. The configuration limits and restrictions for the Master Agreement are provided with revisions identified by the Participating State in this Participating Addendum.

This Addendum establishes Contractor as a (1) non-exclusive, non-mandatory source of supply for all State of Georgia governmental entities subject to the State Purchasing Act, including but not limited to certain state offices, agencies, departments, boards, bureaus, commissioners, institutions and colleges and universities unless DOAS grants a waiver and (2) a non-exclusive, non-mandatory source of supply to all other State of Georgia governmental entities such as state authorities, local government, municipalities, cities, townships, counties and other political subdivisions of the State of Georgia. All entities authorized to make purchases pursuant to this Addendum shall be referred to collectively as Authorized Users. The parties agree that the scope of this Addendum is limited and expressly excludes printers and leasing.

With respect to any "Educational Discount Price", as that term is defined by the WSCA/NASPO PC Contract, offered by Contractor pursuant to this Addendum, the parties agree that the following Authorized Users shall be eligible to receive any Educational Discount Price: Board of Regents of the University System of Georgia and all of its colleges and universities, the Technical College System of Georgia all of its technical schools, the State Board of Education, Georgia Department of Education, the Georgia Academy for the Blind, Georgia School for the Deaf, Atlanta Area School for the Deaf, public K-12 schools, public boards of education, "local school systems" and "local units of administration" as those terms are defined by O.C.G.A. Section 20-2-242, and any other Authorized User identified by the parties as an educational entity.

2. Participation: Pursuant to O.C.G.A. Section 50-5-57, DOAS hereby certifies the Contractor as a source of supply to Authorized Users for the goods and services available to Authorized Users pursuant to this Addendum. Orders shall be placed individually and from time to time by Authorized Users. The execution of this Addendum only establishes the Contractor as an authorized source of supply by DOAS and creates no financial obligation on the part of DOAS. Authorized Users are solely and individually financially responsible for their respective purchases.

3. Order of Precedence:

1. This Participating Addendum ("PA"); however, a Participating Entity's Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contract Vendor under the Terms of Minnesota WSCA-NASPO

Master Agreement

2. Minnesota WSCA-NASPO Master Agreement (includes negotiated Terms & Conditions)

3. The Solicitation including all Addendums; and

4. Contract Vendor's response to the Solicitation

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contract Vendor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to the Master Agreement as an

Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contract Vendor's response to the Solicitation, or terms listed or referenced on the Contract Vendor's website, in the Contract Vendor quotation/sales order or in similar documents subsequently provided by the Contract Vendor. The solicitation language prevails unless a mutually agreed exception has been negotiated.

4. Participating State Modifications or Additions to Master Agreement:

This Addendum incorporates the Master Price Agreement and the terms and conditions contained therein except to the extent as expressly changed or modified by this Addendum.

- a. Payment: Exhibit A, Section B "WSCA-NASPO Terms and Conditions", Paragraph 24, entitled "Payment" is deleted and replaced with the following:

Unless a delivery has been rejected by a Purchasing Entity pursuant to paragraph 28, payment for delivered products or services under this Master Agreement will be made net 30 days after delivery is made or a correct invoice is received, whichever is later. Partial deliveries authorized in an order or otherwise approved in writing by the Purchasing Entity may be made and invoiced pursuant to the terms of this paragraph. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

User Agencies are exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. User Agencies are exempt from State and Local Sales and Use Taxes on goods and services. Tax Exemption Certificates will be furnished upon request.

- b. Effective Date: Minnesota WSCA- NASPO Master Agreement Summary, Section 2, entitled "Effective Date" is modified as follows: Insert the following as Section 2.A:

The initial term of this Addendum shall be from the date of last signature ("Effective Date") through **March 31, 2017** unless terminated earlier in accordance with the applicable terms and conditions. Thereafter, DOAS shall have the right, subject to Contractor's written consent, to renew this Addendum for up to three (3) additional one year terms and/or extend the Addendum for an additional period of time provided the Master Agreement is in effect for such time period. This Addendum shall terminate automatically upon the termination, for any reason, of the Master Agreement.

- c. Termination. Exhibit A, Section B "WSCA-NASPO Terms and Conditions", Paragraph 6, entitled "Cancellation" is modified to add the following as Section 6.A. which shall read as follows:

Termination of the Addendum. Following thirty (30) days' written notice by DOAS to Contractor, DOAS may terminate the Addendum for convenience without the payment of any penalty or incurring any further obligation to Contractor. Either party may terminate this Addendum for cause based upon material breach of this Addendum by the other party, provided that the non-breaching party shall give the breaching party written notice specifying

the breach and shall afford the breaching party a reasonable opportunity to cure not to exceed thirty (30) days.

- d. Governing Law. Exhibit A, Section B "WSCA-NASPO Terms and Conditions", Paragraph 12 entitled "Governing Law" is deleted and replaced with the following:

12. Choice of Law and Forum. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Participating Addendum without regard to the choice of law provisions of State law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Participating Addendum, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Fulton County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the State.

- e. Record Administration and Audit: Exhibit A, Section B "WSCA-NASPO Terms and Conditions", Paragraph 26, "Record Administration and Audit" is modified as follows: Delete this provision in its entirety and replace with the following:

Record Retention and Audit Rights. Contractor shall, and shall cause each of its subcontractors to, maintain accurate books, records, documents and other evidence concerning Contractor's financial status, costs, expenses, provision of Equipment and performance of Services under this Agreement and payment of the Administrative fees (collectively, "Records") for the latter of: (a) five (5) years after the final payment under this Addendum, (b) for such period (if any) as is required by applicable statute. Contractor's accounting procedures and practices shall conform to generally accepted accounting principles ("GAAP") and the charges properly applicable to this Addendum shall be readily ascertainable therefrom. The Auditor of the State of Georgia, or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, shall have the right, exercisable at any reasonable time during normal business hours and upon prior notice to Contractor, to inspect and audit any Records pertaining directly to the products or services acquired under this Addendum. Upon request, Contractor shall deliver the required documentation and records on the date mutually agreed upon, and at the location specified by DOAS or State Auditor or other duly authorized officer of the State of Georgia. DOAS shall provide at least five business days prior written notice to Contractor prior to beginning an audit.

The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, DOAS reserves the right to charge the Contractor for reasonable costs of the audit in an amount not to exceed \$10,000 over the life of the Master Agreement and this Addendum and appropriate reimbursement of overpayments. Evidence of criminal conduct will be turned over to the proper authorities.

- f. Reports- Summary and Detailed Usage: Exhibit A, Section B "WSCA-NASPO Terms and Conditions", Section 27, entitled "Reports- Summary and Detailed Usage" is modified as follows: Add new subsections as follows:

- e. **Periodic Performance/Sales Reports**

If selected for award, the Supplier shall submit the following management reports to the DOAS identified contract administrator. All reports shall be provided by the Supplier in electronic format. All electronic reports must be submitted in Microsoft Excel or Microsoft

Access format. Reports should include the ability to sort/summarize by account. The Supplier agrees to provide all data requested in a flat file format as designated by DOAS' Contract Administrator.

f. Quarterly Sales Report

Statewide sales by customer account number and type of customer: State Agency, Local Entity or Other, in addition (but not limited) to the following information: product/service description, NIGP code, merchandise class code/indicator, quantity ordered, unit of measure, contract unit price, and total extended price. The information must be provided in excel file format on SPD Official Form SPD-CP025c, Supplier Quarterly Sales Report for Information Technology (unless an alternative format is authorized by the Contract Manager) which is available at the following

link: <http://doas.georgia.gov/StateLocal/SPD/Seven/Pages/Home.aspx>. Reports will be submitted quarterly in accordance with section 3.XXX of this document.

g. Annual Analysis Report

An annual analysis of actual pattern of purchases will be provided by the supplier. The analysis will include total unit and dollar values for each of the items purchased from the supplier. In addition, the supplier will work with DOAS to identify additional information items needed and the physical format of the report. The report shall be submitted to DOAS no later than August 1 of each year of the statewide contract. Data must be provided in a flat file format.

h. Contract Status Reports

A monthly contract status report shall be delivered to DOAS' Contract Administrator by the fifteenth (15th) calendar day of the following month. Topics to be covered in this report would include, but are not limited to, problems or questions that required more than five working days to resolve, product changes, anticipated problems, etc.

i. Quarterly Business Review Meetings

If selected for award, the Supplier must participate in Quarterly Business Review ("QBR") meetings at DOAS' request. During the QBR meetings, the Supplier will present a written and oral status to DOAS regarding all work orders/purchase orders (including date and value). The QBR meeting will also focus on the status of service level agreements and key performance indicators agreed to by Supplier and DOAS. The QBR meeting may involve, but not be limited to, the following: review of the Supplier's performance and submitted reports, identification of areas of improvement to be addressed, review of the previous quarter's sales statistics, strategies to grow sales volume, development/monitoring of a Supplier service "scorecard."

- g. Administrative Fees:** Exhibit A, Section B. WSCA-NASPO Terms and Conditions, Section 1. "Administrative Fees" is modified as follows: Georgia Administrative Fee. Pursuant to Section 44(B) of the Master Agreement, the parties agree that Contractor shall collect an administrative fee of one percent (1%) (hereinafter, the "Fee" or "Fees") on all sales pursuant to this Addendum. Contractor shall implement the Fee without change to the price of products and services. This Fee will be collected by the Contractor and remitted to DOAS in accordance with the following paragraphs.

- A. Quarterly Payment and Sales Reporting Requirements. The parties agree that the collected Fees and the corresponding Quarterly Sales Report, which identifies the total sales pursuant to this Addendum for the corresponding fiscal quarter, shall be submitted by Contractor to DOAS. The Quarterly Sales Report shall be in the format mutually agreeable to the parties. The report will contain substantially the same data fields as listed in Exhibit B attached hereto. The total sales reported in the Quarterly Sales Report and the submission of the corresponding Fees should be limited to sales in which the Contractor has received payment from the Authorized User. The Fees and the Quarterly Sales Report must be received by DOAS on or before the Contractor's Payment Due Date as defined in the table below:

DOAS Fiscal Quarters	Months	Contractor's Payment Due Date
Quarter 1	July 1 st – September 30 th	<u>November 15th</u>
Quarter 2	October 1 st – December 31 st	<u>February 15th</u>
Quarter 3	January 1 st – March 31 st	<u>May 15th</u>
Quarter 4	April 1 st – June 30 th	<u>August 15th</u>
----	-----	<u>30 calendar days following the termination of this Addendum for any reason</u>

At the end of each state fiscal quarter as defined above, Supplier shall prepare the Quarterly Sales Report. In the event no sales have occurred, the Supplier must complete and submit the Quarterly Sales Report, indicating no sales have occurred. No later than the date identified above as the "Supplier's Payment Due Date" for each fiscal quarter, Supplier shall remit payment of the fees through one of the following methods (1) Electronic Funds Transfer (EFT) (most preferred), (2) Credit card or (3) check (least preferred) payable to DOAS.

For EFT payments (most preferred): Contract Manager will provide banking information. Supplier shall also submit a copy of the sales report to the address below and a second copy of the Quarterly Sales Report to the DOAS Contract Manager.

For Credit Card payments: Contract Manager will provide banking information. Supplier shall also submit a copy of the sales report to the address below and a second copy of the Quarterly Sales Report to the DOAS Contract Manager.

For Check payments (least preferred): Supplier shall remit the check together with the Quarterly Sales Report to:

Department of Administrative Services

Finance & Administration Division
200 Piedmont Avenue, S.E.
Suite 1820, West Tower
Atlanta, Georgia 30334-9010

Supplier shall also submit a copy of the sales report to the address above and a second copy of the Quarterly Sales Report and evidence of payment to the DOAS Issuing Officer.

By submission of these reports and corresponding Supplier payments, Supplier is certifying their correctness.

- B. Auditing and Contract Close Out. All sales reports and Fee payments shall be subject to audit in accordance Section 20 "Records and Audits" as amended by this Addendum. In no event shall Contractor retain any amount of money in excess of the compensation to which Contractor is entitled and all Fees owed DOAS shall be paid within thirty (30) calendar days of termination of this Addendum for any reason.
- C. Modifying or Canceling the Fee. DOAS reserves the right to modify and/or cancel the Fee amount at any time subject to Contractor's written consent. In addition, in conjunction with implementation of an on-line procurement system, Contractor agrees to work with DOAS to revise collection and reporting requirements as reasonably necessary and as mutually agreed by both parties.
- D. Late Payment Fee. In the event DOAS does not receive the Contractor's payment of the Fees on or before the Contractor's Payment Due Date, the parties agree the Contractor must pay DOAS interest on the overdue Fees at a rate of eighteen percent (18%) per annum. Interest will be calculated as follows:

$$\begin{aligned} &(\text{Administrative Fee Amount Due}) \times (18\%) = X \\ &X / 365 \text{ (366 for leap years)} = Y \\ &Y \times (\text{Number of Days Payment is Late}) = \text{Interest Owed} \end{aligned}$$

For the purposes of this provision, payment of the Fees shall be considered received by DOAS on (1) the date of DOAS' receipt of the EFT confirmation or (2) the date DOAS receives the envelope containing a check for the correct amount of the administrative fee. In the event the Contractor does not submit full payment of the Fees owed, interest shall only be applicable to the portion of the Fees which is outstanding. In the event the Contractor makes an error and overpays, the Contractor is responsible for alerting DOAS in writing of the Contractor's discovery of the overpayment. DOAS will confirm whether an overpayment has occurred and refund the overpayment amount to the Contractor no later than thirty (30) days' following DOAS' receipt of written notice of the overpayment. DOAS will have no responsibility for interest or any other fees with respect to Contractor's overpayment of Fees.

- E. Default. **THE PARTIES AGREE THE CONTRACTOR'S RESPONSIBILITY TO COLLECT AND REMIT THE ADMINISTRATIVE FEE ON BEHALF OF DOAS IS A SERIOUS RESPONSIBILITY AS THE CONTRACTOR IS HANDLING STATE FUNDS.** Accordingly, failure to comply with these contractual requirements shall constitute grounds for

declaring Contractor in default. In the event Contractor breaches the provisions of Section 60 "Georgia Administrative Fee" and fails to cure such breach upon written notice and an opportunity to cure, DOAS shall have the right to terminate this Addendum and recover actual and reasonable reprourement costs in addition to all outstanding Fees and interests. In the event DOAS elects to recover reprourement costs from Contractor, DOAS must act in good faith to mitigate such reprourement costs.

- h. Virtual Catalog Cooperation: Exhibit A, Section B. WSCA-NASPO Terms and Conditions is modified as follows: Add new section as follows:

62. Virtual Catalog Cooperation. Contractor shall comply with the provisions of Exhibit A "Virtual Catalog Cooperation" of this Addendum.

- i. Insurance: Exhibit A, Section B, Section 17, entitled "Insurance" is modified as follows:

Insurance. The following requirements shall be adhered to by the Contractor throughout the duration of the Addendum and as may otherwise be specified herein. Contractor shall procure and maintain insurance which shall protect the Contractor and the State of Georgia, DOAS and Authorized Users (as an additional insured to the extent of Contractor's indemnity obligations) from any claims for bodily injury, property damage, or personal injury covered by the indemnification obligations set forth in this Addendum. Contractor shall procure and maintain the insurance policies described below at the Contractor's own expense and shall furnish DOAS an insurance certificate listing the State of Georgia as certificate holder and as an additional insured. The insurance certificate must document that the Commercial General Liability insurance coverage purchased by the Contractor includes contractual liability coverage. In addition, the insurance certificate must provide the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in Georgia); a description of coverage in detailed standard terminology (including policy period, policy number, and limits of liability);

Contractor is required to maintain insurance coverage for the duration of the Addendum. The minimum acceptable limits shall be as indicated below, with for each of the following categories:

- A. Commercial General Liability Policy (Occurrence) covering the risk of bodily injury (including death), property damage and personal injury, including contractual liability coverage to protect the state and must be on an "occurrence" basis.

General Aggregate including Products and Completed Operations	\$2,000,000
Each Occurrence	\$1,000,000

- B. State Workers Compensation or Employers Liability Insurance requirements.

Contractor shall pay premiums on all insurance policies. Such policies shall have a condition that that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Participating Entity by the Contractor.

Prior to the commencement of the work, Contractor shall provide to the Participating Entity a written endorsement to the Contractor's general

liability insurance policy that (i) names the Participating Entity as an additional insured, and (ii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the Participating Entity as secondary or noncontributory. Contractor shall take commercially reasonable efforts to notify the named Participating Entity within thirty (30) days prior written notice of a material alteration, cancellation, non-renewal, or expiration of the coverage of such policy. Contractor shall furnish to Participating Entity copies of certificates of all required insurance within thirty (30) days of this Addendum's effective date and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may Participant Entity's sole option, result in this Addendum's termination.

Coverage shall not limit Contractor's liability and obligations under the Master Agreement.

- D. The foregoing policies shall be obtained from insurance companies authorized to do business in Georgia, with an A.M. Best Company rating of A- and signed by an authorized agent. All such coverage shall remain in full force and effect during the initial term of the Addendum and any renewal or extension thereof.
- j. Contractor's Personnel and Staffing: Exhibit A, Section B, WSCA-NASPO Terms and Conditions is modified by adding the following new section:
33. Contractor's Personnel and Staffing. Contractor warrants that all persons assigned to perform services pursuant to this Addendum are either lawful employees of Contractor or lawful employees of a subcontractor authorized by DOAS. All persons assigned to perform services shall be qualified and shall possess all professional licenses required to perform the services.
- k. State Security: Exhibit A, Section B, WSCA-NASPO Terms and Conditions is modified by adding the following new section:
34. State Security. DOAS requires that a criminal background investigation be made of any and all Contractor personnel utilized to provide services to the State on State premises. Contractor represents and warrants that Contractor shall refrain from assigning personnel to any task under this Addendum if such investigation reveals a disregard for the law or other background that indicates an unacceptable security risk as determined by the State. The Contractor's employees, agents and subcontractors may be granted access to state computers, hardware, software, programs and/or information technology infrastructure or operations to the extent necessary to carry out the Contractor's responsibilities under the Addendum. Such access may be terminated at the sole discretion of the Authorized User. Contractor shall provide immediate notice to DOAS of any employees, agents and/or subcontractors suspected of abusing or misusing such access privilege. Contractor represents and warrants that Contractor shall provide notice to DOAS of the changed status of any employee, agent or subcontractor granted access to state computers, hardware, software, programs and/or information technology infrastructure or operations, including, but not limited to, termination or change of the position or contract relationship.

- l. Drug Free Workplace: Exhibit A, Section B, WSCA-NASPO Terms and Conditions is modified by adding the following new section:

35. Drug Free Workplace. Contractor hereby certifies as follows:

- A. Contractor will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Addendum; and
- B. If Contractor has more than one employee, including Contractor, Contractor shall provide for such employee(s) a drug-free workplace, in accordance with the Georgia Drug-free Workplace Act as provided in O.C.G.A. Section 50-24-1 et seq., throughout the duration of this Addendum; and
- C. Contractor will secure from any subcontractor hired to work on any job assigned under this Addendum the following written certification: "As part of the subcontracting agreement with (Contractor's Name), (Subcontractor's Name) certifies to the contractor that a drug-free workplace will be provided for the subcontractor's employees during the performance of this Addendum pursuant to paragraph 7 of subsection (b) of Code Section 50-24-3."
- D. Contractor may be suspended, terminated, or debarred if it is determined that:
 - i. Contractor has made false certification herein above; or
 - ii. Contractor has violated such certification by failure to carry out the requirements of O.C.G.A. Section 50-24-3(b).

- i. Notice of Intent to Litigate: Exhibit A, Section B, WSCA-NASPO Terms and Conditions is modified by adding the following new section:

36. Notice of Intent to Litigate. In addition to any dispute resolution procedures otherwise required under this Addendum or any informal negotiations which may occur between the State and the Contractor, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Addendum may be commenced without first giving fourteen (14) calendar days written notice to the State of the claim and the intent to initiate a civil action.

- m. Integration: Exhibit A, Section B, WSCA-NASPO Terms and Conditions is modified by adding the following new section:

37. Integration. This Addendum represents the entire agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in the Addendum.

- o. Assignment and Delegation: Exhibit A, Section B, WSCA-NASPO Terms and Conditions is modified by adding the following new section:

38. Assignment and Delegation. This Addendum may not be assigned, transferred or conveyed in whole or in part without the prior written consent of DOAS.

- p. Amendments: Exhibit A, Section B, WSCA-NASPO Terms and Conditions is modified by adding the following new section:

39. Amendments. The Addendum may be amended in writing from time to time by mutual consent of the parties. All amendments to the Addendum must be in

writing and fully executed by duly authorized representatives of DOAS and Contractor.

q. **Funding:** Exhibit A, Section B, WSCA-NASPO Terms and Conditions is modified by adding the following new section:

40. **Funding:** Notwithstanding any other provision of this Contract, the parties hereto acknowledge that the Purchasing Entity may not lawfully pledge the State's credit. Pursuant to O.C.G.A. Section 50-5-64, this Contract will terminate immediately and absolutely if the State Entity determines that adequate funds are de-appropriated such that the State Entity cannot fulfill its obligations under the Contract, which determination is at the State Entity's sole discretion and shall be conclusive.

5. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):
The primary government contact individuals for this Addendum are as follows (or their named successors):

Lead State

Name: Susan Kahle
Address: 112 Admin Bldg, St Paul, MN 55155
Telephone: (651) 201-2434
Fax: (651) 297-3996
E-mail: Susan.kahle@state.mn.us

Contractor

Name: Denise Orosco
Address: 1921 Gallows Road, Suite 600, Vienna, VA 22812 Telephone: (530) 644-1467 (Home Office PST)
Fax: (703) 918-7301
E-mail: Densie.Orosco@netapp.com

Participating State

Name: Beverly Alexander Denson
Address: 200 Piedmont Ave., SE, Suite 1308, West Tower, Atlanta, GA 30334-9010
Telephone: 404-656-5345
Fax: 404-657-8444
E-mail: beverly.denson@doas.ga.gov

6. **Servicing Subcontractors:**

Servicing Subcontractors must be approved by both DOAS and Contractor.

All orders are to be issued directly to: either Contractor or a servicing subcontractor approved by DOAS.

And all payments are to be issued to: either Contractor or a servicing subcontractor approved by DOAS.

All purchase orders issued by purchasing entities with the jurisdiction of this Addendum must include the Participating State contract number: 99999-SPD-T20150930-0002; and the Master Price Agreement Number: MNWNC-121.

This Addendum and the Master Price Agreement together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Master Price

Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Master Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Master Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms. This Addendum applies only in the jurisdiction of the Participating State or Participating Entity which has executed this Addendum.

7. Partner Utilization: Each state represented by WSCA-NASPO participating in this Master Agreement independently have the option of utilizing partners. Only partners approved by the Georgia Department of Administrative Services may be deployed. The Georgia Department of Administrative Services will define the process to add and remove partners and may define the partner's role in their participating addendum. The Contractors partners' participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

8. Terms. The Participating State/Entity is agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with applicable law.

Contractor acknowledges that Participating Entity or Purchasing Entity is a political subdivision of the State of Georgia. Parties agree that this Addendum is subject to Georgia State laws and any provision of the Addendum that is in direct conflict with any Georgia State laws shall be deemed unenforceable.

9. Orders: Any Order placed by a Participating Entity or Purchasing Entity within the State must include the Participating State contract number 99999-SPD-T20150930-0002 and the Master Agreement No. MNWNC-121.

10. Entire Agreement; Modifications. Neither Contractor nor Participating Entity or Purchasing Entity will be liable for any agreements, warranties, understandings, conditions, covenants, or representations not expressly set forth or referenced in this Addendum. Any different or additional provisions in purchase orders, invoices or similar documents issued by Participating Entity or Purchasing Entity at any time are hereby deemed refused by Contractor and such refused provisions will be unenforceable. Except as otherwise provided in this Addendum, no modification to this Addendum will be binding unless in writing and signed by an authorized representative of each party. Any further Amendments to the Master Agreement after the Effective Date of this Participating Addendum, that have been approved by the Lead State, will not be applicable to this Participating Addendum and will not be valid unless made in writing as an amendment to this Participating Addendum, signed by the parties and approved as required by the laws of the State of Georgia. No oral understanding or agreement not incorporated in this Participating Addendum is binding on any of the parties.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State: <i>Department of Administrative Services</i>	Contractor: <i>NctApp, Inc.</i>
By: <i>[Signature]</i>	By: <i>[Signature]</i>
Name: <i>LISA EASON</i>	Name: <i>Robert Stein</i>
Title: <i>Deputy Commissioner, SPD</i>	Title: <i>VP Sales</i>

Date: 10-2-15	Date: 10/2/15
Legal Entity Name:	
DBA Name:	
Headquarter Address:	

For questions on executing a participating addendum, please contact:
WSCA-NASPO

Cooperative Development Coordinator	Tim Hay
Telephone	
e-mail	

EXHIBIT A

Virtual Catalog Cooperation

If the state of Georgia implements a Virtual Catalog NetApp will co-operate with the state of Georgia in complying with the requirements