

**PARTICIPATING ADDENDUM**  
**NASPO ValuePoint 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  
Commonwealth of Virginia, County of Henrico  
(hereinafter "Participating State/Entity")

1. Scope: This addendum allows for purchase of the following Computer Equipment/Services: **Storage including related Peripherals and Services** 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.

2. Participation: Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use **Commonwealth of Virginia, County of Henrico's** contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Order of Precedence:
  - A. A Participating Entity's Participating Addendum ("PA"); 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 NASPO ValuePoint Master Agreement;
  - B. Minnesota NASPO ValuePoint Master Agreement (includes negotiated Terms & Conditions);
  - C. The Solicitation including all Addendums; and
  - D. 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:

- A. To the extent applicable, the Contractor agrees to comply with the following mandatory provisions of the Virginia Public Procurement Act (Va. Code § 2.2-4300 *et seq.*) ("VPPA"), which are hereby incorporated by reference:
  - 1. § 2.2-4311 ("Employment discrimination by contractor prohibited; required contract provisions.");
  - 2. § 2.2-4311.1 ("Compliance with federal, state, and local laws and federal immigration law; required contract provisions.");
  - 3. § 2.2-4311.2 ("Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth."); § 2.2-4312 ("Drug-free workplace to be maintained by contractor; required contract provisions.");
  - 4. § 2.2-4312 ("Drug-free workplace to be maintained by contractor; required contract provisions.");
  - 5. § 2.2-4342 ("Public inspection of certain records.");
  - 6. § 2.2-4343.1 ("Permitted contracts with certain religious organizations; purpose; limitations.");
  - 7. § 2.2-4354 ("Payment clauses to be included in contracts."); and
  - 8. Article 6 of the VPPA (§§ 2.2-4367 through 2.2-4377) ("Ethics in Public Contracting").
- B. The Contractor shall maintain insurance to protect itself and the County and the County's elected officials, officers, agents, volunteers and employees from claims under the Workers' Compensation Act, and from any other claim for damages for personal injury, including death, and for damages to property which may arise from the provision of goods and/or services under this Agreement, whether such goods and/or services are provided by the Contractor or by any subcontractor or anyone directly employed by either of them. Such insurance shall conform to the Insurance Specifications set forth in the attached **Exhibit A**.
- C. If this Agreement involves the provision of goods or services to Henrico County Public Schools (HCPS), the Contractor agrees to comply with the § 22.1-296.1 of the Code of Virginia ("Data on convictions for certain crimes and child abuse and neglect required; penalty.).
- D. This Agreement is subject to appropriations by the Henrico County Board of Supervisors.
- E. The forum for disputes is a state court of competent jurisdiction in the County of Henrico, Virginia.
- F. Notice shall be sent to:

*County of Henrico, Virginia  
Department of Finance – Purchasing Division  
Cecelia Stowe, Purchasing Director  
PO Box 90775  
Henrico, VA 23273*

*NetApp, Inc.  
Harry Franks  
1921 Gallows Rd, Suite 600  
Vienna, VA 22182*

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



Contractor

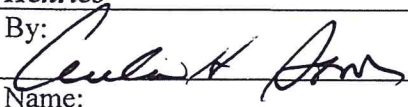
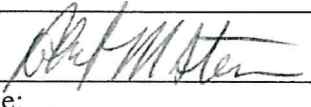
Name	Harry Franks
Address	1921 Gallows Rd, Suite 600, Vienna, VA 22182
Telephone	703-918-7317
Fax	
E-mail	harry.franks@netapp.com

Participating Entity

Name	Cecelia Stowe
Address	PO Box 90775
Telephone	804-501-5660
Fax	804-501-5693
E-mail	Sto05@henrico.us

6. Partner Utilization: Each state represented by NASPO ValuePoint participating in this Master Agreement independently have the option of utilizing partners. Only partners approved by this Participating State may be deployed. The participating State 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. Approved partners are:
- SLAIT
  - ePlus
  - Presidio
  - Data Network Solutions
  - CDWG
  - DLT Solutions
7. 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.
8. Orders: Any Order placed by a Participating Entity or Purchasing Entity within the State must include the Participating State contract No. as well as the Lead State Master Agreement No.: MNWNC-121.

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

Participating State: <i>Commonwealth of Virginia, County of Henrico</i>	Contractor: <i>NetApp, Inc.</i>
By: 	By: 
Name: <i>Cecelia H. Stowe</i>	Name: <i>ROBERT M. STEIN</i>
Title: <i>Purchasing Director</i>	Title: <i>V.P. US. PUBLIC SECTOR</i>
Date: <i>11-28-17</i>	Date: <i>11-21-17</i>

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator	Tim Hay
Telephone	503-428-5705
E-mail	<a href="mailto:thay@naspovaluepoint.org">thay@naspovaluepoint.org</a>

APPROVED AS TO FORM

  
COUNTY ATTORNEY

## **COUNTY OF HENRICO STANDARD INSURANCE GUIDELINES**

The Contractor shall carry Public Liability Insurance in the amount specified below, including contractual liability assumed by the Contractor, and shall deliver a Certificate of Insurance from carriers acceptable to the owner specifying such limits. The Certificate shall show the County of Henrico and Henrico County Public Schools included as an additional insured for the Commercial General Liability. The coverage shall be provided by a carrier(s) rated "Excellent" by A.M. Bests. In addition, the insurer shall agree to give the County 30 days notice of its decision to cancel coverage.

### **Workers' Compensation**

Statutory Virginia Limits

Employers' Liability Insurance - \$100,000 for each Accident by employee \$100,000 for each Disease by employee \$500,000 policy limit by Disease

### **Commercial General Liability - Combined Single Limit**

\$1,000,000 each occurrence including contractual liability for specified agreement

\$2,000,000 General Aggregate (other than Products/Completed Operations)

\$2,000,000 General Liability-Products/Completed Operations

\$1,000,000 Personal and Advertising injury

\$ 100,000 Fire Damage Legal Liability

Coverage must include Broad Form property damage and (XCU) Explosion, Collapse and Underground Coverage

**Business Automobile Liability** – including owned, non-owned and hired car coverage  
Combined Single Limit - \$1,000,000 each accident



NOTE 1: Contractual Liability covers the following indemnity agreement:

"The Contractor agrees to indemnify, defend and hold harmless the County of Henrico including Henrico Public County Schools, its officers, agents and employees from any claims, damages, suits, actions, liabilities and costs, including attorneys' fees, caused by or arising out of the performance or non-performance of this Agreement by NetApp or its agents or subcontractors, including the provision of any services or products. In no event will Contractor or its suppliers or subcontractors be liable to Participating Entity for incidental, consequential, special, or indirect damages (including downtime costs, loss or corruption of data, lost revenue or lost profits), regardless of whether such damages are based on contract, tort, warranty or any other legal theory.

To the extent that limitation of liability is permitted by law, Contractor's liability to Participating Entity is limited to US\$1,000,000. This limitation is cumulative and not per incident.

The limitations set forth in this Section will not apply to damages for bodily injury or death, or to Patent, Copyright, Trademark and Trade Secret Indemnification."

NOTE 2: The classification code numbers appearing on the Commercial General Liability coverage parts shall not exclude the symbols "X-C-U".

NOTE 3: The intent of this insurance specification is to provide the coverage required and the limits expected for each type of coverage. With regard to the Business Automobile Liability and Commercial General Liability, the total amount of coverage can be accomplished through any combination of primary and excess/umbrella insurance. However, the total insurance protection provided for Commercial General Liability or for Business Automobile Liability, either individually or in combination with the Excess/Umbrella Liability, must total \$1,000,000 per occurrence. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded the County of Henrico and Henrico County Public Schools. This policy shall be endorsed to be primary, excluding Workers' Compensation, with respect to the additional insured.

**NOTE 4: The certificate holder on the Accord form shall be:**

**County of Henrico, Virginia  
Department of Risk Management P O Box 90775  
Henrico, VA 23273-0775**

Version 9.14.17