

NetApp All Flash FAS Promotion **Terms and Conditions**

The following terms and conditions govern the NetApp All Flash FAS Promotion (“**Promotion**”):

1. DEFINED TERMS

- a. “**AFF**” means any NetApp-branded All Flash FAS storage system with Flash Bundle software.
- b. “**Customer**” means any NetApp customer acquiring NetApp products and services for its own use.
- c. “**Eligible Products**” means any AFF purchased during the Promo Period; provided that Customer also purchases a minimum of three (3) years of Support for such AFF, including for all software on such AFF, within thirty (30) days of purchasing such AFF. Only NetApp-branded products and support services qualify as Eligible Products.
- d. “**Promo Period**” means the period beginning on August 17, 2015 and ending on April 28, 2017.
- e. “**Promo Product**” means either the Equivalent Product or the Upgrade Option, as the context may dictate, as further set forth in Section 2, below.
- f. “**Renewal Date**” means the third anniversary of the effective date of Customer’s Support Contract.
- g. “**SupportEdge Premium**” or “**SEP**” refers to the NetApp-branded support offering as further described on www.netapp.com.
- h. “**Software Support Plan**” or “**SSP**” refers to the NetApp-branded support offering as further described on www.netapp.com.
- i. “**Support**” means collectively SEP and SSP.
- j. “**Support Contract**” means collectively the support contracts entered into between Customer and NetApp governing NetApp’s provision of both the SEP and the SSP support services for the AFF, including for all Software on such AFF, including any renewals or extensions of the term of such contracts.

2. **THE OFFER.** Customers who (a) place an order for an Eligible Product during the Promo Period and (b) renew their Support Contract pursuant to Section 3.a (below) such that the total duration of their Support Contract is six (6) years, may elect to receive one of the following Promo Products:

- **Equivalent Product** – A new AFF controller, free of charge, that is equivalent to the Eligible Product (such determination of equivalency to be made in NetApp’s sole discretion);

or

- **Upgrade Option** – Any higher performance controller available on NetApp’s price list at the time that Customer submits a P.O. for such Promo Product pursuant to Section 3.a (below); provided that Customer pays the associated upgrade fee (such fee to be set by NetApp on a case-by-case basis and in NetApp’s sole discretion).

3. **ADDITIONAL TERMS.** The following additional terms apply to this Promotion:

- a. To be eligible to receive the Promo Product, Customer must submit a purchase order for such Promo Product and for the Support Contract renewal prior to the Renewal Date. Provided that all of the terms and conditions of this Promotion are satisfied, Customer will receive the Promo Product on or after the Renewal Date. Customer is responsible for any applicable shipping charges and taxes. NetApp bears no liability in the event that Customer does not request the Promo Product within the appropriate time.
- b. Upon renewal of Customer’s Support Contract, Customer must renew such Support services on the AFF, as-configured at the time of renewal.
- c. Customer must return the Eligible Product within forty-five (45) days of receiving the Promo Product or Customer will be liable for the full listing price of the Promo Product.

- d. The NetApp software licenses for the Flash Bundle software on the Eligible Product may be transferred, without charge, to the Promo Product. New licenses must be purchased for any software on the Promo Product that is not part of the Flash Bundle software.
 - e. Installation costs and services related to the Promo Product are not included in this Promotion. Customer is solely responsible for any installation of the Promo Product and for the purchase of additional services as needed.
 - f. Customer is responsible for transferring data from the Eligible Product to the Promo Product. NetApp is not responsible for any data loss that may occur during the course of such transfer.
 - g. The terms of this Promotion are available for Customer's Eligible Products on a one-time basis only. For the avoidance of doubt, further extensions or renewals of Customer's SEP Contract with respect to the Promo Product do not make Customer eligible for future Promo Products.
 - h. This Promo is for Eligible Products only. AFF systems with Base Bundle SW only or, that are purchased without Flash Bundle SW, are not eligible for this Promo.
4. **GENERAL.** This Promotion is void where prohibited or restricted by law. NetApp is not responsible for an inability to read the terms of this Promotion due to the fact that these terms are displayed in the English language. NetApp may use the information provided in accordance with its privacy policies posted online at <http://www.netapp.com/us/legal/privacypolicy/index.aspx>. NetApp reserves the right to change the terms and conditions of this Promotion or modify or end this Promotion at any time without notice. The terms and conditions of this Promotion will be construed pursuant to the laws of California, excluding its conflicts of law provisions. Customer agrees to submit to the exclusive jurisdiction of the courts of the state of California to resolve any disputes arising out of this Promotion.

In addition, terms set forth in Customer's separate agreement, or the terms on NetApp's "How to Buy" site at <http://www.netapp.com/us/how-to-buy/index.aspx>, may also apply to the products and support provided pursuant to the Promotion.