

**PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-19
Administered by the State of Utah (hereinafter "Lead State")**

MASTER AGREEMENT

ShoreTel, Inc
Master Agreement No: AR627
(hereinafter "Contractor")

And

State of Oklahoma
(hereinafter "Participating State")

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1. Scope: This addendum covers the Data Communications Products and Services 14-20 contracts led by the State of Utah for use by state agencies and other entities located in the Participating **State/Entity** authorized by that state's statutes to utilize **state/entity** contracts with the prior approval of the state's chief procurement official.

2. Participation: Use of specific WSCA-NASPO cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use **state/entity** 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. Participating State Modifications or Additions to Master Agreement:
(These modifications or additions apply only to actions and relationships within the Participating Entity.)

Attachment A., Section 9., Force Majeure revised and restated as follows:

Neither party to the Master Agreement shall be held responsible for delay or default caused by the fire, riot, acts of God and/or war which is beyond that party's reasonable control and that actually affect the parties obligation under the Master Agreement. The parties shall perform to the extent able under the circumstances. WSCA-NASPO may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

Attachment A., Section 10., Governing Law is revised to add the following sentence at the end of Section 10.

Any claims, disputes or litigation relating to the Contract Documents, singularly or in the aggregate, or the execution, interpretation, performance, or enforcement thereof shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles.

Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents shall be in Oklahoma County, Oklahoma. Further, the State does not waive the doctrines of sovereign immunity and immunity from suit to the extent authorized by the constitution and laws of the State of Oklahoma.

Attachment A., Section 12., Indemnification – Intellectual Property is hereby modified to

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add the following provision:

IN CONNECTION WITH INDEMNIFICATION OF CUSTOMER WHEN AN OKLAHOMA STATE AGENCY IS A NAMED DEFENDANT IN ANY LAWSUIT, THE DEFENSE OF THE OKLAHOMA STATE AGENCY SHALL BE COORDINATED BY THE ATTORNEY GENERAL OF OKLAHOMA, OR THE ATTORNEY GENERAL OF OKLAHOMA MAY AUTHORIZE THE VENDOR TO CONTROL THE DEFENSE AND ANY RELATED SETTLEMENT NEGOTIATIONS PROVIDED HOWEVER VENDOR MAY NOT AGREE TO ANY SETTLEMENT OF CLAIMS AGAINST THE STATE OF OKLAHOMA WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OKLAHOMA ATTORNEY GENERAL. IF THE ATTORNEY GENERAL OF OKLAHOMA DOES NOT AUTHORIZE SOLE CONTROL OF THE DEFENSE AND SETTLEMENT NEGOTIATIONS TO VENDOR, VENDOR SHALL BE GRANTED AUTHORIZATION TO EQUALLY PARTICIPATE IN ANY PROCEEDING RELATED TO THIS SECTION BUT VENDOR SHALL REMAIN RESPONSIBLE TO INDEMNIFY THE CUSTOMER IN ACCORDANCE WITH AND TO THE EXTENT VENDOR PROVIDES AN INDEMNITY IN THE AGREEMENT.

Attachment A., Section 16., Laws and Regulations is hereby modified to add the following provision:

In connection with its performance of obligations under the terms of this Agreement, the Vendor shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances and orders, as amended, that are, by their terms, expressly applicable to Vendor's delivery of Products and/or services under this Agreement and impose obligations upon Vendor in its role as an information technology services provider including but not limited to the following:

- a) Drug-Free Workplace Act of 1988 and as implemented at 45 C.F.R. part 76, Subpart F;
- b) Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use under nonexempt Federal contract, grant or loans of facilities included on the EPA List of Violating Facilities;
- c) Title VII of the 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 and Executive Orders 11246 and 11375;
- d) Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93; and
- e) Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit and be current on franchise tax payments to the State, as applicable.

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Attachment A., Section 22. Payment is hereby modified to add the following provision:

As applicable, the parties shall comply with applicable Oklahoma law in invoicing and making payments. Payments for goods and services are due thirty (30) days after receipt of a proper invoice; however, Vendor agrees that payment received in accordance with applicable Oklahoma law allowing forty-five (45) days shall not constitute default hereunder nor entitle Vendor to late payment fees or interest.

Attachment A., Section 24. Records Administration and Audit is hereby modified to add the following provision:

As used in this clause, "records" includes invoice, Statement of Work, purchase order records or such other relevant documents regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with the Customer, the Vendor agrees any pertinent state or federal agency shall have the right to examine and audit all records relevant to execution and performance of this Contract.

The Vendor is required to retain records relative to this Contract for the duration of this Contract and for a period of seven (7) years following completion and/or termination of this Contract. If an audit, litigation, or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

Attachment A., Section 25. Reports and Administrative Fees is hereby modified to add the following provision:

For Oklahoma based Customers, Vendor agrees to submit a Contract Usage Report and said report shall be submitted on a quarterly basis. "Contract Usage Report" shall include the following: the Applicable State Contract Number, report amount(s), and reporting period covered and the State agency name. Reports shall include usage of this Contract by any other Government Entities (i.e. county, city, etc). Continuous failure to submit quarterly usage report may result in termination of the Contract.

Contract usage report shall meet the following criteria:

- a) Must be submitted electronically in Excel format
- b) Reports shall be submitted quarterly regardless of quantity
- c) Submitted within thirty (30) - calendar days upon performance completion

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d) Contract quarterly reporting periods shall be as prescribed:
January 01 through March 31
April 01 through June 30
July 01 through September 30
October 01 through December 31

Usage Reports shall be delivered to:
State of Oklahoma Office of Management and Enterprise Services-ISD Procurement
3115 N. Lincoln Blvd Oklahoma City OK 73105 or
E-mail: StatewideContractReports@omes.ok.gov

For Oklahoma Based Customers, the State of Oklahoma assesses an administrative fee in the sum of one percent (1%) on all sales transacted by any entity under the Contract.

Failure to remit the fee quarterly may result in cancellation of the Contract. Administrative Fees shall not be reflected as a separate line item in Contractor's billing to participating State Agencies and Authorized Users.

Payment shall be made by via Company Check payable to OMES/ ISD Procurement within 30 calendar days from the completion of the quarterly reporting period stated under the section titled "Contract Usage Reporting."

Contractor agrees to notify OMES-ISD Procurement 24 hour in advance prior to submitting payment.

To ensure payment is properly credited, the Contractor must identify payment in the Contract Usage Report as an "Administrative Fee" and include the following information: the Applicable State Contract Number, Administrative Fee amount (s) paid and the reporting period covered

Administrative Fees should be mailed to:

Office of Management and Enterprise Services /ISD Procurement
3115 North Lincoln Blvd
Oklahoma City, Oklahoma 73105

Attachment A., is hereby modified to add the following Section:

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Attachment A., Section 33. Limitation of Liability

For any claim or cause of action arising under or related to the Contract: i) to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages; and ii) Vendor's liability for damages of any kind to the Customer shall be limited to the total amount paid to Vendor under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action. However, this limitation of Vendor's liability shall not apply to claims of bodily injury; violation of intellectual property rights including but not limited to patent, trademark, or copyright infringement; indemnification requirements under this Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind lawfully assessed as a result of such violation.

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.

Attachment A., is hereby modified to add the following Section:

Attachment A., Section 34. Accessibility/VPAT

Vendor shall comply with federal and state laws, rules and regulations related to information technology accessibility, as applicable to Vendor as the provider of information technology products and services under this Contract, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at http://www.ok.gov/cio/documents/isd_itas.pdf. If products furnished by Vendor do not require additional development or customization, Vendor shall, upon request, but not later than thirty (30) calendar days after the State of Oklahoma's request, provide a Voluntary Product Accessibility Template ("VPAT") describing such compliance, which may be provided via a URL linking to the VPAT. If the products will require development or customization, the Vendor shall provide a VPAT describing such compliance without additional request by Customer. In such case, additional requirements and documentation may be required and compliance shall be necessary by Vendor. Such requirements may be stated in appropriate documents including but not limited to state bids, request for proposals, statements of work, riders, agreements, purchase orders and Amendments. Accordingly, in each statement of work or similar document issued pursuant to this Contract, Vendor shall describe such compliance and identify, if and as applicable, (i) which

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exception to the Standards applies or (ii) a description of the tasks and estimated cost to make the proposed products and/or services compliant with applicable Standards.

All representations contained in the VPAT provided will be relied upon by the Customer for accessibility compliance purposes.

Attachment A., Definitions is modified to add the following definition:

Customer - The defined term "Customer" shall include the State of Oklahoma and any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee department or other entity designated to act in behalf of the political subdivision; a state county or local governmental entity in its state of origin; and entities authorized to utilize contracts awarded by the State via a multistate or multi-governmental contract.

4. Lease Agreements:

Leasing provisions have not been approved by the State of Oklahoma by the procuring agencies within this jurisdiction. The State of Oklahoma reserves the right to exercise any leasing agreement at some future date.

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

Contractor

Name	Shane Harper
Address	960 Stewart Drive Sunnyvale, CA 94085
Telephone	(408) 331-3588
Fax	(408) 331-3588
E-mail	sharper@shoretel.com

Participating Entity

Name	Allen Cook
Address	3115 N. Lincoln Blvd.
Telephone	405-522-0685
Fax	
E-mail	Allen.cook@omes.ok.gov

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6. Subcontractors: All ShoreTel, Inc. dealers and resellers authorized in the State of Oklahoma, as shown on the dedicated ShoreTel, Inc. (cooperative contract) website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement. The ShoreTel, Inc. dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

7. Orders: Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

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

Participating State: Oklahoma	Contractor: Shoretel Inc
By: <i>[Signature]</i>	By: <i>[Signature]</i>
Name: James L. Reese II	Name: Sharon Harper
Title: Chief Information Officer	Title: Director
Date: 3-3-15	Date: 2/25/15

[Additional signatures as required by Participating State]

For questions on executing a participating addendum, please contact:

WSCA-NASPO	
Cooperative Development Coordinator	Paul Stembler
Telephone	651-206-3858
E-mail	pstembler@wsca-naspo.org

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**[Please email fully executed PDF copy of this document to
PA@wsca-naspo.org to support documentation of participation and
posting in appropriate data bases]**

