

**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
Mitel Business Systems, Inc.
(hereinafter "Contractor")**

Master Agreement Number: AR623

And

**The State of Louisiana
(hereinafter "Participating State")**

Participating State Contract Number: 409951

1. Scope

This Addendum covers Data Communications Products and Services 14-19 contracts within the scope of the WSCA-NASPO Master Agreement lead by the State of Utah for use by all state agencies and local government entities, institutions of higher education, and school districts located in the State of Louisiana who are authorized by the State of Louisiana statutes to utilize state contracts.

2. Participation

Use of specific WSCA/NASPO cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the 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. Term

The term of this Participating Addendum and State Contract Number 409951 shall be effective upon the date of final execution below (the "Effective Date") by the State of Louisiana through May 31, 2019, unless otherwise terminated in accordance with the termination provisions of this Participating Addendum or the Master Agreement. This Participating Addendum and State Contract Number 409951 may be extended in accordance with the terms and conditions of the Master Agreement.

4. Non-Exclusive Contract

The contract shall be non-exclusive and shall not in any way preclude the State of Louisiana from entering into similar contracts and/or arrangements with other vendors or from acquiring similar, equal or like goods and/or services from other entities or sources.

5. Changes

- A. The following Product Lines are excluded from purchase under State Contract Number 409951:

- Professional Services, Section 5.3.1.2 of Attachment B – Scope of Work.
- Partner Services, Section 5.3.1.3 of Attachment B – Scope of Work
- Consulting Services
- Lease Agreements

- B. Equipment Installation** is limited to the unpacking, inventory, assembly of components, rack mounting of chassis, patch cord/cross connects and powering up of equipment. Vertical and horizontal wiring and cabling materials, equipment room patch panels/frames/racks, etc. and labor charges are specifically excluded from the contract.
- C. Initial Software Configuration** is limited to the configuring of software to support the routing, switching, feature/function assignments and/or security parameters required on the initial turn up of the equipment and software to deliver a functioning network product to the purchaser. Consulting services of any type to include, but not limited to, system design, capacity analysis, network performance evaluation, as well as any ongoing technical support are specifically excluded.
- D. Training** is limited to pre-developed training in support of products available through this participating addendum that is included in a publicly available course catalog of training. **No customized training is allowed.**
- E. Attachment A, Section 2. Amendments**, ADD the following language:

Any further Amendments to the Master Agreement after the Effective Date of this Participating Addendum, that have been approved by the WSCA-NASPO Contract Administrator, 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 Louisiana. No oral understanding or agreement not incorporated in this Participating Addendum is binding on any of the parties.

- F. Attachment A, Section 3. Assignment/Subcontract**, ADD the following language:

The Contractor shall not assign any interest in this Participating Addendum or State Contract Number 409951 by assignment, transfer or novation without prior written consent of the State. This provision shall not be construed to prohibit the Contractor from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State.

- G. Attachment A, Section 4. Cancellation**, REVISE to read as follows:

Termination for Cause: The State may terminate this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 for cause based upon the failure of Contractor to comply with the terms and/or conditions of this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 provided that the State shall give the Contractor written notice specifying the Contractor's failure. If within thirty (30) days after receipt of such notice, the Contractor shall not have corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct such

failure and thereafter proceeded diligently to complete such correction, then the State may, at its option, place the Contractor in default and this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 shall terminate on the date specified in such notice.

The Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the State to comply with the terms and conditions of this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951, provided that the Contractor shall give the State written notice specifying the State's failure and a reasonable opportunity for the State to cure the defect.

Termination for Convenience: The State may terminate this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 at any time by giving thirty (30) days written notice to contractor of such termination or negotiating with the Contractor an effective date.

Termination for Non-Appropriation of Funds: The continuation of this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 is contingent upon the continuation of an appropriation of funds by the legislature to fulfill the requirements of this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951. If the legislature fails to appropriate sufficient monies to provide for the continuation of this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriations for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951; this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

Contractor should be aware that our legislative process is such that it is often impossible to give prior notice of the non-appropriation of funds.

H. Attachment A, Section 10. Governing Laws, ADD the following language:

This Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

I. Attachment A, Section 11. Indemnification and Section 12. Indemnification-Intellectual Property, REVISE to read as follows:

INDEMNIFICATION AND LIMITATION OF LIABILITY:

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Agreement.

Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the State from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Contractor, its agents, employees, partners or subcontractors in the performance of this contract, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the State.

Contractor will indemnify, defend and hold the State harmless, *without limitation*, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgments, liabilities and costs which may be finally assessed against the State in any action for infringement of a United States Letter Patent with respect to the Products, Materials or Services furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon: (i) State's unauthorized modification or alteration of a Product, Material or Service; (ii) State's use of the Service in combination with other products, materials, or services not furnished by Contractor; (iii) State's use in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the state's exclusive remedy to take action in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part(s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the State up to the dollar amount of the Contract.

For all other claims against the Contractor where liability is not otherwise set forth in the Agreement as being without limitation, and regardless of the basis on which the claim is made, Contractor's liability for direct damages, shall not exceed the lesser of \$100,000, or amounts paid by the State for services rendered by the Contractor under the Contract that gave rise to such claim. Unless otherwise specifically enumerated herein mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the Contractor is required to back-up the data or records as part of the work plan), even if

the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The State may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

J. Attachment A, Section 22. Payment, ADD the following language:

Taxes: Any taxes, other than State and local sales and use taxes from which the State of Louisiana is exempt, shall be assumed to be included within the total cost.

Electronic Vendor Payment Solutions: The State desires to make payment's electronically. The methods of payment may be via the State's LaCarte card (procurement card), EVP method that converts check payments to a Visa credit card account with unique security features and electronic remittance notifications, or EFT payments sent directly from the State's bank directly to the payee's bank. See Attachment A for additional information regarding electronic payment methods.

Late Payments: Interest due by a State agency for late payments shall be in accordance with R.S. 39:1695 and 13:4202.

K. Attachment A, Section 24. Audit of Records, ADD the following language:

The State Legislative auditor, federal auditors and internal auditors of the State, or others so designated by the State, shall have the option to audit all accounts directly pertaining to this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951 for a period of five (5) years from the date of final payment or as required by applicable State and Federal Law. Records shall be made available during normal working hours for this purpose.

L. Attachment A, Section 25. Reports and Administrative Fees, ADD the following language:

Contractor shall submit quarterly reports to the State of Louisiana Contracts Manager. Initiation and submission of the quarterly report to the State of Louisiana is the responsibility of the Contractor without prompting or notification by the State of Louisiana Contracts Manager. Quarterly usage reports must contain total dollar usage figures for the State of Louisiana, per product category, per manufacturer, respectively. Usage figures must be provided per maintenance option. The due dates of each quarterly report are as follows:

First Quarter:	July 1 through September 30, due by October 31.
Second Quarter:	October 1 through December 31, due by January 31.
Third Quarter:	January 1 through March 31, due by April 30.
Fourth Quarter:	April 1 through June 30, due by July 31.

The reports shall be in the format developed by the Lead State and supplied to the Contractor.

Contractor shall pay a 1% administrative fee to the State of Louisiana. The fee shall be submitted quarterly and shall be based on the total net (gross sales minus returns, credits and deductions) sales to the State of Louisiana. The check is to be made payable to the State of Louisiana, Division of Administration, Office of State Procurement and is to be mailed to the Office of State Procurement, Attn: Kara Allen, P. O. Box 94095, Baton Rouge, LA 70804-9095.

M. Attachment A, ADD the following clauses:

Contract Controversies: Any claim or controversy arising out of this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951, shall be resolved by the provisions of Louisiana Revised Statute 39:1673.

Code of Ethics: The Contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of services called for in this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951. The Contractor agrees to immediately notify the state if potential violations of the Code of Governmental Ethics arise at any time during the term of this Participating Addendum, State Contract Number 409951, or any order issued pursuant to State Contract Number 409951.

6. Louisiana Pricing Schedule ("LAPS") Contract

State Contract Number 409951 has been designated as a Louisiana Pricing Schedule ("LAPS") contract and LAC 34.I.1709 must be followed by Louisiana purchasing entities utilizing the contract.

7. Primary Contacts

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

Contractor

Murray VanDyke
1146 N. Alma School Road
Mesa, AZ 85201
602-629-8811
623-201-4726 (Fax#)
Murray.VanDyke@mitel.com

Kathy Schock
6 Concourse Parkway Suite 2050
Atlanta, GA 30328
770-970-9125
Kathy.Schock@Mitel.com

Participating State

Felicia Sonnier
Assistant Director-Purchasing
Office of State Procurement
P. O. Box 94095
Baton Rouge, LA 70804-9095
Email: felicia.sonnier@la.gov
Voice: (225) 342-8029
Fax: (225) 342-8688

The Parties will keep and maintain current at all times a primary point of contact for administration of this Participating Addendum.

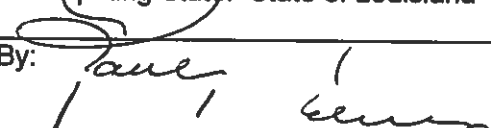
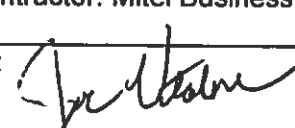
8. Subcontractors

All Contractor dealers and resellers authorized in the State of Louisiana, as shown on the dedicated Contractor website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement. The Contractor's dealer's participating will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

9. Orders

Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Participating Addendum and/or State Contract Number 409951 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 Participating Addendum as of the date of execution by both parties below.

Participating State: State of Louisiana	Contractor: Mitel Business Systems, Inc.
By: 	By: 
Name: Paul A. Holmes	Name: Joseph Vitalone
Title: Director of the Office of State Procurement	Title: EVP Mitel Networks
Date: 2/27/2015	Date: 2/20/15

ATTACHMENT A – Electronic Vendor Payment Solutions

In an effort to increase efficiencies and effectiveness as well as be strategic in utilizing technology and resources for the State and vendors, the State intends to make all payments to vendors electronically. The LaCarte procurement card will be used for purchases of \$5,000 and under, and where feasible, over \$5,000. Vendors will have a choice of receiving electronic payment for all other payments by selecting the Electronic Vendor Payment solution (EVP) or Electronic Funds Transfer (EFT). If you receive an award and do not currently accept the LaCarte card or EVP or have not already enrolled in EFT, you will be asked to comply with this request by choosing one the following three options. You may indicate your acceptance below.

The LaCarte Procurement Card uses a Visa card platform. Vendors receive payment from state agencies using the card in the same manner as other Visa card purchases. Vendors cannot process payment transactions through the credit card clearinghouse until the purchased products have been shipped or received or the services performed.

For all statewide and agency term contracts:

- Under the LaCarte program, purchase orders are not necessary. Orders must be placed against the net discounted products of the contract. All contract terms and conditions apply to purchases made with LaCarte.
- If a purchase order is not used, the vendor must keep on file a record of all LaCarte purchases issued against this contract during the contract period. The file must contain the particular item number, quantity, line total and order total. Records of these purchases must be provided to the Office of State Purchasing on request.

EVP method converts check payments to a Visa credit card thereby streamlining payments to your organization. Participants receive a credit card account number with unique security features. This card will have \$0 available funds until an invoice is approved for payment. As payments are approved, electronic remittance notifications are sent via email along with approval to charge the card for that amount. EVP requires no change to current invoice procedures; it is secure, and does not require your bank information.

EFT payments are sent from the State's bank directly to the payee's bank each weekday. The only requirement is that you have an active checking or savings account at a financial institution that can accept Automated Clearing House (ACH) credit files and remittance information electronically. Additional information is available at <http://www.doa.louisiana.gov/OSRAP/EFTforWebsite.pdf>. To facilitate this payment process, you will need to complete and return both EFT enrollment forms found at <http://www.doa.louisiana.gov/ERP/pdfs/LaGov%20AP-03%20-%20EFT%20Vendor%20Enrollment%20Form.pdf> and <http://www.doa.louisiana.gov/OSRAP/EFTforWebsite.pdf>

Please check which option you will accept or indicate if you are already enrolled.

Payment Type	Will Accept	Already enrolled
LaCarte	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EVP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EFT	<input type="checkbox"/>	<input type="checkbox"/>

Michelle McLaughlin
Printed Name of Individual Authorized

Michelle McLaughlin
Authorized Signature for payment type chosen

2-18-15
Date

michelle.mclaughlin@mitel.com
Email address and phone number of authorized individual

(800) 722-1301 ext 11339