

MAY 26 2020

**REQUEST FOR AGENDA PLACEMENT FORM**

**Approved**

Submission Deadline - Tuesday, 12:00 PM before Court Dates

SUBMITTED BY: Carla Hester      TODAY'S DATE: May 12, 2020

DEPARTMENT: County Judge

SIGNATURE OF DEPARTMENT HEAD:

REQUESTED AGENDA DATE: Tuesday, May 26, 2020

SPECIFIC AGENDA WORDING: Consideration of Mitel Cloud Services Global Terms of Service, Mitel Service Order and Johnson County Contract Terms Addendum-Mitel Cloud Services, Inc.      Authorization for the County Judge to sign all documents.

PERSON(S) TO PRESENT ITEM:

SUPPORT MATERIAL: (Must enclose supporting documentation)

TIME: 5 min.

ACTION ITEM:  WORKSHOP

(Anticipated number of minutes needed to discuss item) CONSENT: \_\_\_\_\_

EXECUTIVE: \_\_\_\_\_

STAFF NOTICE:

COUNTY ATTORNEY:  IT DEPARTMENT:

AUDITOR:  PURCHASING DEPARTMENT:

PERSONNEL: \_\_\_\_\_ PUBLIC WORKS: \_\_\_\_\_

BUDGET COORDINATOR:  OTHER: \_\_\_\_\_

\*\*\*\*\*This Section to be Completed by County Judge's Office\*\*\*\*\*

ASSIGNED AGENDA DATE: \_\_\_\_\_

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE \_\_\_\_\_

COURT MEMBER APPROVAL \_\_\_\_\_ Date \_\_\_\_\_

**JOHNSON COUNTY CONTRACT TERMS**  
**ADDENDUM – MITEL CLOUD SERVICES, INC. MAY 7, 2020**  
**(Addendum to Mitel Cloud Services Global Terms of Service Order Doc#**  
**6062327818 )**

---

**The Johnson County Commissioners Court Finds, and the Parties Agree, as Follows:**

**1.1**

This document is an **Addendum** is a part of the Mitel Cloud Services Global Terms of Service and Service Order Doc# 6062327818, and associated Agreements and exhibits (the “Agreement”) between **Johnson County, Texas**, a political subdivision of the State of Texas, (hereinafter referred to as “**County**”), and **Mitel Cloud Services, Inc.** (“**Mitel**” hereunder) (Collectively, the “**Parties**” or each individually a “**Party**”). This Agreement is effective as of last date of signature appearing below. This Addendum is effective as of last date of signature appearing below.

**1.2**

The terms and provisions of this Addendum shall apply to any assignee or transferee of the contract associated with this Addendum.

**1.3**

This Agreement is for the provision of SIP Trunks and related equipment and services to County by Mitel.

**2.1**

This Agreement will be governed by and construed according to the laws of the **State of Texas**. Venue for any action or claim arising out of the Agreement must be in the state district courts in Johnson County, Texas or the federal district courts in the Northern District of Texas, Dallas Division. Any provision stating that County agrees to waive any right to trial by jury is hereby deleted.

**2.2**

Limitations for the right to bring an action, regardless of form, shall be governed by the laws of the State of Texas, Texas Civil Practice and Remedies Code §16.070, as amended, and any provision to the contrary is hereby deleted.

2.3

Under Texas law, a contract with a governmental entity that contains a claim against future revenues is void; therefore, any term which provides for such a claim is hereby deleted. Johnson County will, upon request of a party to the contract, certify the funds available to fulfill the terms of this Agreement.

2.4

The Parties agree that under the Constitution and laws of the State of Texas, Johnson County cannot enter into an agreement whereby Johnson County agrees to indemnify or hold harmless any other party; therefore, all references of any kind to Johnson County indemnifying and holding harmless any individuals or entities for any reason whatsoever are hereby deleted.

Article XI, Section 7(a) of the Texas constitution provides in relevant part:

**... But no debt for any purpose shall ever be incurred in any manner by any city or county unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent (2%) as a sinking fund, except as provided by Subsection (b) ...**

This provision is interpreted with respect to contractual obligations of Texas county and city government entities to prohibit such government entities from entering into an indemnity agreement and to nullify such agreement provisions.

2.5

The Parties agree and understand that County is a political subdivision of the State of Texas, and therefore has certain governmental immunity, sovereign immunity and limitations on liability, and that County's general liability and vehicle insurance coverage is with the Texas Association of Counties Risk Pool and said "insurance coverage" is limited to the statutory maximum limits of the Texas Tort Claims Act; therefore, any provisions to the contrary are hereby deleted. The Parties agree and understand that County does not waive any of its common law, statutory or constitutional defenses to which it may be entitled.

2.6

The Parties agree and understand that County will not agree to waive any rights and remedies available to County under the Uniform Commercial Code ("UCC"); therefore, any provision to the contrary is hereby deleted.

2.7

Intentionally deleted.

## 2.8

The Parties agree and understand that County will provide statutory workers compensation for its employees; however, County **does not** agree to include a waiver of subrogation for workers compensation matters or for any other matters, therefore any provisions to the contrary are hereby deleted.

## 2.9

Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment by a governmental entity under a contract is overdue on the 31<sup>st</sup> day after the later of:

- a. the date the governmental entity receives the goods under the contract;
- b. the date the performance of the service under the contract is completed; or
- c. the date the governmental entity receives an invoice for the goods or service.

Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of: (1) one percent; and (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. Interest on an overdue payment stops accruing on the date the governmental entity or vendor mailed or electronically transmits the payment. Therefore, all provisions to the contrary are hereby deleted.

## 2.10

No officer, member or employee of County, and no member of its governing body and no other public officials of the governing body of the locality or localities in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this Agreement which affects his/her personal interest, have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

## 2.11

To the extent, if any, that any provision in this Agreement is in conflict with Texas Government Code §552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Johnson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act. In the event of a request for documents or materials pursuant to the Texas Public Information Act (Texas Government Code Chapter 552) or similar law pertaining to documents or information County reasonably believes that **Mitel** might lawfully seek to claim as confidential, then County will forward the request to **Mitel**. It shall be the obligation of **Mitel** to prepare and submit to the Texas Attorney General's Office any claim and supporting brief or materials necessary to assert a claim that the documents or materials may be withheld pursuant to Texas Government Code Chapter 552 or other applicable law. County will cooperate with **Mitel** in making such submission to the Texas

Attorney General's Office. **Mitel** acknowledges and understands that contracts and agreements with a political subdivision of the State of Texas are public information and are not confidential.

2.12

Services provided under the Agreement shall be provided in accordance with all applicable state and federal laws.

2.13

Under the Constitution and laws of the State of Texas, public property is exempt from forced sales and liens may not attach thereto.

2.14

It is understood and agreed that Johnson County will not be subject to arbitration; therefore, any paragraph or provision requiring arbitration, is hereby deleted.

2.15

Johnson County shall be responsible for the acts or failure to act of its employees, provided however; its responsibility shall be subject to the terms, provisions and limitations of the Constitution and laws of the State of Texas, particularly the Texas Tort Claims Act.

2.16

If the Agreement provides for the continuation of this Agreement from year to year, then continuation is subject to current funds available for the Agreement, the allocation of funds to meet the terms of this Agreement, and subject to the approval of the Johnson County Commissioners Court. However, Johnson County intends to continue the Agreement for its entire term and to satisfy its obligations thereunder. For each succeeding annual fiscal period: (a) Johnson County agrees to include in its budget request appropriations sufficient to cover Johnson County's obligations under the Agreement though this Agreement need not be specifically identified in the annual budget or budget process; (b) Johnson County agrees to use all reasonable and lawful means to secure these appropriations; and (c) Johnson County agrees it will not use non-appropriations as a means of terminating the Agreement in order to acquire functionally equivalent products or services from a third party or for convenience. Utilization of the equipment or services provided by **Mitel** pursuant to the terms of this Agreement by County will constitute the County's action and intent to continue this Agreement barring a specific written notice to the contrary. Notwithstanding the foregoing, in no event shall this Agreement continue for a **period exceeding 72 months** from the date of execution of this Addendum without additional specific consideration and approval by the Commissioners Court of Johnson County, Texas.

2.17

**Mitel** certifies that pursuant to Section 231.006 of the Texas Family Code that the individual or business entity named in this contract is not ineligible to receive the specified payment(s) and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. **Mitel** states that it is not ineligible to receive State or Federal funds due to child support arrearages.

**2.18**

**Mitel verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. The term “boycott Israel” is as defined by Texas Government Code Section 808.001, effective September 1, 2017. Mitel further verifies that it is not engaged in business with Iran, Sudan, or any foreign terrorist organization. The term “foreign terrorist organization” means an organization designated as foreign terrorist organization by the United States Secretary of State as authorized by 8 U.S.C. Section 1189.**

**2.19**

Notwithstanding any other provisions contained in the contract documents, any amendment to the terms of the contract must be specifically approved by the Commissioners Court of Johnson County and signed by the Johnson County Judge.

**2.20**

Notwithstanding any other provision in this Addendum or the associated documents, if **Mitel** is being contracted to provide software and information technology and services to maintain and make available for use by Johnson County and the public documents, data, content and records, then said documents, data, content and records are and shall be the exclusive property of Johnson County, Texas or the State of Texas or a political subdivision thereof.

2.21

In the event of any conflict between the terms and provisions of this Addendum and the terms and provisions of those contractual provisions tendered to Johnson County in the Agreement, this Addendum shall control and amend the contractual provisions of the Agreement and any provision to the contrary is hereby deleted. THE TERMS OF THIS ADDENDUM SHALL BE FULLY OPERATIVE AND HAVE PRIORITY OVER ALL OTHER DOCUMENTS AND TERMS AND ANY TERM TO THE CONTRARY IN THE MITEL CLOUD SERVICES TERMS OF SERVICE OR OTHER DOCUMENTS PUT FORTH BY MITEL IS HEREBY DELETED. S P (Initials of Mitel Representative);  
[Signature] (Initials of Johnson County Judge).

APPROVED AS TO FORM AND CONTENT:

JOHNSON COUNTY:

[Signature]  
Roger Harmon

May 26, 2020

Date

As Johnson County Judge

Attest: [Signature]

County Clerk, Johnson County



May 26, 2020  
Date

MITEL:

[Signature]

Authorized Representative of Mitel Cloud Services, Inc.

May 7, 2020

Date

Printed Name: Scott Peterson

Title: Senior Vice President, Sales Americas

# Service Order



## Customer Information

Company Name : Johnson County  
 Street Address : 1 N MAIN ST  
 Suite Number : \_\_\_\_\_  
 City, State : CLEBURNE, TX  
 Zip Code : 76033  
 Contract Length (yrs) : 3  
 Company Domain : \_\_\_\_\_

Main Contact Name : Rainey Harvey  
 Main Contact Phone : 8175566366  
 Main Contact E-Mail : rharvey@johnsoncountytexas.org  
 Billing Contact Name : Dan Milam  
 Billing Contact Phone : 817-556-6366  
 Billing Contact E-Mail : dmilam@johnsoncountytexas.org  
 Project Contact Name : Rainey Harvey  
 Project Contact Phone : 8175566366  
 Project Contact E-Mail : rharvey@johnsoncountytexas.org

Pay One-Time Charges over 12 Months No

### 1 N MAIN ST, CLEBURNE, TX 76033

Broadband Services	SKU	QTY	Unit Price	Monthly
cloudNOC EdgeWatch Up to 5MB	ANC-SVC-CLDEWTCH-5M-SIP-36-0	1	\$0.00	\$0.00
Internet Local Access - 10M FastE	DT-LA-INT-FASTE-10M-36-1641	1	\$515.83	\$515.83
Logical Port - 10M FastE	DT-LI-INT-FASTE-10M-36-1641	1	\$154.00	\$154.00

Voice Services	SKU	QTY	Unit Price	Monthly
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
ExpresSIP on Mitel Provided Access	SIPEXPSb-36	63	\$10.00	\$630.00
Additional DID	US126100799A0	280	\$1.00	\$280.00
101-250 Express Station VDR	MANUALLY ADDED	1	\$399.00	\$399.00

Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
Adtran 3430 Ethernet	Adtran 3430 Ethernet-Rental-36	1	\$56.00	\$56.00
Customer Provided Mitel Border Gateway	Customer Provided-Rental-36	1	\$0.00	\$0.00
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-396.76	\$-396.76

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US112888899A0	1	\$0.00	\$0.00
ExpresSIP on Mitel Provided Access	SIPEXPSINST-36	63	\$0.00	\$0.00
Additional DID	US126100799A0	280	\$0.00	\$0.00

**Site Total**    **Monthly**    \$1,643.02    **One-Time**    \$0.00

### 1800 RIDGEMAR DR, CLEBURNE, TX 76031

Broadband Services	SKU	QTY	Unit Price	Monthly
cloudNOC EdgeWatch Up to 5MB	ANC-SVC-CLDEWTCH-5M-SIP-36-0	1	\$0.00	\$0.00





# Service Order



Local Access 10M FastE	US102F02L3628	1	\$363.21	\$363.21
Port - 10Mbps	US102F02P3628	1	\$109.22	\$109.22

Voice Services	SKU	QTY	Unit Price	Monthly
ExpresSIP on Mitel Provided Access	SIPEXPSb-36	62	\$10.00	\$620.00

Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
Adtran 3430 Ethernet	Adtran 3430 Ethernet-Rental-36	1	\$56.00	\$56.00
Customer Provided Mitel Border Gateway	Customer Provided-Rental-36	1	\$0.00	\$0.00
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-218.49	\$-218.49

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US112888899A0	1	\$0.00	\$0.00
ExpresSIP on Mitel Provided Access	SIPEXPSINST-36	62	\$0.00	\$0.00
Local Access 10M FastE Installation	US102F02L3628	1	\$0.00	\$0.00
Port - 10Mbps	US102F02P3628	1	\$0.00	\$0.00

**Site Total**    **Monthly**    \$929.94    **One-Time**    \$0.00

## 425 W CHAMBERS ST, CLEBURNE, TX 76033

Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00

Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US111212636A0	1	\$0.00	\$0.00

**Site Total**    **Monthly**    \$15.96    **One-Time**    \$0.00

## 206 N BAUGH ST, ALVARADO, TX 76009

Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00



# Service Order



Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US111212636A0	1	\$0.00	\$0.00

<b>Site Total</b>	<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>	<b>\$0.00</b>
-------------------	----------------	----------------	-----------------	---------------

## 247 ELK DR, BURLESON, TX 76028

Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00

Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US111212636A0	1	\$0.00	\$0.00

<b>Site Total</b>	<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>	<b>\$0.00</b>
-------------------	----------------	----------------	-----------------	---------------

## 810 E KILPATRICK ST, CLEBURNE, TX 76031

Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00

Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US111212636A0	1	\$0.00	\$0.00

<b>Site Total</b>	<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>	<b>\$0.00</b>
-------------------	----------------	----------------	-----------------	---------------

## 204 S BUFFALO AVE, CLEBURNE, TX 76033

Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00



# Service Order



Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99
<b>Installation Services</b>				
E911	US111212636A0	1	\$0.00	\$0.00
<b>Site Total</b>		<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>
<b>2 N MAIN ST, CLEBURNE, TX 76033</b>				
<b>Voice Services</b>				
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00
<b>Ancillary Products/Services</b>				
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99
<b>Installation Services</b>				
E911	US111212636A0	1	\$0.00	\$0.00
<b>Site Total</b>		<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>
<b>226 FEATHERSTON ST, CLEBURNE, TX 76033</b>				
<b>Voice Services</b>				
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00
<b>Ancillary Products/Services</b>				
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99
<b>Installation Services</b>				
E911	US111212636A0	1	\$0.00	\$0.00
<b>Site Total</b>		<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>
<b>427 W CHAMBERS ST, CLEBURNE, TX 76033</b>				
<b>Voice Services</b>				
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00



# Service Order



Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99
<b>Installation Services</b>				
E911	US111212636A0	1	\$0.00	\$0.00
<b>Site Total</b>		<b>Monthly</b>	\$15.96	<b>One-Time</b> \$0.00
<b>3400 FM 1434, CLEBURNE, TX 76033</b>				
Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00
<b>Ancillary Products/Services</b>				
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99
<b>Installation Services</b>				
E911	US111212636A0	1	\$0.00	\$0.00
<b>Site Total</b>		<b>Monthly</b>	\$15.96	<b>One-Time</b> \$0.00
<b>3425 COUNTY ROAD 920, CROWLEY, TX 76036</b>				
Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00
<b>Ancillary Products/Services</b>				
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99
<b>Installation Services</b>				
E911	US111212636A0	1	\$0.00	\$0.00
<b>Site Total</b>		<b>Monthly</b>	\$15.96	<b>One-Time</b> \$0.00
<b>10420 E FM 917, ALVARADO, TX 76009</b>				
Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00



# Service Order



Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US111212636A0	1	\$0.00	\$0.00

<b>Site Total</b>	<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>	<b>\$0.00</b>
-------------------	----------------	----------------	-----------------	---------------

## 4300 E FM 4, CLEBURNE, TX 76031

Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00

Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US111212636A0	1	\$0.00	\$0.00

<b>Site Total</b>	<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>	<b>\$0.00</b>
-------------------	----------------	----------------	-----------------	---------------

## 1102 E KILPATRICK ST, CLEBURNE, TX 76031

Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00

Ancillary Products/Services	SKU	QTY	Unit Price	Monthly
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99

Installation Services	SKU	QTY	Unit Price	One-Time
E911	US111212636A0	1	\$0.00	\$0.00

<b>Site Total</b>	<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>	<b>\$0.00</b>
-------------------	----------------	----------------	-----------------	---------------

## 803 ROSE AVE, CLEBURNE, TX 76033

Voice Services	SKU	QTY	Unit Price	Monthly
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95
E911	US111212636A0	1	\$5.00	\$5.00



# Service Order



Ancillary Products/Services	SKU	QTY	Unit Price	Monthly	
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99	
Installation Services	SKU	QTY	Unit Price	One-Time	
E911	US111212636A0	1	\$0.00	\$0.00	
<b>Site Total</b>		<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>	<b>\$0.00</b>
<b>103 S WALNUT ST, CLEBURNE, TX 76033</b>					
Voice Services	SKU	QTY	Unit Price	Monthly	
Remote Market Station	RMESIP-36-0	1	\$10.00	\$10.00	
Caller ID Name Deliver	SIPCIDNM-36-0	1	\$4.95	\$4.95	
E911	US111212636A0	1	\$5.00	\$5.00	
Ancillary Products/Services	SKU	QTY	Unit Price	Monthly	
#022719-MBS Sourcewell Member Service Discount (20%)	MANUALLY ADDED	1	\$-3.99	\$-3.99	
Installation Services	SKU	QTY	Unit Price	One-Time	
E911	US111212636A0	1	\$0.00	\$0.00	
<b>Site Total</b>		<b>Monthly</b>	<b>\$15.96</b>	<b>One-Time</b>	<b>\$0.00</b>
<b>Order Totals</b>		<b>Monthly</b>	<b>\$2,812.36</b>	<b>One-Time</b>	<b>\$0.00</b>

**Notes:** This contract includes Sourcewell discounted pricing on a 36 month term. New MCS account.

**Notice to Proceed**

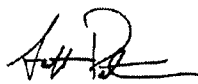
All products and services described in this Service Order are subject to the Global Terms of Service detailed at <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>, and the Addendum to Mitel Cloud Services Global Terms of Service Order Doc# 6062327818, which are incorporated herein by reference. Execution of this Service Order by Customer shall constitute Customer's acceptance of such Global Terms of Service and notice to Mitel to proceed as described in this Service Order

**Customer Acceptance:**

Authorized Signature:  Date: May 26, 2020  
 Print Name: Roger Harmon Title: County Judge

\* I confirm I am authorized to sign on behalf of Customer

**MITEL:**



May 7, 2020

Authorized Representative of **Mitel Cloud Services, Inc.**

Date

Printed Name: Scott Peterson

Title: Senior Vice President, Sales Americas



# Scope of Work

Company Name: Johnson County

Solution Type: Network Services Only

Number of Sites: 17 Number of Seats:

Note: Based off Pricing model any implementation with more than 5 locations and 100 seats will require additional information provided by a Sales Engineer to document the needed information related to the complexity of a larger solution.

Please check all that apply:

- MPLS     PRI/PRI+     DLD     PT to PT     IP     LNP     SIP/SIP Related  
 DIA     CPE     CPE     PaaS     IaaS     Vidyo     Google Integration  
 MiContact Center     MiV-Call Recording     MiV-Screen Recording     AWW-Conferencing  
 Mitel Edge     Other:

Selling Partner: Mitel Direct

Mitel Sales Rep: Lou Zapanta Mitel Sales Engineer: Dennis Dombrowski

Sales Rep Email: lou.zapanta@mitel.com Sales Engineer Email: dennis.dombrowski@mitel.com

Sales Rep Phone: 303-643-9138 Sales Engineer Phone: 469-574-8178

Instructions: Describe current MCS related services that will be removed or replaced as a result of the solution outlined in this SOW.

Services to Remove: n/a

Instructions: Input all relevant information for all sites that are represented on this Scope of Work.

Annex	1 N MAIN ST, CLEBURNE, TX 76033	Rainey Harvey	rharvey@johnsonc		
Jail	1800 RIDGEMAR DR, CLEBURNE, TX 76031				
Adult Probation	425 W CHAMBERS ST, CLEBURNE, TX 76033				
Alvarado	206 N BAUGH ST, ALVARADO, TX 76009				
Burleson	247 ELK DR, BURLESON, TX 76028				
EOC	810 E KILPATRICK ST, CLEBURNE, TX 76031				
Guinn	204 S BUFFALO AVE, CLEBURNE, TX 76033				
Historic Courthouse	2 N MAIN ST, CLEBURNE, TX 76033				
JP1	226 FEATHERSTON ST, CLEBURNE, TX 76033				
ME/Voters	427 W CHAMBERS ST, CLEBURNE, TX 76033				
Precinct 1	3400 FM 1434, CLEBURNE, TX 76033				
Precinct 2	3425 COUNTY ROAD 920, CROWLEY, TX 76036				
Precinct 3	10420 E FM 917, ALVARADO, TX 76009				
Precinct 4	4300 E FM 4, CLEBURNE, TX 76031				
SO/Juvie/Purchasing	1102 E KILPATRICK ST, CLEBURNE, TX 76031				



# Scope of Work

STOP		803 ROSE AVE, CLEBURNE, TX 76033				
		103 S WALNUT ST, CLEBURNE, TX 76033				

Instructions: The bullets below are points that need to be addressed in your executive summary. This sets the stage for the rest of the Mitel groups who will be responsible to deliver and implement the solution accurately and maintain the high customer satisfaction set by the account manager.

**Current challenges or objectives**

Provision SIP for new Mitel pbx at two sites - 17 sites will be supported by the new SIP service. Porting 420 DID's from 3 PRI's

**Expected outcomes and priorities**

Main site/Annex receives 70 trunks with 350 DID's to support 9 sites total; secondary site/Jailing Facility, receives 70 trunks and 70 DID's to support 8 sites total. VDR from Annex to Jailing Facility.

**Customer requested timeline for implementation**

Coordinate with Mitel Ops Manager for Mitel pbx delivery

**Mitel timeline and next steps based on the purchased solution**

1-2 weeks for test trunks and DID, plus 3-5 additional weeks for porting.

Instructions: The bullets below are points that need to be addressed and information obtained to complete the current technology overview. This information is required whether it be an existing Mitel location or a Greenfield opportunity.

Johnson County has 16 locations, leveraging a resilient virtual MiVoice Business and a MiVB controller with 3 PRI's currently. They are enhancing their disaster recovery plan by moving hardware from the current location to the IT building (Annex Building), with a back virtual environment at the Jailing facility. In this project they will migrate from 3 PRI's to MCS SIP trunks.

Instructions: Listing of any items not part of this specific project (Important to list anything that is often part of an installation project but is not part of this one, i.e. Set placement, training, dealing with telco, customer group that is not part of the project, etc.)

n/a

Customer Initials





# Scope of Work

## Additional Scope of Work Details for COMPLEX IP, MPLS, SIP, PaaS, IaaS, Complex Mitel MiCloud Networks

(To be filled out by Sales Engineer.)

SE that approves this design: n/a

Instructions: The bullets below are points that need to be addressed and information obtained to complete the technology overview. The intent is to give a very good view of what Mitel is expected to deliver so there are NO assumptions. This information will help to identify any extra labor requirements, and will be the base on which the project management documents are written.

### Visio diagram of proposed technology solution

See the included SoW from the Mitel Sales Engineer, Dennis Dombrowski, to be included with this SIP order. Here are the highlight bullet points for the SIP provisioning:

- SIP trunk integration with MCS SIP Trunks for all PSTN traffic. Mitel to provide the following:
  - o Annex Building (Primary customer DC) -
    - Mitel Cloud Services to deliver a 10MB circuit dedicated to the SIP trunks
    - 70 SIP trunks paths will be delivered and directed to the primary vMBG SIP proxy, and passed thru to the primary vMiVB for inbound/outbound calls
    - Virtual disaster recovery has been included, and all SIP trunks & DID's will route to the Jail building (backup DC), should there be an outage at the Annex Building.
    - Based on the information provided by Johnson County, we saw approx. 420 DID's. Additional DID's can be added for an additional monthly cost.
    - o Jail building (Backup customer DC) -
      - Mitel Cloud Services to deliver a 10MB circuit dedicated to the backup SIP trunks
      - 70 SIP trunks paths will be available should the primary SIP trunks path fail. Calls will be re-directed to the backup vMBG SIP proxy, and passed thru to the backup vMiVB for inbound/outbound calls
      - Virtual Disaster recovery is included

# Scope of Work

- Phone and SIP trunk fail-over is to be tested with customer before completion of this project

Describe the major components and applications

MCS provided DIA for each SIP site. See the included SoW from the Mitel Sales Engineer, Dennis Dombrowski, to be included with this SIP order. Customer to provide all PoE switching, DHCP, and Voice VLAN setup for all VoIP best practices

Explain what the customer owns and manages (i.e. Is there an existing system or app our solution is to interact with? Where do responsibilities end?):

Explain what Mitel owns and manages

Mitel Original

# Scope of Work

Instructions: The bullets below are points that need to be addressed and information obtained to assist in the technology review. The Sales Engineer is the quarterback to this section. Input will be from specific groups within the services organization depending on the customer requirements. The services team will work with the

### Implementation

MCS PC should coordinate with Robin Chapman, Mitel Ops Manager

### Project Management

Rainey Harvey will be the customer primary contact for this project.

### Training Requirements

n/a

Assumptions identify anything you feel is necessary good place to identify things you expect the

Exceptional/Additional service requirements – anything that is necessary to the project that does not fit in any other section. Any advanced or technology services could be placed here.

# Things You will Need to Do:

## Mitel MiCloud Customer Installation Responsibilities

### Order Validation

- Please be responsive when the Mitel® Cloud Services Implementation Specialist completes the initial implementation call to review critical timelines, system setup and service delivery process with you.
- It is critical that the site contacts listed on the order are knowledgeable about your local area network (LAN) and telecommunications infrastructure.

### Verify that your LAN is Voice-ready for Mitel MiCloud

- For maximum voice quality, it is recommended that you have a LAN that supports quality of service or QoS/Priority Queuing or that you set up a voice and data VLAN.
- Implementation of managed switches at each service location is recommended instead of hubs or unmanaged switches.
- To reduce the likelihood of service-related issues, please confirm that your routers support QoS/Priority Queuing. The routers will help ensure that enough bandwidth can be allocated and prioritized to handle VoIP and internet traffic.
- Bandwidth, as well as LAN congestion, may affect the quality of service with new VoIP services. Upgrading or extending the Network to accommodate the demands of data and voice traffic might be required.
- You have reviewed the MiCloud Network Assessment Options and, if not selected, have chosen to not purchase an assessment prior to installation.

### Miscellaneous Phone Lines

- It is the customer's responsibility to verify that any alarm lines, fax lines or other emergency lines are operational once the Mitel Cloud service is installed.
- If ATA devices or additional ATA devices are required to support these lines; please consult the Mitel Cloud Services Support Specialist Team.

### Disconnection of Existing Services

- It is the customer's responsibility to cancel service with previous providers; Mitel Cloud Services cannot disconnect service from a previous service provider. Please speak with your Mitel Support Representative to understand the best time to cancel.

### System Design and Implementation

- It is imperative that you fill out and provide accurate information to the Mitel Support Representative for each location being setup. This information must be provided to the Mitel Support Representative before any orders can be generated for your system installation.
- You must provide your private IP address range, client DHCP server details, client firewall details and public IP address of client internet router/modem along with other key items as requested by the Mitel Support Representative.

### Emergency Services

- Read, sign and acknowledge the limitations and requirements as listed on the Emergency Services Notice. And insure that each and every one of your end users is aware of same.

### LNP/Existing Phone Numbers

- If Mitel Cloud Services is moving existing phone numbers (LNP) from a previous communications provider to the Mitel MiCloud service, please confirm that all numbers are listed and billing is under the same customer name as notated on the agreement and a complete and accurate list of all existing numbers to be converted to the service are provided. If for any reason numbers listed under a different name are porting, the customer will be required to LNP those numbers to the correct name before they can be added to the Mitel MiCloud service.
- When transferring (LNP) numbers from a previous provider, issues may arise that are beyond Mitel Cloud Services control. To help prevent these circumstances as well as any unexpected billing from previous service provider, please verify that all telephone numbers and names of providers are provided to the Mitel Support Representative.
- Mitel Cloud Services is not responsible for additional billing by the current provider.

### Mitel MiCloud Integration on Client Site

- Unless on site installations of services are purchased from Mitel, all local network configuration and support is carried out by the customer or their IT professional. Mitel Cloud Services will provide guidance as required.
- Mitel Cloud Services can provide additional professional services to help with any customer-related LAN or equipment issues if needed along with comprehensive monitoring services. These services are available at an additional cost from Mitel.

### Mitel MiCloud Recommended Bandwidth

- One of the most important factors to consider when your voice to the cloud is proper voice network capacity planning. Within capacity planning, bandwidth calculation is an important factor to consider when you design and trouble shoot packet voice networks for good voice quality.
- Mitel Cloud Services recommends 100 Kbps per simultaneous call paths for maximum voice quality. Configurations may be available requiring less bandwidth per call but voice quality may be impacted.

### ISP Connectivity

- In the event you are utilizing a third party circuit, see terms as defined in the "Mitel Cloud Service Level Agreement".
- You acknowledge that your site(s) are equipped with connectivity outside of Mitel's network and you agree to contact your IT professionals and connectivity provider to resolve any related Voice Quality issues.

Customer Acknowledgement - I understand my company's responsibilities. My signature indicates my understanding and acceptance of these customer installation responsibilities.

Company Name Johnson County

Authorized Signature:\*

Print Name: Roger Harmon

Title: County Judge

Date: May 26, 2020

\*I confirm I am authorized to sign on behalf of Customer

# EMERGENCY SERVICES NOTICE

**Definitions.** Terms not otherwise defined in this notice are as defined in the Global Terms of Service located at: <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>.

**Limitations Relative to Enhanced Emergency Services; Cost.** You acknowledge and agree that the Emergency Services provided hereunder have limitations relative to the enhanced (or similar) emergency services that are available on most traditional telephone services. Subject to the limitations set out herein, Emergency Services can be accessed, free of charge.

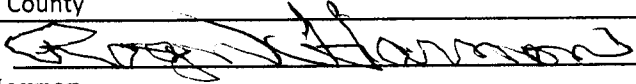
**Emergency Services Devices and Initiation:** Emergency services will only function if your User(s) are using an approved device, equipment or software and after your Service Order has been processed and you have received an emergency service confirmation. If your Users use non-approved equipment or software or attempt to call Emergency Services prior to confirmation, the Emergency Services may fail or may be forwarded to a non-public, backup emergency answering service.

**Emergency Services Registration.** You acknowledge and agree that it may not be possible for emergency operators and authorities to identify the actual location of a User(s) who dials Emergency Services through the Cloud Services. Where you purchase Entitlements that include our SIP Services, we will register the following as the addresses where your Users will use Cloud Services and to which Emergency Services should be dispatched by default: (i) the address(es) listed on your Service Order, and (ii) if an online portal is made available with the Cloud Services, the address(es) entered in the online portal. It is your responsibility to ensure that such default address(es) are accurate and, if changed, that you notify us of such changes either through our online portal, where available, or by contacting our support organization at least ten (10) days in advance. If emergency addresses registered are not accurate, emergency personnel (e.g. police, fire, ambulance) may be sent to the wrong address. In certain limited cases, an Emergency Services call may be routed to a wireless telephone emergency dispatch center that may not normally receive Emergency Services calls from the User's registered location instead of a "traditional" wireline Emergency Services dispatch center. In this case, emergency personnel will not have the User's registered location and/or phone number on file. Regardless of whether an emergency address has been registered, Users dialing Emergency Services should always be prepared to state their location and phone number promptly and clearly to ensure that emergency operators have complete and accurate information. If the User's registered address is different than the User's actual location, delays in handling of Customer's emergency call may be introduced and, consequently, result in fire, police or emergency personnel either not being able to find a User(s) location or significantly delay response time. Finally, you may incur additional costs, fines or other penalties, including service provider charges, resulting from improper dispatch of Emergency Services or calls to emergency service dispatchers where you and/or your Users have failed to update us with the User's correct address.

**Emergency service limitations:** Emergency Services will not function if (a) a VoIP device fails or is not configured properly, (b) the Cloud Services are not working for any reason including without limitation a power outage, broadband service outage, network congestion, suspension or disconnection of your Cloud Services, broadband connection failure, use of a non-native telephone number, electrical power loss, or your failure to meet our minimum technical service requirements, if applicable, or (c) where your Entitlements do not include our SIP Services, failure or disconnection of third party SIP Services. Following a power outage, you or your Users may need to reset or reconfigure your equipment prior to being able to use the Cloud Services, including dialing Emergency Services. Emergency operators and/or authorities may be unable to identify a User's phone number in order to call them back if (a) their call is unable to be completed, is dropped or is disconnected, (b) the User is unable to communicate their phone number, or (c) the Cloud Services are not operational for any reason. In such circumstances, and provided the Cloud Services are available, the User should redial Emergency Services. When calling Emergency Services Users should not hang up until told to do so by emergency operators as emergency operators and authorities may also be unable to hold the line open in the event the User hangs up. You further acknowledge and agree (and you will cause your Users to do same) that we do not have any control over whether, or the manner in which, emergency calls using the Cloud Services are answered or addressed by any local emergency response center and we rely on third parties to assist us in routing emergency calls to local emergency response centers. Emergency services are available only within the jurisdiction in which the User is registered and the Cloud Services cannot be used to make emergency calls outside of same.

**Acceptance of Limitations.** You acknowledge that you have received the information regarding the limitations of our Emergency Services, understand them, and assume the risks associated with such limitations. Where your Entitlements do not include our SIP Services, you should consult your SIP Services provider to further understand Emergency Service limitations.

**Accepted And Agreed**

Company Name Johnson County  
Authorized Signature:\*   
Print Name: Roger Harmon  
Title: County Judge Date: May 26, 2020

\*I confirm I am authorized to sign on behalf of Customer.



Powering connections

Last Modified October 1, 2018

Jbs mod 04/07/2020

## MITEL CLOUD SERVICES – GLOBAL TERMS OF SERVICE

Before using our Cloud Services, please read these Global Terms of Service ("Terms"). Pursuant to these Terms, you and your Users will be provided access to the Mitel cloud services ("Cloud Services") in accordance with the Entitlements set out in your Service Order. If you have purchased your Entitlements from an Authorized Partner, the following sections do not apply to you: 4 (Fees & Reimbursements), 7.2 (Renewals) 7.3 (Add-Ons), 7.7 (Termination by Customer for Convenience), 8 (Hardware), 10 (Confidentiality), 11.1 (Hardware Warranty) and 14.1 (Customer Support). Unless otherwise indicated on your Service Order, your Cloud Service Entitlements include our SIP Services. These Terms, and all documents referred to in them, including the [JOHNSON COUNTY CONTRACT TERMS ADDENDUM – MITEL TECHNOLOGIES, INC. -- 2020 Addendum to Mitel Cloud Services Global Terms of Service Order Doc# 6062327818](#) form a binding agreement ("Agreement") between you and us which will become effective as of the date of last signature of the Service Order.

**1. DEFINITIONS.** As used herein: "Acceptable Use Policy" means Mitel's Acceptable Use Policy found at: <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>. "All Live Date" means the date on which all the Cloud Services set out in your Service Order are first made available to you for use at all of your Sites. "Applicable Law" means all applicable laws, treaties, regulations, and conventions related to use of the Cloud Services, including without limitation those related to data privacy, call recording, unsolicited advertisements and telephone calls, international communications, and the exportation of technical or personal data. "Authorized Partner" means a third party we have authorized to participate in our Partner Enabled Program, or similar, or successor program, as a reseller of Entitlements. "User Content" means the information shared amongst Users or transmitted/received by a User(s) to/from a third party(s), via the Cloud Services (e.g. chats, files, voicemails). "Customer", "you" or "your" means the entity identified as the "Customer" in the Service Order. "Customer Data" means data in electronic form managed, transmitted, stored, or otherwise processed by the Cloud Services on behalf of Customer, or its Users, including without limitation Provisioning Information and User Content. Customer Data does not include Metadata or Confidential Information. "Documentation" means training, marketing, and demonstration materials, diagrams, test plans, and work flows provided by us in support of the Cloud Services. "Emergency Services" means an outbound voice call to the applicable public safety departments or emergency dispatch call centers in the User's jurisdiction (e.g. dialing "911" in North America, or "112" or "999" in Europe). "Entitlement" means a right for your User(s) to access and use specific Cloud Services (e.g. on a "named user" or "concurrent user" basis). "Fair Use Policy" means Mitel's Fair Use Policy found at: <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>. "Hardware" means hardware detailed on a Service Order you submit to Mitel. "Initial Service Term" means the initial term of service specified in the Service Order. "Implementation Services" means any Cloud Services-related software or hardware installation, implementation, configuration or customization services, or any other professional services set out in a Service Order you have submitted directly to us. "Provisioning Information" means information provided by you to us about a User which is used to provide/provision the Cloud Services (e.g. first name, last name, user name, IP address, phone number, phone extension, e-mail address). "Metadata" means non-personally identifiable data or information that provides information about the use of the Cloud Services, Customer Data and/or Use Records. "Mitel" "we", "our" or "us" has the meaning set out in Section 15.1 (Mitel Entity). "Service Activation Date" means the date on which Cloud Services are first made available to you for use. In the event a Service Order includes multiple Sites and/or multiple Cloud Services, the Service Activation Date will be the first date a Cloud Service is available at a Site. "Site" means a physical location associated to a specific street address where Services are being provided. "Service Fees" means all monthly recurring service fees, non-recurring fees, set-up fees, usage including overage based fees, rental fees, Hardware costs and Implementation Services fees and any other charges and fees which you have agreed to in a Service Order or SOW. "SIP Services" the Session Initiation Protocol services over which voice communications are delivered. "SLA" means our standard Service Level Agreement for the Cloud Services available at:

<https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>.

"Service Order" means an ordering document signed and submitted by you to us or one of our Authorized Partners, detailing the Entitlements, Hardware and Implementation Services which you have ordered from us or our Authorized Partner, as applicable. "Service Term" means the Staging Time together with the Initial Service Term and Service Renewal Terms (as defined below), if any. "SOW" means a statement of work which we may agree to perform for you from time to time. "Staging Time" means the time period between the Service Activation Date and the All Live Date. "User" means your employees, consultants, contractors, or agents who you have authorized to use the Cloud Services in support of your internal operations and given user logins and passwords. "Use Records" means records pertaining to a User's use of the Cloud Services (e.g. call log, chat log, shared files, presence history).

## 2. THE SERVICE AND USE OF THE SERVICE IN GENERAL

**2.1 Initiation and Services.** We will begin provisioning the Cloud Services only after we receive and accept your Service Order. We will provide any Implementation Services set out in the Service Order and/or any SOW. You agree that your purchase of the Entitlements is neither contingent upon our delivery of any future functionality or features, nor dependent upon any discussions, oral or written public comments made by us with respect to future functionality or features.

**2.2 Use of the Service.** During the Service Term, you and your Users may use the Cloud Services and Documentation solely for your internal business operations (and not for any form of redistribution or resale) in accordance with this Agreement and the Entitlements set out in your Service Order. Notwithstanding the foregoing, where permitted by us, you may (i) in a given month, increase your number of Users above and beyond the number of Users set out in Entitlements in your Service Order provided that you pay us in arrears (as set out below) for such additional Users at our then current rate for such Entitlement, and (ii) as further detailed in Section 6.3, add additional Cloud Services Entitlements on a term coterminous with the Service Term in effect at the time. You agree to ensure all Users (and potential Users) are aware of (and expressly consent to) the limitations of Emergency Services using the Cloud Services prior to their use of the Cloud Services. You may use and reproduce the Documentation solely as necessary to support your and your User's use of the Cloud Services.

**2.3 Service Levels.** We will deliver the Cloud Services in accordance with the SLA. In the event of a disruption or outage to the Cloud Services during the Service Term, your sole remedy, and our sole obligation, will be the service level credits and/or remedies, if any, set out in the SLA. Credits issued pursuant to the SLA will only be applied against future Service Fees. In no event will we be required to issue refunds for, or to make payments against, such credits.

**2.4 Service Revisions.** During the Service Term, we may add, reduce, eliminate or revise Cloud Services features and functionality (or upgrade the underlying platform used to provide the Cloud Services) at any time without prior notice to you. Notwithstanding the foregoing, where in our sole opinion, a change will cause a material detrimental impact on your use of the Cloud Services (a "Detrimental Change"), we will provide you thirty (30) days prior written notice (email or if an online portal is made available with the Cloud Services, posting notice at the portal to suffice). If you have purchased your Entitlements directly from us, we reserve the right on notice to, in certain scenarios, such as a migration or major upgrade of the underlying platform, charge you an upgrade charge (an "Upgrade Charge"). In the event of an Upgrade Charge or a Detrimental Change, you may, at no cost, terminate the affected Cloud Services by providing us with written notice of termination within thirty (30) days of receiving your notice of the Upgrade Charge or Detrimental Change. If we do not receive notice of termination within thirty (30) days, you will be deemed to have accepted the change and/or charge.

**2.5 Performance.** You acknowledge and agree that the quality, performance and available features of the Cloud Services including Emergency Services and any Hardware may be affected, impaired and/or disrupted by the quality, speed and usage of your (and your Users') broadband connection and/or third-party networks and will not function in the event of a power failure.



Powering connections

### **3. Emergency Services**

**3.1 Limitations Relative to Enhanced Emergency Services; Cost.** You acknowledge and agree that the Emergency Services provided hereunder have limitations relative to the enhanced (or similar) emergency services that are available on most traditional telephone services. Subject to the limitations set out in this Agreement, Emergency Services can be accessed, free of charge,

**3.2 Emergency Services Devices and Initiation:** Emergency services will only function if your User(s) are using an approved device, equipment or software and after your Service Order has been processed and you have received an emergency service confirmation. If your Users use non-approved equipment or software or attempt to call Emergency Services prior to confirmation, the Emergency Services may fail or may be forwarded to a non-public, backup emergency answering service.

**3.3 Emergency Services Registration.** You acknowledge and agree that it may not be possible for emergency operators and authorities to identify the actual location of a User(s) who dials Emergency Services through the Cloud Services. Where you purchase Entitlements that include our SIP Services, we will register the following as the addresses where your Users will use Cloud Services and to which Emergency Services should be dispatched by default: (i) the address(es) listed on your Service Order, and (ii) if an online portal is made available with the Cloud Services, the address(es) entered in the online portal. It is your responsibility to ensure that such default address(es) are accurate and, if changed, that you notify us of such changes either through our online portal, where available, or by contacting our support organization at least ten (10) days in advance. If emergency addresses registered are not accurate, emergency personnel (e.g. police, fire, ambulance) may be sent to the wrong address. In certain limited cases, an Emergency Services call may be routed to a wireless telephone emergency dispatch center that may not normally receive Emergency Services calls from the User's registered location instead of a "traditional" wireline Emergency Services dispatch center. In this case, emergency personnel will not have the User's registered location and/or phone number on file. Regardless of whether an emergency address has been registered, Users dialing Emergency Services should always be prepared to state their location and phone number promptly and clearly to ensure that emergency operators have complete and accurate information. If the User's registered address is different than the User's actual location, delays in handling of Customer's emergency call may be introduced and, consequently, result in fire, police or emergency personnel either not being able to find a User(s) location or significantly delay response time. Finally, you may incur additional costs, fines or other penalties, including service provider charges, resulting from improper dispatch of Emergency Services or calls to emergency service dispatchers where you and/or your Users have failed to update us with the User's correct address.

**3.4 Emergency service limitations:** Emergency Services will not function if (a) a VoIP device fails or is not configured properly, (b) the Cloud Services are not working for any reason including without limitation a power outage, broadband service outage, network congestion, suspension or disconnection of your Cloud Services, broadband connection failure, use of a non-native telephone number, electrical power loss, or your failure to meet our minimum technical service requirements, if applicable, or (c) where your Entitlements do not include our SIP Services, failure or disconnection of third party SIP Services. Following a power outage, you or your Users may need to reset or reconfigure your equipment prior to being able to use the Cloud Services, including dialing Emergency Services. Emergency operators and/or authorities may be unable to identify a User's phone number in order to call them back if (a) their call is unable to be completed, is dropped or is disconnected, (b) the User is unable to communicate their phone number, or (c) the Cloud Services are not operational for any reason. In such circumstances, and provided the Cloud Services are available, the User should redial Emergency Services. When calling Emergency Services Users should not hang up until told to do so by emergency operators as emergency operators and authorities may also be unable to hold the line open in the event the User hangs up. You further acknowledge and agree (and you will cause your Users to do same) that we do not have any control over whether, or the manner in which, emergency calls using the Cloud Services are answered or addressed by any local emergency response center and we rely on third parties to assist us in routing emergency calls to local emergency response centers. Emergency services are available only within the jurisdiction in which the User is registered and the Cloud Services cannot be used to make emergency calls outside of

same.

**3.5 Third Party Disclaimer.** We disclaim all responsibility for the conduct of local emergency response centers and the national emergency calling center, as well as any and all liability or responsibility in the event such third party data used to route calls is incorrect or yields an erroneous result.

**3.6 Acceptance of Limitations.** By accepting this Agreement, you acknowledge that you have received the information regarding the limitations of our Emergency Services, understand them, and assume the risks associated with such limitations. Where your Entitlements do not include our SIP Services, you should consult your SIP Services provider to further understand Emergency Service limitations.

### **4. FEES & REIMBURSEMENTS**

**4.1 Service Fees, Invoicing and Payment.** As of the Service Activation Date, you agree to pay all Service Fees for Cloud Services made available to you and/or your Users during the Service Term. You will be invoiced in advance for non-usage-based Service Fees and in arrears at the end of each month for usage-based Service Fees. Entitlements added to the Service Order during the Service Term will be invoiced in the month following the Service Activation Date for same on a pro-rated basis. Service Fees are due on the date set out in your invoice and are payable in the currency specified on your Service Order. Invoices will be deemed correct and binding on you unless we receive a dispute of charges, in writing, within thirty (30) days of an invoice being issued. To the extent you dispute, in good faith, any amount included in our invoice, the parties shall use reasonable efforts to resolve and settle such dispute within thirty (30) days of your written notice to us. Upon request of the other, each party will promptly provide full supporting documentation concerning any disputed amount. For clarity, you shall pay all undisputed amounts in our invoice but will have no obligation to make any payment of disputed charges on the invoice during the time it is subject to a good-faith dispute. Based on our determination, once the dispute is resolved you will pay the resulting agreed upon amount.

**4.2 Taxes.** Unless otherwise stated in the Service Order, all Service Fees are exclusive of tax. Unless you provide us a tax exemption prior to us invoicing you, you shall pay all applicable taxes and governmentally imposed fees arising from your purchase under this Agreement (excluding taxes on our net income). You acknowledge and agree that in the event any governmental agency revises or imposes taxes or regulatory fees of any kind, including, without limitation, emergency service access fees, universal service fees, and regulatory recovery fees on the Cloud Services or Hardware provided hereunder, that we reserve the right to pass on all such taxes to you without notice.

**4.3 Credit Worthiness.** Subject to credit review, you may be required, upon our request, to make an advance payment or deposit to us for the Entitlements and/or Hardware, or any portion thereof.

### **5. CUSTOMER RESPONSIBILITIES & RESTRICTIONS**

**5.1 Service Rules of Use.** You will: i) comply, and cause your Users (and any third party with whom they communicate using the Cloud Services) to comply, with both this Agreement including without limitation our Acceptable Use Policy, Fair Use Policy, and Applicable Law; and ii) obtain all permits, licenses and authorizations or certificates that may be required in connection with your activities pursuant to this Agreement. You shall not: (i) use the Cloud Services for service bureau or time-sharing purposes or in any other way which allows third parties other than Users to exploit the Cloud Services; (ii) provide Cloud Services passwords or other log-in information to any third parties other than Users; (iii) share non-public Cloud Services features or content with any third party; and (iv) access the Cloud Services in order to build a similar or competitive product or service. Under no circumstances will you take any action(s) that could result in harm or damage to our (or any third party's) network or premises, or to any of our other customers.

**5.2 Unauthorized Access and Investigations.** You will, and you will cause your Users, to take all reasonable steps to prevent (i) unauthorized access to, or improper or fraudulent use of, your account, your Hardware and the Cloud Services, and (ii) a breach of your security (each an "Incident"). You will immediately notify us of any known or suspected Incident and will use best efforts to stop an Incident. If we suspect, or become aware of, an Incident, we may investigate, and you will cooperate in any such investigation. We reserve



Powering connections

the right to inform any applicable government of the investigation. We shall not be liable to you for any damages whatsoever resulting from an Incident.

**5.3 Customer Responsibilities/Liabilities.** You are responsible and liable for: (i) ensuring that the configuration of the Cloud Services meets your and your Users requirements; (ii) Customer Data; and (iii) use of your Cloud Services account, whether authorized or not, including use by your Users and any User conduct that would violate our Acceptable Use Policy or the requirements of this Agreement. Where applicable, you and your Users must always "log off"/exit from your account at the end of each session.

## 6. CUSTOMER DATA

**6.1 Instructions.** You instruct us to process Customer Data in accordance with the terms and conditions of this Agreement. We will only use Customer Data and Use Records to provide, bill, optimize, improve, support, troubleshoot, and maintain the Cloud Services and/or Hardware and to comply with Applicable Law, or a binding order of a court or governmental body (or other legal process). In doing so, you acknowledge and agree that we may process Customer Data and Use Records on a global basis. Notwithstanding anything in this Section 6 (Customer Data), we reserve the right to use, and to disclose Customer Data and Use Records to third parties: (i) if we determine, in our reasonable judgement, that such use or disclosure is necessary (a) to protect the safety of a customer, a user, or a third party; (b) to provide an emergency warning; (c) for the provision of Emergency Services; (d) to investigate suspected fraud or other illegal activity; (e) subject to Section 6.3 (Court Orders, Subpoenas and Additional Disclosures), as a result of a legal or governmental demand including without limitation by a criminal enforcement agency or regulatory body; or (ii) if you have provided consent. You represent, warrant and covenant that you and your Users have all rights and consents (and have made all requisite disclosures) necessary: i) for us to process Customer Data and Use Records for the purposes set forth in this Agreement; and ii) for us to provide Customer Data and Use Records to our affiliates and third-party service providers as necessary for the performance of this Agreement on a global basis. You further acknowledge and agree that we may aggregate Customer Data and Use Records with data from other customers, and at our sole discretion use, disclose and commercially exploit such aggregated data in an anonymized form.

**6.2 Accuracy & Retention.** You are solely responsible for Customer Data provided to us and you represent and warrant that all information you provide to us will be true. You acknowledge and agree that: (i) the Cloud Services provide a passive conduit for User Content, and you (and not us) are solely responsible for such User Content; and (ii) the Cloud Services are not intended for long-term storage of Customer Data. We only retain Customer Data and Use Records for as long as reasonably necessary to provide the Cloud Services and to comply with Applicable Law and will delete (i.e. putting beyond practicable use) in accordance with our data retention policy. Subject to any data retention requirements under Applicable Law and any written data retention commitment we make to you, we reserve the right to periodically permanently delete Customer Data and Use Records from the Cloud Services including without limitation where your account is delinquent, suspended, or has been terminated for more than thirty (30) days. Notwithstanding anything herein, should we become aware of any User Content which violates this Agreement, we reserve the right to delete such User Content immediately and without notice.

**6.3 Court Orders, Subpoenas and Additional Disclosures.** Unless prohibited by Applicable Law, we will give you reasonable notice of any legal or governmental demand for disclosure or movement of Customer Data or Use Records, or redirect any such demand to you, to allow you to seek a protective order or otherwise to contest such required disclosure or movement at your sole expense, prior to making any disclosure or movement.

**6.4 Excluded Data.** Except where we have provided you with express written authorization, you represent and warrant that you and your Users (and any third party with whom they communicate using the Cloud Services) have not and shall not upload or transmit to the Cloud Services, any data which is specifically regulated other than by general application data privacy laws ("Excluded Data") including without limitation as a "special category" of personal data under the EU General Data Protection Regulation 2016, as personal health information under the Health Insurance Portability and Accountability Act of 1996, as personally identifiable financial information under the Gramm-Leach-Bliley Act and as personal information under the Children's Online Privacy Protection

Act (the "Excluded Data Laws"). YOU ACKNOWLEDGE AND AGREE THAT: (A) WE HAVE NO LIABILITY FOR ANY FAILURE TO PROVIDE PROTECTIONS SET FORTH IN THE EXCLUDED DATA LAWS OR OTHERWISE TO PROTECT EXCLUDED DATA; AND (B) OUR SYSTEMS ARE NOT INTENDED FOR MANAGEMENT OR PROTECTION OF EXCLUDED DATA AND MAY NOT PROVIDE ADEQUATE OR LEGALLY REQUIRED SECURITY FOR EXCLUDED DATA.

## 7. TERM, TERMINATION AND SUSPENSION

**7.1 Term.** This Agreement takes effect upon execution of the Service Order and subject to Section 7.2, continues until the expiration of the Initial Service Term unless otherwise terminated by either party in accordance with this Section 7. The Initial Service Term shall begin on the Service Activation Date except that if you have purchased MiCloud Flex Entitlements, the Initial Service Term shall begin on the All Live Date.

**7.2 Renewals.** Following the Initial Service Term, unless either party notifies the other party (in writing at least forty-five (45) days prior to the expiration of the then current Service Term) that it does not wish to renew the its Entitlements, the Entitlements (including those for any additional services added during the then current Service Term) shall automatically renew at the rate set out in the Service Order for an additional term of the same duration as the Initial Service Term (each, a "Service Renewal Term").

**7.3 Add Ons.** If, during the Service Term, you add any additional services to your Entitlements including without limitation services at a different Site, the amount of your monthly recurring charges shall increase above and beyond the sum set forth in the original Service Order, and the Service Term for any such additional Cloud Services shall be coterminous with the Initial Service Term or any Service Renewal Term in effect at the time.

**7.4 Service Suspension.** Except to the extent precluded by applicable law, we may at our sole discretion, and without prior notice to you, suspend your (or any of your Users') Cloud Services without liability if: (i) we reasonably conclude that you or a User(s) has conducted itself in a way: (a) that is not consistent with our Acceptable Use Policy or the Documentation; (b) that subjects us to potential liability or interferes with our other customer's use of the Cloud Services; or (c) that breaches the Agreement; (ii) we deem it reasonably necessary to do so to respond to any actual or potential security concern; (iii) any underlying arrangement with our operators or suppliers is terminated or suspended for whatever reason; (iv) you fail to cooperate with any investigation; (v) we are conducting scheduled or emergency maintenance; (vi) it is necessary to protect our networks or customers; or (vii) it is necessary to comply with Applicable Law.

**7.5 Termination by Mitel.** In addition to our suspension rights set out in Section 7.4 above, we may terminate this Agreement: (i) upon thirty (30) days' prior written notice if: (a) you (or any User) breaches the Agreement and such breach remains uncured at the expiration of such period; or (b) you become the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors; (ii) with immediate effect if any legal or regulatory change is introduced which affects our ability to provide the Cloud Services and/or Hardware, including but not limited to any new authorization or license becoming necessary or any existing authorization or license under which we operate expiring or being revoked, and (iii) with immediate effect if your account is suspended and such suspension is not your first suspension.

**7.6 Termination by Customer for Breach.** You may terminate this Agreement upon thirty (30) days' prior written notice if we breach the Agreement and such breach remains uncured at the expiration of such period.

**7.7 Termination by Customer for Convenience.** You may terminate this Agreement prior to its expiration for convenience provided you pay us, within thirty (30) days of the effective date of termination, an amount equal to all monthly recurring Service Fees, multiplied by the number of months remaining in the Service Term, and if requested by us, the dollar value of any promotional credit awarded to you by us as set forth in any special promotions document, plus all applicable taxes. The parties agree that these early termination charges are a reasonable estimate of anticipated actual damages and not a penalty.

**7.8 Effect of Termination.** Termination of the Agreement will result in termination of the Service Term. Upon termination of the Agreement, you shall cease all use of the applicable Cloud Services and delete, destroy, or return to us all copies of the applicable Documentation in your possession or control. Except as required by law, we will promptly, and in any event in no less than ninety (90)





Powering connections

days, delete (i.e. putting beyond practicable use) Customer Data and Use Records. We may retain billing records (and breakdowns) for at least twelve (12) months following termination. You shall immediately return, at your cost, all rental Hardware to us in accordance with the directions we provide to you.

## 8. HARDWARE

**8.1 Delivery.** Where applicable, we will deliver Hardware FCA (Incoterms 2010) shipping point on the date mutually agreed between us and you. Unless stated otherwise herein, we may substitute Hardware or any component thereof listed in your Service Order with comparable new equipment of equivalent functionality.

**8.2 Title, Risk of Loss and Security Interest.** Where you purchase Hardware from us without third party financing: (i) title and risk of loss to the Hardware will pass to you upon shipment, and (ii) you grant to us a security interest in the Hardware until you have paid us in full for it (and you authorize us and shall assist us, as necessary, to file any forms necessary for us to perfect our security interest in the Hardware.) In the event you elect to finance your purchase using a third-party financier, title shall pass to such third-party financier upon payment in full for the Hardware, unless the parties agree otherwise. If Hardware rental is available in your jurisdiction and you rent Hardware as part of your Service Fee, title to the Hardware shall remain with us, except as set out herein. You agree to maintain adequate commercial general liability insurance to reimburse us for the replacement cost (i.e. non-depreciated cost) of any Hardware lost, damaged or destroyed while in your control and you agree to furnish a copy of your insurance to us on request. We reserve the right to provide rental Hardware which is new or is remanufactured and certified to meet Hardware specifications. In no event will you export rented Hardware (or use rented Hardware) outside of the jurisdiction the rental Hardware is intended to be used in as specified on your Service Order.

## 9. IP & FEEDBACK

**9.1 Ownership.** Subject to the limited rights expressly granted hereunder, we reserve all right, title and interest in and to: (i) the Cloud Services; (ii) any and all Documentation and any Confidential Information provided or disclosed to you and your Users (and any third party with whom they communicate using the Cloud Services); (iii) any and all derivatives, enhancements or improvements thereof; and (iv) any and all intellectual property rights contained in the foregoing (i), (ii), and (iii). No rights are granted to you except as expressly set out in this Agreement.

**9.2 Feedback.** You and your Users may provide us with feedback on, and/or suggestions for improvements (or other changes) to, the Cloud Services, Documentation, Confidential Information or other Mitel technology (individually and collectively "Feedback"). Even if you designate such Feedback as confidential, we will not be bound by any confidentiality obligations in respect of such Feedback. You hereby grant us a worldwide, irrevocable, perpetual, sublicensable license to use, and commercially exploit, Feedback in any manner. You will not knowingly provide us Feedback that is subject to third party intellectual property rights.

## 10. CONFIDENTIALITY

**10.1 Confidentiality.** As used herein, "Confidential Information" means all confidential or proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party") that is designated in writing as confidential or that in the circumstances is, or ought to be known, to be confidential or proprietary. Confidential Information shall not include Customer Data, Use Records, or information which: (i) is known publicly; (ii) is generally known in the industry before disclosure; (iii) has become known publicly, without fault of the Receiving Party, subsequent to disclosure by the Disclosing Party; or (iv) has been otherwise lawfully known or received by the Receiving Party. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission. The Receiving Party agrees to keep confidential all Confidential Information disclosed to it by the Disclosing Party, and to protect the confidentiality thereof in the same manner as it protects the confidentiality of its own (at all times exercising at least a reasonable degree of care in the protection of Confidential Information). If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and

reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. The Receiving Party agrees that monetary damages for breach of confidentiality may not be adequate and that, if necessary, the Disclosing Party shall be further entitled to seek injunctive relief.

## 11. WARRANTIES & DISCLAIMERS

**11.1 Hardware Warranty.** All Hardware components will be free from defects in material and workmanship under normal use and will perform in substantial compliance with the manufacturer's specifications for the applicable warranty period. The exclusive remedy and recourse for you under this Hardware warranty is for us, at our election, to repair, replace or modify the defective parts. We may utilize remanufactured, certified parts that meet the specifications. Such replacement parts will be covered for the remainder of the existing Hardware warranty. Any part removed shall become our property. For Hardware you purchase, the Hardware warranty set out in this Section 11.1 shall be valid for a period of twelve (12) months following shipment of the Hardware to you. For Hardware you rent, the Hardware warranty shall be valid during the Service Term. The foregoing Hardware warranty shall become void if one of the following occurs: (i) the Hardware is not used properly in accordance with the manufacturer's specifications and operating instructions or otherwise is abused, damaged, or negligently serviced or maintained by anyone other than us or our authorized dealer; (ii) work is performed on the Hardware by anyone not authorized by us; (iii) the Hardware is installed or used in combination or in assembly with products that are either not approved by us or not compatible with the Cloud Services. The Hardware warranty excludes parts you have supplied and expendable or personal use items such as batteries, headsets, paper, cabling or non-Mitel telephone sets. Warranties are predicated on us receiving timely written notice of any nonconformity with as much specificity as is known and as soon as you become aware of such nonconformity, but in any event prior to the expiration of the relevant warranty period. We shall have the right to inspect and test the Hardware and the associated local area network and communications infrastructure to determine, in our reasonable discretion, whether the nonconformity is covered under the applicable warranty.

**11.2 Disclaimer of Warranties.** Except as expressly provided herein, (i) You acknowledge and agree that the Cloud Services and Hardware are provided on an "as is", and "as available" basis; and (ii) we expressly exclude all implied warranties, terms and conditions including but not limited to fitness for purpose, satisfactory quality or non-infringement of title to the maximum extent permitted by law. We do not warrant that (a) the Cloud Services or the Hardware will meet your requirements or that the operation of the Cloud Services and the Hardware will be uninterrupted or error-free; (b) the Cloud Services or the Hardware will prevent toll fraud, unauthorized access, loss or theft of electronic data, or invasion of privacy; (c) all errors in the Cloud Services and Hardware can be corrected; (iv) Customer Data will not be lost or corrupted; (d) Emergency Services will not fail, including but not limited to, in those circumstances in which you are using call forwarding, call redirection or blocking services, where the call fails to be delivered or is dropped for any reason where there is network congestion, device misconfiguration, power loss, broadband outages, third-party interference, where you have not paid your bill, and/or when the emergency callback number is configured to ring a phone at a different location than the User's VoIP device; or (e) enhanced Emergency Services, if available, will not revert back to traditional Emergency Services. It is your sole responsibility to back up Customer Data.

**11.3 No Hazardous Environments.** You acknowledge and agree that neither the Cloud Services nor the Hardware are sufficiently fault-tolerant for life-safety operations, and neither is designed, manufactured, or intended for use in or in conjunction with control equipment in hazardous environments, including without limitation the operation of nuclear facilities, aircraft navigation or critical communications systems, air traffic control, transportation control, or life support devices. You will not use the Cloud Services or Hardware for any purpose listed in this Section 11.3 and any attempt to do so will be at Customer's own risk.

## 12. LIMITATION OF LIABILITY

**12.1 LIMITATION, EXCLUSION AND APPLICATION. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW:**

(a) IN NO EVENT SHALL WE BE LIABLE FOR THE FOLLOWING DAMAGES

DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE IMPLEMENTATION SERVICES, THE CUSTOMER DATA, THE CLOUD SERVICES INCLUDING WITHOUT LIMITATION USE AND/OR FAILURE OF EMERGENCY SERVICES OR THE CONDUCT OF ANY LOCAL EMERGENCY RESPONSE SERVICE CENTER OR NATIONAL EMERGENCY RESPONSE SERVICE CENTER, OR HARDWARE: (I) ALL INDIRECT, ECONOMIC, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL AND PUNITIVE DAMAGES; AND (II) ALL DAMAGES FOR LOST PROFITS, REVENUE OR EARNINGS, LOST, HACKED OR CORRUPTED DATA, UNAUTHORIZED ACCESS TO DATA OR THE CLOUD SERVICES, DELAYS OR FAILURE TO TRANSMIT OR RECEIVE ANY DATA, BUSINESS INTERRUPTION, FAILURE TO REALIZE EXPECTED SAVINGS AND COST OF SUBSTITUTE SOFTWARE, HARDWARE OR SERVICES;

(b) IN NO EVENT SHALL OUR TOTAL AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE IMPLEMENTATION SERVICES, THE CUSTOMER DATA, THE CLOUD SERVICES INCLUDING WITHOUT LIMITATION USE AND/OR FAILURE OF EMERGENCY SERVICES OR THE CONDUCT OF ANY LOCAL EMERGENCY RESPONSE SERVICE CENTER OR NATIONAL EMERGENCY RESPONSE SERVICE CENTER, AND ANY HARDWARE EXCEED THE AMOUNTS RECEIVED BY MITEL FROM YOU (OR FROM YOUR MITEL AUTHORIZED RESELLER) FOR THE ENTITLEMENTS IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE INCIDENT GIVING RISE TO THE LIABILITY;

(c) THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET OUT IN THIS AGREEMENT SHALL APPLY: (I) WHETHER AN ACTION, CLAIM OR DEMAND ARISES FROM A BREACH OF WARRANTY OR CONDITION, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTORY LIABILITY OR ANY OTHER THEORY OF LIABILITY; (II) WHETHER OR NOT SUCH DAMAGES COULD REASONABLY BE FORESEEN OR THEIR POSSIBILITY HAS BEEN DISCLOSED TO US; AND (III) TO US, OUR AFFILIATES, AND THEIR RESPECTIVE SERVICE PROVIDERS AND SUPPLIERS, SUCCESSORS AND ASSIGNS AND (IV) EVEN IF YOUR REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

**12.2 Time Limit.** No action arising out of this Agreement may be brought by Customer more than eighteen (18) months after the cause of action has arisen.

### 13. INDEMNIFICATION

**13.1 Our Indemnification Obligations.** Subject to 13.2, we will indemnify, hold harmless and defend you against any loss, damage or cost (including reasonable legal fees) incurred in connection with claims, actions, demands, suits, or proceedings (each a "Claim") made or brought against you by a third party alleging that the Cloud Services and/or the Documentation infringes a valid United States, Canadian, or European intellectual property right other than a patent reading on a standard (e.g. IEEE) whether essential or not. This section 13.1 shall not apply to any Claim resulting from: (a) the combination of the Cloud Services with any hardware, software, system, or service which is not owned, supplied, and/or developed directly by us; (b) our implementation of any design you provide us; (c) your failure to implement corrections or modifications provided by us if implementation would prevent the infringement, or (d) your alteration or modification of the Cloud Services. This Section 13.1 states our sole liability and your exclusive remedy for any Claims covered under this Section 13.1 (Our Indemnification Obligations). In the event of an intellectual property right Claim, we may in our sole option and without further obligation to you either (a) obtain the right for you to continue using the Cloud Services and/or Documentation; (b) replace or modify the Cloud Services and/or Documentation so that it becomes non-infringing; or (c) if such remedies are not reasonably available, terminate this Agreement.

**13.2 Customer's Indemnification of Mitel.** You agree to indemnify, hold harmless and if requested by us, defend us against any loss, damage or costs (including reasonable legal fees) incurred in connection with a third party Claim made or brought against us arising from or relating to: (i) any act, error, omission, fault, negligence, or misconduct by you or any User (or any third party with whom they communicate using the Cloud Services); (ii) your or any User's (or any third party with whom they communicate using the Cloud Services') breach of the Agreement including without limitation the Acceptable Use Policy; (iii) your or a User's use of the Cloud Services or Hardware; (v) your, or any User's, breach of Applicable Law; (vi) Customer Data and (vii) your failure to properly inform Users of the Cloud Services' emergency service limitations.

**13.3 Mutual Provisions.** Each party's indemnity obligations are subject to the following: (i) the indemnified party promptly notifying the indemnifier in writing of the Claim provided that any failure by the indemnified party to promptly notify the indemnifying party will not relieve the indemnifying of its obligations except

to the extent that indemnifying party is materially prejudiced by the delay; (ii) the defending party shall have sole control of the defense and all related settlement negotiations with respect to the Claim (provided that except to the extent we are defending a claim against us, the defending party may not settle any Claim unless it unconditionally releases the aggrieved party of all liability and obligation); and (iii) the indemnified party, at the indemnifier's cost, providing reasonable assist in the defense of such Claim. If we have requested you to defend a claim, and we, at any time, have a reasonable basis to believe that you cannot or may not be able to fulfill your obligations under this Section 13, then, without limiting your obligations under this Section 13, we shall be entitled to provide you notice to that we have decided to become the defending party, and thereafter to assume control of the defense and/or settlement of any such claim. Once we have notified you that we will be seeking an indemnity, unless otherwise expressly agreed in writing, all communications (including the notice) will be deemed our confidential information, which you may not disclose to any third party, other than your legal advisors, without our prior express written permission, and in addition, all communications in respect of any such claim shall be subject to common interest privilege.

### 14. CUSTOMER SUPPORT

**14.1 Customer Support.** Support may vary depending on the Cloud Services you order. We will provide you with support as described at <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>, as may be updated from time to time.

### 15. GENERAL

**15.1 Mitel Entity.** "Mitel", "we", our and "us" means the following, where your Primary Jurisdiction is in:

(i) **Canada** or the **United States of America:** Mitel Cloud Services, Inc. with registered office is at 1146 North Alma School Rd, Mesa, AZ 85201.

(ii) **Australia or Europe (with the exception of France and Germany):** Mitel Networks Limited, with registered office is at Castlegate Business Park, Caldicot, Monmouthshire, Wales NP26 5YR.

(iii) **France:** Mitel France SAS, with registered office is a 1 rue Arnold Schoenberg, 78286 Guyancourt Cedex, France.

(iv) **Germany:** Mitel Deutschland GmbH, with registered office is at Zeughofstrasse 1, 10997 Berlin, Germany.

**15.2 Affiliates.** We may use (and disclose Customer Data and Use Records to) one or more global affiliate(s), partners and/or service providers in order to perform our obligations under this Agreement.

**15.3 Changes.** We may make changes to this Agreement and any document referred herein from time to time by posting a new version at <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>. The changes will become effective and will be deemed accepted by you on the date the new version is posted, except that if we modify the Agreement in a manner which in our sole opinion is likely to cause a material detrimental impact on you (e.g. if we significantly reduce your rights or increase your obligations) and our change is not in response to a change in legal or regulatory requirements, or a material change in our business, the changes will become effective thirty (30) days after we provide you written notice (invoice, email or if an online portal is made available with the Cloud Services, posting notice at the portal, to suffice). However, if during the thirty (30) day notice period, you provide us with a written objection directly or through your Authorized Partner, the changes will not become effective until the beginning of your next Service Renewal Term. Nothing in this Section 15.3 will relieve you of payment of any already incurred Service Fees.

**15.4 Use Outside of Primary Market.** While Entitlements are intended for use within the jurisdiction identified on your Service Order (your "Primary Jurisdiction") the Cloud Services are nomadic by nature and may be globally accessible via a broadband Internet connection. You acknowledge that i) regulation of IP-based telephony services varies significantly from jurisdiction to jurisdiction, ii) certain internet service providers (ISPs) may impose contractual restrictions on the use of their services for IP-based telephony, and iii) Emergency Services may not operate outside of the Primary Jurisdiction. Before using our Cloud Services in a jurisdiction outside your Primary Jurisdiction, you should consult with local counsel for advice regarding your use of such. You shall be solely responsible and liable for any violation of local law or breach of third-party contract terms resulting from such use, regardless

of whether we have consented to such use.

**15.5 Notices.** Except as otherwise set out in this Agreement, any notice provided hereunder shall be in writing and delivered by hand or sent by registered mail or courier to the address set out below and will be effective and deemed delivered upon receipt. Notwithstanding the foregoing, we may send you notice by electronic means, such as .pdf email, which shall be deemed delivered on the business day following the day on which it was sent.

If to us, the address set out in Section 15.1 with a copy to our legal department at 350 Legget Drive, Kanata, ON, Canada K2K 2W7

If to you the address will be the address set out in your Service Order or the online portal, where available.

**15.6 Number Porting.** If your Cloud Service Entitlements include our SIP Services, number portability may be available. In cases where number portability is available we will take commercially reasonable steps to transfer the number in accordance with standard porting procedures between communications providers in your jurisdiction provided that your account contains accurate and complete information and is in good standing, including payment for all Service Fees. For clarity, porting a number to another service provider shall not release you of any fees otherwise due under this agreement.

**15.7 Publicity.** Neither party shall use the name of the other party in publicity, advertising, or similar activity, without the prior written consent of the other, except you agree that we may profile you, or disclose that you are our customer, in standard marketing materials, including press releases, corporate presentations and digital properties and/or other marketing vehicles as we may deem appropriate.

**15.8 Force Majeure** We will not be liable for any failure or delay in its performance under the Agreement, due to any cause beyond our reasonable control, including any act of war, act of God, earthquake, flood, embargo, riot, sabotage, terrorist attack, cyber-attack (hacking and DDOS), acts of public enemies, civil disturbances or general restraint or arrest of government and people, boycott, strike (including a general strike), lockout or other similar industrial disturbance, service interruption by a telecommunications services provider, or connectivity delays with internet providers outside of our reasonable control.

**15.9 Assignment.** You may not assign your rights or delegate your duties under the Agreement either in whole or in part without our prior written consent, which will not be unreasonably withheld. The Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

**15.10 Severance.** To the extent that any portion or provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that portion or provision shall be deemed not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that portion or provision in any other jurisdiction.

**15.11 No Waiver.** No single or partial exercise, or failure or delay in exercising any right, power or remedy by any party shall constitute a waiver by that party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under this Agreement or otherwise.

**15.12 Applicable Law and Dispute Resolution.** This Agreement is to be governed by and construed under the laws specified below, excluding any body of law governing conflicts of laws and the 1980 United Nations Convention on Contracts for the International Sale of Goods, and disputes arising out of or in connection with this agreement are to be resolved in accordance with the following:

A) Where Your Primary Jurisdiction is in Canada, the laws of the Province of Ontario, Canada. The courts of the Province of Ontario will have exclusive jurisdiction to settle any dispute which arises out of or in connection with this Agreement and the Parties hereby agree to submit to the jurisdiction of the courts of Province of Ontario.

B) Where Your Primary Jurisdiction is in the United States of America (including its territories, protectorates or overseas regions), the laws of the State of Arizona, United States. The courts of the State of Arizona will have exclusive jurisdiction to settle any dispute which arises out of or in connection with this Agreement and the Parties hereby agree to submit to the jurisdiction of the courts of State of Arizona.

C) Where Your Primary Jurisdiction is in Europe or Australia, the laws of

England and Wales. The courts of England will have exclusive jurisdiction to settle any dispute which arises out of or in connection with this Agreement and the Parties hereby agree to submit to the jurisdiction of the courts of England.

**15.13 No Jury Trial.** The Parties specifically agree that disputes shall not be resolved by jury trial and hereby waive all rights to a trial by jury in any matter related to or arising from this Agreement. No dispute between the Parties, or involving any person but You, may be joined or combined together, without our prior written consent.

**15.14 Entire Agreement.** This Agreement is the complete agreement and understanding of the parties with respect to the subject matter hereof and supersedes any other agreement or understanding, written or oral, between the parties with respect to the subject matter hereof. Neither party has entered into this Agreement in reliance upon (and shall have no liability in respect of) any term or representation other than those expressly set out in this Agreement (provided that nothing in this Agreement shall limit either party's liability for fraudulent misrepresentation). In the event of an inconsistency between these Terms and the Service Order, these Terms shall govern. Both parties represent and warrant that they have full corporate power and authority to execute this Agreement and to perform their obligations hereunder and that each person whose signature appears and any Service Order (and the Terms (if applicable)) is duly authorized to execute such document on behalf of the respective party.

**15.15 Surviving Provisions.** The terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the performance hereof shall so survive the completion of performance, cancellation or termination of this Agreement. Without limiting the generality of the foregoing, the parties agree that any limitations of liability, exclusions, and disclaimers of warranties and indemnification obligations are essential to the parties' entering into this Agreement and will survive the termination of the Agreement and will apply even if the Agreement is found to have failed of its essential purpose.

**15.16** You are solely responsible for determining whether you require any third-party licenses in association with your use of the Cloud Services, obtaining any such license and paying any fees relating to any such license.

## **16. JURISDICTION SPECIFIC TERMS**

### **16.1 Europe.**

In addition to the relevant country specific provisions set out in this Section 16, the following shall apply in respect of Entitlements intended for use in the European Economic Area (as set out in your Service Order)

1) **Data Protections.** The parties agree to comply with the terms of the Data Processing Agreement ("DPA") available at [www.mitel.com/legal/gdpr](http://www.mitel.com/legal/gdpr) irrespective of whether such agreement has been signed by both parties. In the event of any conflict between the DPA and this Agreement, the DPA shall prevail.

2) **Directories:** In countries where directories are mandated by Applicable Law, we will provide directory providers with basic directory information in relation to you unless you elect not to be included in directories when you subscribe to the Services.

3) **Dispute resolution:** Alternative dispute resolution arrangements with independent third parties are available in a number of European countries. Details of the relevant schemes are listed in the country specific terms in this Section 16.

### **16.2 United Kingdom.**

The following shall apply in respect of Entitlements intended for use in United Kingdom (as set out in your Service Order):

1) Subject to the emergency service terms, Emergency Services calls can be made within England, Wales, Scotland and Northern Ireland.

2) You acknowledge that the quality of calls via the Cloud Services depends on the specification and availability of the underlying broadband and/or telecommunications services used by each party to the call.

3) Nothing in this Agreement excludes or limits our liability for fraud, death or personal injury caused by our negligence, or for any liability that cannot be excluded or limited by law.

4) No express term of this Agreement nor any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

5) Mitel Networks Limited is authorized to do business in the UK.

6) If you are billed for your Entitlements within the United Kingdom and you have less than ten (10) employees (including contract employees) you will be considered a "small business" and notwithstanding anything to the contrary in your Service Order, the automatic renewal set out in Section 7.2 shall not apply.

7) If you have a complaint with the Cloud Services, you should contact us using the details set out in the Complaints Code of Practice available upon request.

8) If you are a small business, an alternative dispute resolution scheme is available free of charge for disputes you are unable to resolve with us. Details of the scheme are available upon request.

9) Details of our standard fees and charges for Entitlements purchased directly from us within the United Kingdom are available at: <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>.

10) Details of our standard fees and charges for number porting purchased are available at: <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>.

11) We will take reasonable steps to ensure that the transfer of numbers and subsequent activation is completed as soon as reasonably practicable in accordance with Applicable Law. You acknowledge that the timing of any such transfer can be impacted by certain technical and procedural requirements in relation to number transfers, including where we need to secure an agreement with another communications provider relating to number transfers. You may be entitled to claim compensation for delays caused by us in transferring numbers.

12) Additional information about limitations of our Emergency Services can be found at <https://www.mitel.com/en-gb/legal/voip-999-112-disclosure-notice>.

### 16.3 Australia.

The following shall apply in respect of Entitlements intended for use in Australia (as set out in your Service Order):

1) The Telecommunications Numbering Plan sets out rules for issuing, transferring and changing telephone numbers. We must comply with the Telecommunications Number Plan. In using the Cloud Services, you must not do anything that would be inconsistent with the Telecommunications Numbering Plan or that would adversely affect our ability to comply. Customer acknowledges that: (a) you has no ownership, interest or goodwill in any telephone numbers issued to you; (b) termination of the Cloud Services for any reason will result in immediate loss of all telephone numbers associated with a Service unless they are ported to another service provider prior to termination of the Service; and (c) if we provides Customer with an out-of-area number, you may not be able to port that number to another service provider in the future, and calls to and from the number will be charged as if you is located in the area identified by the number.

2) You may report unwelcome communication complaints to us.

3) We will provide reasonable assistance to you if you have purchased a smart number from ACMA and request that it is connected to the Cloud Services.

4) In addition to the permitted uses and disclosures set out in Section 5.1, we reserve the right to use and disclose Customer Data and Use Records to third parties if we determine, in our reasonable judgement, that disclosure relates to information contained in the Integrated Public Number Database or other disclosure permitted pursuant to Part 13 of the Telco Act the Telecommunications Act 1997 (Cth).

5) If you have are being billed for your Entitlements in Australia and have you less than twenty full time employees and an annual turnover of less than A\$3,000,000:

If you have a complaint with the Cloud Services, you should contact us using the details set out in the Complaints Code of Practice available upon request. If your complaint is resolved in accordance with our Complaints Code of Practice within eight (8) weeks, you can refer your complaint to the Telecommunications Industry Ombudsman, our approved alternative dispute resolution provider, who will review your complaint for free.

Our Small Business Critical Information Summary and credit management practice are available upon request.

Additional information about limitations of our Emergency Services can be found at <https://www.mitel.com/en-au/legal/voip-e000-disclosure-notice>

### 16.4 Canada.

The following shall apply in respect of Entitlements intended for use in Canada (as set out in your Service Order):

1) Customer Data and Use Records may be stored in the United States and may be accessed by the courts, law enforcement and national security authorities of the United States in accordance with Applicable Law.

2) VoIP 9-1-1 service has certain limitations relative to Enhanced 9-1-1 service that is available on most traditional telephone service.

3) Mitel may disclose to the CRTC that you have acknowledged the E911 Disclosure by virtue of Customer having accepted this Agreement.

4) Additional information about limitations of our Emergency Services can be found at <https://www.mitel.com/en-ca/legal/voip-e911-disclosure-notice>

5) You will not use our network or the Cloud Services to export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside of Canada or the U.S. without first complying with all export control laws and regulations which may be imposed by the Canadian and U.S. Government and any country or organization of nations to whose jurisdiction Customer is subject.

### 16.5 United States.

The following shall apply in respect of Entitlements intended for use in United States (as set out in your Service Order):

1) Mitel may disclose to the FCC that you have acknowledged the E911 Disclosure by virtue of Customer having accepted this Agreement.

2) Additional information about limitations of our Emergency Services can be found at <https://www.mitel.com/en-ca/legal/voip-e911-disclosure-notice>

### 16.6 Germany.

The following shall apply in respect of Entitlements intended for use in Germany (as set out in your Service Order):

1) For clarity, if we do not accept your Service Order with one month of providing it to us, you may revoke your Service Order and it shall be null and void.

2) In the event, that you make a claim against us for pecuniary losses resulting from our unintentional acts and the amounts we received from you (or from your Authorized Reseller for the entitlements in the twelve (12) month period immediately prior to the incident giving rise to the liability are less than 12 500 euro, the amounts received shall be deemed to 12 500 euro's.

An alternative dispute resolution scheme is available free of charge for disputes you are unable to resolve with us. Details of the scheme are available upon request

### 16.7 Switzerland.

The following shall apply in respect of Entitlements intended for use in Switzerland (as set out in your Service Order):

1) If you have a complaint with the Cloud Services you can refer your complaint to Ombudscom. You acknowledge and agree that while we will comply with any request for information which Ombudscom may make, we are not legally bound by any conclusion drawn by Ombudscom.

### 16.8 South Africa.

The following shall apply in respect of Entitlements intended for use in South Africa (as set out in your Service Order):

1) You agree that Section 15 provides you with notice of a change to this Agreement within a fair and reasonable period.

2) Details of our standard fees and charges for Entitlements purchased directly from us are available at: <https://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions>

3) An alternative dispute resolution scheme is available free of charge for



Powering connections

disputes you are unable to resolve with us. Details of the scheme are available upon request.

**16.9 Belgium**

The following shall apply in respect of Entitlements intended for use in Belgium (as set out in your Service Order):

1) If your Entitlements billed in Belgium provide you with five or less than Belgian phone numbers, and exercise your right to terminate for convenience pursuant to Section 7.7 (Termination by Customer for Convenience) within 6 months of your Service Activation date, you will only be required to pay us an amount equal to the recurring Service Fees multiplied by the number of months remaining in the until the sixth month of your Entitlements.

2) An alternative dispute resolution scheme is available free of charge for disputes you are unable to resolve with us. Details of the scheme are available upon request.

3) Due to Belgian law, we are required to block Emergency Services within Belgium. You warrant that you will inform Users that Emergency Services are not available prior to their first Use. You agree to indemnify, hold harmless and if requested by us, defend us against any loss, damage or costs (including reasonable legal fees) incurred in connection with a Claim made or brought against us arising from or relating to your failure to notify Users that Emergency Services are blocked.

**APPROVED AS TO FORM AND CONTENT:**

**JOHNSON COUNTY:**

Roger Harmon

As Johnson County Judge

May 26, 2020  
Date

Attest:

County Clerk, Johnson County



May 26, 2020  
Date

**MITEL:**

Authorized Representative of Mitel Cloud Services, Inc.

May 7, 2020  
Date

Printed Name: Scott Peterson

Title: Senior Vice President, Sales Americas