

# Morgan Lewis

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May 18, 2018

## ***VIA ELECTRONIC FILING***

Patricia Van Gerpen, Executive Director  
South Dakota Public Utilities Commission  
Capital Building, 1st Floor  
500 East Capital Avenue  
Pierre, South Dakota 57501-5070

**Re: Notification Regarding the Proposed Transfer of Indirect Control of Mitel Cloud Services, Inc. to MLN TopCo Ltd.**

Dear Ms. Van Gerpen:

By this letter, MLN TopCo Ltd. ("TopCo" or "Transferee"); Mitel Networks Corporation ("Mitel" or "Transferor"); and Mitel Cloud Services, Inc. ("MCSI" or "Licensee") (collectively, the "Parties") notifies the Commission of the proposed transfer of control of MCSI to Transferee (the "Transaction").<sup>1</sup> Pursuant to S.D. Codified Laws § 49-31-20, Commission action is not required for the Transaction. Accordingly, the Parties submit this letter for informational purposes.

### **Description of the Parties**

#### **A. Mitel Networks Corporation (Transferor)**

Mitel, a widely-held Canadian corporation (NASDAQ: MITL), is a leading global provider of cloud and on-site communications and collaboration solutions for business customers, serving more than 70 million end users around the world. Since 2011, Mitel has fundamentally reoriented its business from an on-site or premise-based unified communications and telephony business to become a diverse global market leader with established positions in next-generation cloud and enterprise markets. These solutions enable customers to realize significant cost benefits and to conduct business more efficiently and effectively by enabling enhanced communications, information sharing and collaboration

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<sup>1</sup> The Parties also note that on April 17, 2018, MCSI and Mitel filed an Application for approval of the transfer of control of MCSI from Mitel (Delaware), Inc. to Mitel Networks, Inc. (fka ShoreTel, Inc.), resulting from an internal restructuring.

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within a business and with customers, partners and suppliers. Mitel is headquartered in Ottawa, Canada, with offices, partners and resellers worldwide.

**B. Mitel Cloud Services, Inc. (Licensee)**

MCSI, a Texas corporation and wholly owned indirect subsidiary of Mitel, resells local communications services; domestic and international long-distance services; calling card services; 800 services; dedicated data services; Internet, DSL, MPLS services and Web voice and videoconferencing; disaster recovery solutions; and network monitoring and management. MCSI resells telecommunications services through its agreements with major U.S. long-distance carriers. In addition, MCSI is licensed as a competitive local exchange and interexchange carrier throughout the United States, and registered as an interconnected VoIP provider and wireless/CMRS reseller in numerous states. In South Dakota, MSCI was authorized by the Commission to provide interexchange services on March 7, 2003 (RC02-120) and to provide competitive local exchange services on January 9, 2009 (TC08-130). MCSI is also authorized by the FCC to provide domestic and international telecommunications services.

Additional information concerning Licensee's legal, technical, managerial and financial qualifications has been submitted to the Commission with its filings for certification and is therefore already a matter of public record. Licensee requests that the Commission take official notice of these existing descriptions of Licensee's qualifications and incorporate them by reference herein.

**C. MLN TopCo Ltd. (Transferee)**

TopCo is a Cayman Islands exempted company formed for the purposes of implementing the Transaction. TopCo is a wholly owned subsidiary of Searchlight II MLN, L.P., a Cayman Islands exempted limited partnership and master aggregator of an investor group led by funds affiliated with Searchlight Capital Partners, L.P. ("Searchlight"). Searchlight is a leading private equity investment group and has worked successfully in partnership with leading businesses throughout North America and Europe. Searchlight derives value through thoughtful strategic direction, operational expertise and deep industry knowledge. Searchlight's funds invest in companies across various sectors, including communications, media, consumer, and business services.

**Contacts**

For the purposes of this filing, contacts are as follows:

Patricia Van Gerpen, Executive Director  
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For Transferee to:

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Russell M. Blau  
Denise S. Wood  
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With a copy to:

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For Transferor and Licensee to:

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With a copy to:

Gregory Hiscock  
VP, General Counsel & Corporate  
Secretary  
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CANADA  
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Fax: 613-591-2322  
greg.hiscock@mitel.com

### **Description of the Transaction**

Pursuant to the Arrangement Agreement (the "Agreement"), dated as of April 23, 2018, by and between Mitel, MLN AcquisitionCo ULC ("MLN"),<sup>2</sup> and TopCo, MLN will acquire all of the issued and outstanding common shares in the capital of Mitel in an all-cash transaction valued at approximately \$2.0 billion, including Mitel's net debt. Subsequently, Mitel and MLN will amalgamate under Canadian law to form a new combined entity, Mitel Networks ULC ("New Mitel"), a British Columbia unlimited liability company. The shares in Mitel's U.S. subsidiaries will be transferred from New Mitel to MLN US HoldCo LLC, a Delaware limited liability company, through a series of steps. As a result, at the closing of the Transaction, Licensee will become a wholly owned indirect subsidiary of TopCo through a number of intermediate holding companies.

After the Transaction closes, Robert Agnes, the current Director, Chairman and President of MCSI, will continue to serve in his existing role. The Transaction will occur entirely at the holding company level and will have no adverse impact on Licensee's

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<sup>2</sup> MLN AcquisitionCo ULC is an unlimited liability company organized under the laws of British Columbia, Canada, formed for purposes of effectuating the Transaction. As described herein, MLN will be amalgamated into New Mitel and will have no separate existence following the completion of the Transaction.

Patricia Van Gerpen, Executive Director  
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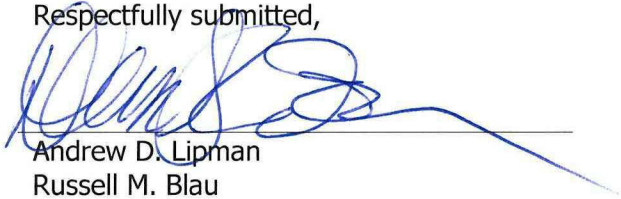
customers. As such, the Transaction will not result in service disruption, termination, or customer confusion. Diagrams depicting the pre- and post-Transaction corporate ownership structure of Licensee are provided as Exhibit A.

The Transaction is in the public interest. Licensee will continue to be managed and operated by the same officers and personnel, but will be supplemented by management of Transferee. The Transaction will provide MCSI with access to Transferee and the Searchlight-managed investor group's financial and operational expertise, permitting MCSI to continue to provide robust unified communications solutions to its customers and to better compete in the telecommunications marketplace. Transferee and its affiliates will seek to build on MCSI's existing assets, support investment in new infrastructure and continue to offer innovative and high-quality services to existing customers. The proposed Transaction will have no adverse impact on customers and will not alter the manner of service delivery or billing. Transferee further intends that MCSI's existing management team will remain in place and that MCSI's managerial, technical and operational standards will be maintained. MCSI will continue to comply with existing contracts and tariffs, as applicable, subject to change in the ordinary course of business and in accordance with applicable law.

\* \* \* \*

We would appreciate acknowledgement of receipt and acceptance of this filing, which is being submitted electronically. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "Andrew D. Lipman", is written over a horizontal line. The signature is stylized and extends to the right of the line.

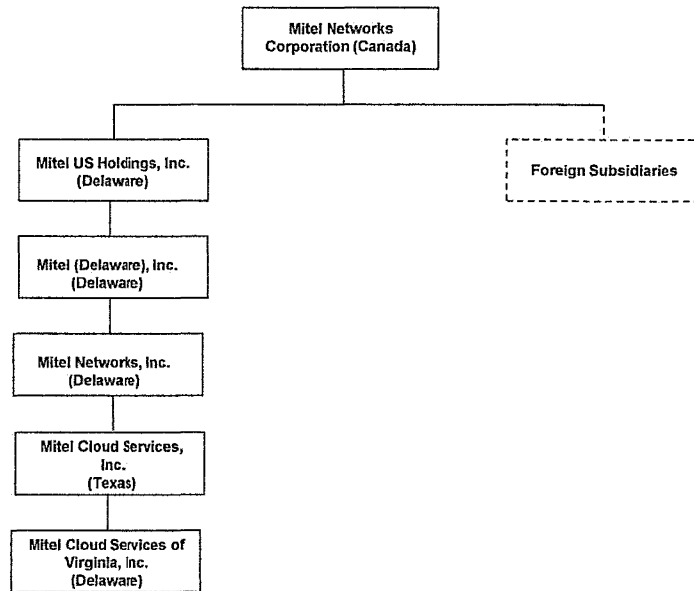
Andrew D. Lipman  
Russell M. Blau  
Denise S. Wood

Counsel for MLN TopCo Ltd.

**EXHIBIT A**

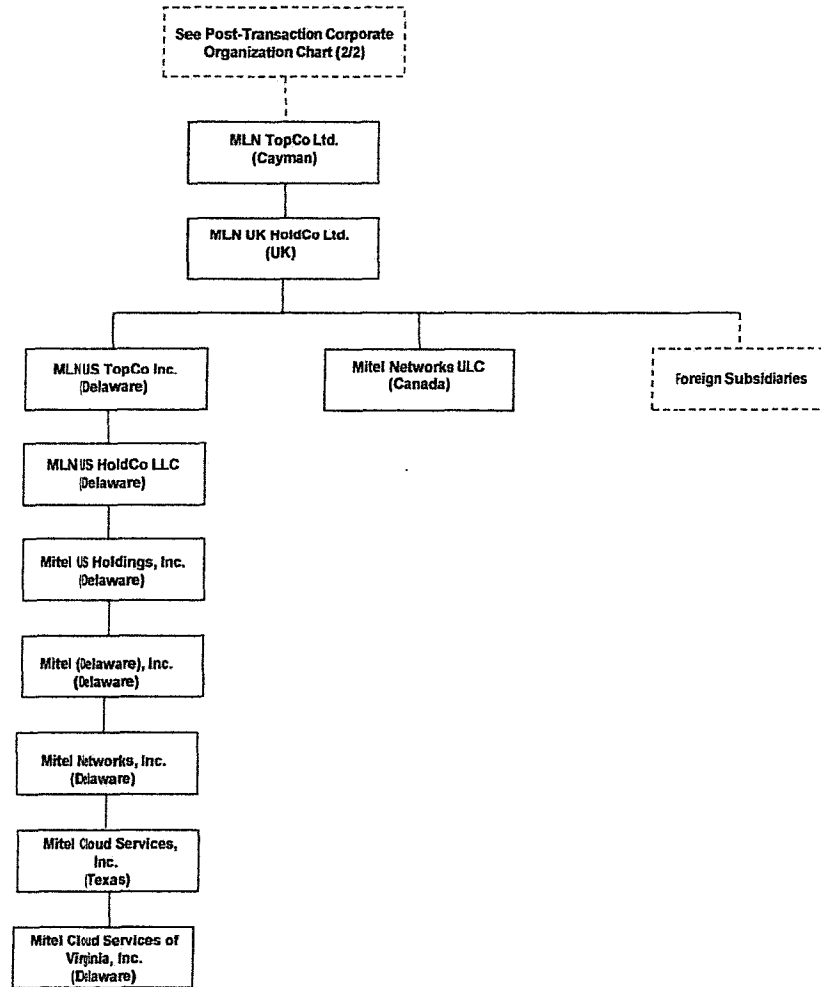
**Diagrams of the Pre-Transaction and Post-Transaction Corporate Ownership Structures**

# Pre-Transaction Corporate Organization Chart



\* All solid lines in this chart represent 100% ownership. The entities listed herein only include entities that (1) hold authorization to provide intrastate, interstate or international telecommunications services in the United States or (2) hold a 10% or greater direct or indirect ownership interest in the chain of ownership of those entities, based on FCC ownership attribution rules. The chart excludes subsidiaries and affiliates of MLN TopCo Ltd. that do not hold authorization to provide telecommunications services in the United States.

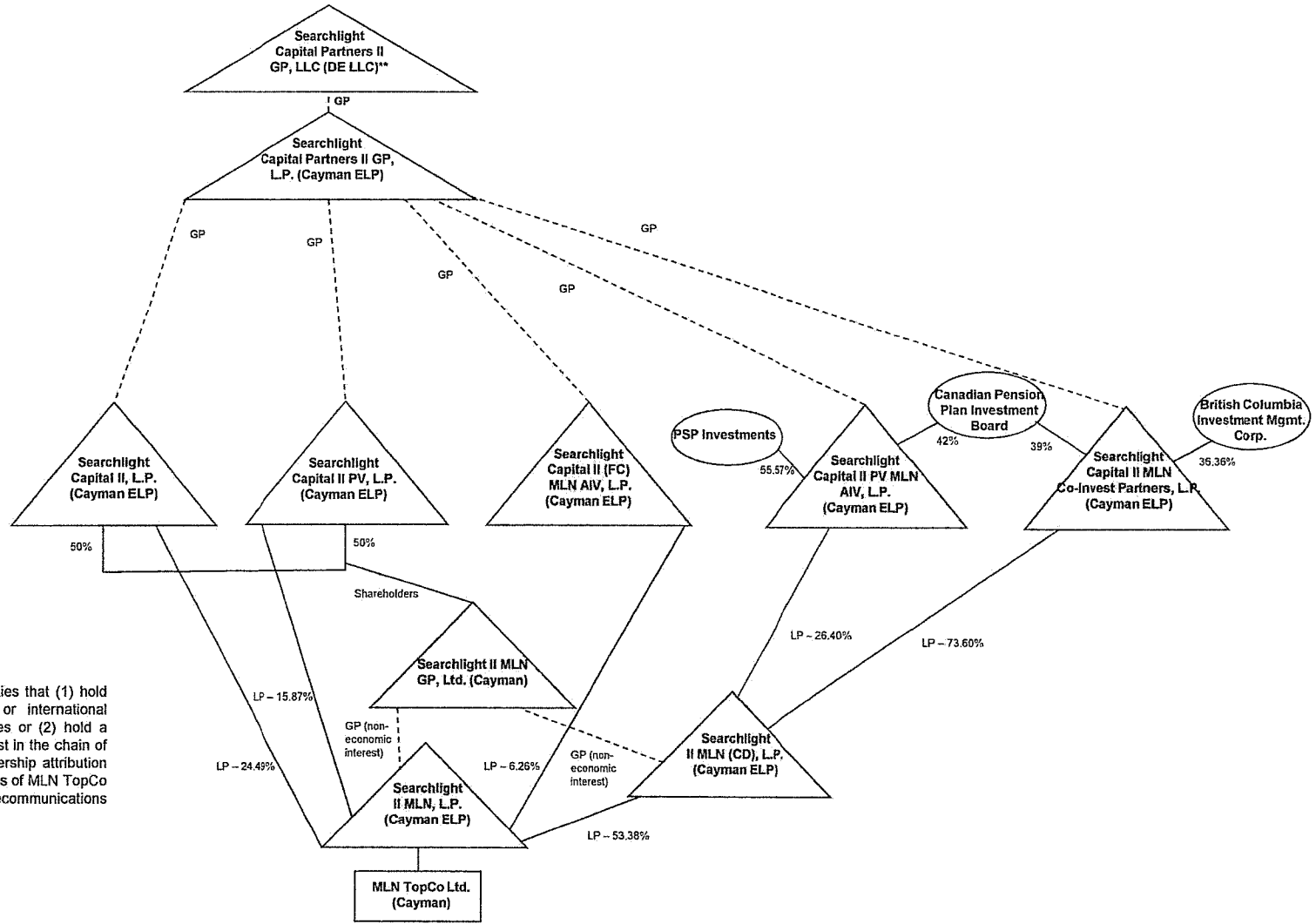
## Post-Transaction Corporate Organization Chart (1/2)



\* All solid lines in this chart represent 100% ownership. The entities listed herein only include entities that (1) hold authorization to provide intrastate, interstate or international telecommunications services in the United States or (2) hold a 10% or greater direct or indirect ownership interest in the chain of ownership of those entities, based on FCC ownership attribution rules. The chart excludes subsidiaries and affiliates of MLN TopCo Ltd. that do not hold authorization to provide telecommunications services in the United States.

## Post-Transaction Corporate Organization Chart (2/2)

**Key:**  
 ---- = general partner interest



\* The entities listed herein only include entities that (1) hold authorization to provide intrastate, interstate or international telecommunications services in the United States or (2) hold a 10% or greater direct or indirect ownership interest in the chain of ownership of those entities, based on FCC ownership attribution rules. The chart excludes subsidiaries and affiliates of MLN TopCo Ltd. that do not hold authorization to provide telecommunications services in the United States.



## **VERIFICATIONS**

STATE OF NEW YORK  
COUNTY OF NEW YORK

§  
§     ss:  
§

**VERIFICATION**

I, Andrew Frey, state that I am an Authorized Person of Searchlight Capital Partners, L.P.; that I am authorized to make this Verification on behalf of Searchlight Capital Partners, L.P. and its affiliates, including MLN TopCo, Ltd. (collectively, the “Company”); that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Andrew Frey  
Authorized Person  
Searchlight Capital Partners, L.P.

Sworn and subscribed before me this 11 day of May, 2018.

  
\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

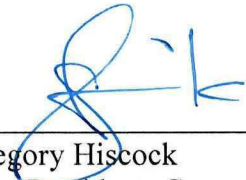
**DIANA R. HEINTZ**  
Notary Public - State of New York  
No. 01HE6241289  
Qualified in New York County  
My Commission Expires May 16, 2019

CANADA  
PROVINCE OF ONTARIO

§  
§     ss:  
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**VERIFICATION**

I, Gregory Hiscock, state that I am Vice President, General Counsel, Corporate Secretary, and Director of Global Ethics & Compliance of Mitel Networks Corporation; that I am authorized to make this Verification on behalf of Mitel Networks Corporation and its subsidiaries, including Mitel Cloud Services, Inc. (collectively, the “Company”); that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Gregory Hiscock  
Vice President, General Counsel, Corporate  
Secretary, and Director of Global Ethics &  
Compliance  
Mitel Networks Corporation

Sworn and subscribed before me this 10<sup>th</sup> day of May, 2018.

  
\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

**Sandra Lee Felskie, Notary Public, City  
of Ottawa, limited to the attestation of  
instruments and the taking of affidavits,  
for Mitel Networks Corporation and its  
subsidiaries, associates and affiliates.  
Expires April 27, 2021.**