



## Whitridge Associates' Third Party Supplier Agreement

This AGREEMENT ("Agreement") made effective as of **6/26/2019** between Whitridge Associates, Inc., with offices at 50 Thomas Patten Drive, 2<sup>nd</sup> Floor, Randolph, MA 02368 ("**Vendor**") and Itlize Global LLC, with offices at 242 Old New Brunswick Road, Suite # 250, Piscataway, NJ, 08854, ("**Supplier**") whose Federal Tax ID No. is 47-4113111 (Supplier and Vendor are each a "party" and both are "parties").

**WHEREAS**, Vendor supplies technical services personnel ("Personnel") to perform services for Vendor's clients;  
and

**WHEREAS**, Supplier desires to assist Vendor by providing qualified candidates for the clients of Vendor ("Clients");  
and

**WHEREAS**, Supplier agrees that Vendor will spend substantial resources and time associated with providing Supplier's Personnel to Vendor's Clients for their projects, and that Vendor will share proprietary information with Supplier to enable Supplier to propose Personnel;

**NOW THEREFORE**, in consideration of the mutual promises and covenants, the parties agree as follows:

1. **NATURE OF SERVICES** This Agreement will provide the terms and conditions governing the relationship between Vendor and Supplier. Supplier's services will be engaged through a Purchase Order (**Exhibit A**), and each of Supplier's Personnel will complete an Agreement of Supplier's Personnel (**Exhibit B**).
2. **TERMINATION OF SERVICES AND/OR AGREEMENT** Any services performed by Supplier's Personnel under a Purchase Order under this Agreement will terminate on the earliest of: (A) the "end date" of the term specified in the Purchase Order or any extension thereof; (B) the date of completion of the Client project as determined by Client; or (C) the date that Client states it is terminating the services. In addition, Vendor may terminate this agreement or the services of any Personnel thereunder by providing Supplier seven (7) days written notice, or immediately upon material breach by Supplier.
3. **DIRECT CONTACTS** Supplier agrees that it will not communicate in any fashion with the Clients' Personnel concerning the provision of services under this Agreement, except that Personnel actually performing the technical services under this Agreement may communicate with Client as necessary to perform their services. Supplier and its Personnel will otherwise communicate directly and exclusively through Vendor in regard to all other matters (e.g., billing and payment for services being performed, the opportunity for additional services not already being performed, the removal of Personnel, etc.).
4. **BILLING AND PAYMENT** Unless otherwise stated in the Purchase Order, Vendor will pay fees to Supplier semi-monthly based on the approved billable time of Supplier's Personnel and submittal of proper documentation. Billable time, for purposes of payment, means the increment of time on which payment is based as set forth in the Purchase Order, but only if: (A) Supplier's Personnel has actually worked for such increment, (B) such increment is recorded on the time record submitted by such Personnel, (C) such time record has been approved by an authorized Client representative, and (D) such time has been properly invoiced by Supplier to Vendor along with the related time record. Time will be reported on a weekly basis no later than 10:00AM on the Monday immediately following the week in which services were performed. Vendor may withhold payment if submitted documentation is incomplete, inaccurate or otherwise nonconforming with Vendor or Client requirements.

Vendor will pay Supplier promptly after Vendor receives payment from Client for the services of Supplier's Personnel. Supplier agrees that Client controls the payment of fees to Supplier and Supplier shall not be entitled to payment for billable time or other services unless and until Client approves the work and pays Vendor. However, upon Supplier's request and for its convenience, Vendor may, in its sole discretion, pay Supplier net 30

days from receipt of Supplier's invoice. Should Client request a discount, rebate or rate cut in regard to services previously performed or to be performed by Supplier's Personnel, then Supplier agrees to lower its fee proportionately unless the Purchase Order states otherwise. Should Vendor in its sole discretion advance payment to Supplier for services prior to payment by Client to Vendor for such services and Client fails to pay for such services or Client request a refund of amounts previously paid to Supplier, Supplier shall repay Vendor for any such amounts within thirty days of written notice by Vendor.

5. **EXPENSES** No travel, living, and/or entertainment costs will be paid by Vendor unless authorized in writing. If Client agrees to pay any reimbursable expenses, they must be specifically authorized in the Purchase Order and Supplier must include all reimbursable expense in its periodic invoices along with appropriate documentation. Vendor will not pay for or provide training, tools, equipment or other materials to Supplier.
6. **CONFIDENTIALITY** Supplier and its Personnel shall not disclose, transmit or use confidential information of Vendor, Client or their affiliates and customers, except as required and authorized for the performance of the services and for the benefit of Client and/or Vendor. For the purposes of this Agreement, "confidential information" means all non-public information of Vendor, Client or their affiliates and customers including, without limitation, proprietary information and trade secrets whether or not so designated, future staffing needs of Vendor or Client(s) as well as Client's nonpublic information relating to Clients' technical infrastructure, products, projects, software, research, data, inventions, processes, techniques, or designs. In the event that Supplier receives a request to disclose any information (whether or not deemed confidential) arising out of or relating this Agreement or the services thereunder through legal process including a subpoena, Supplier will notify Vendor at least 10 business days before responding to such request and, if so demanded by Vendor, Supplier will not disclose such information until any objections by Supplier, Vendor, and Client are fully and finally adjudicated.
7. **RESTRICTIONS RELATING TO CLIENTS AND PERSONNEL**
  - (A) **NON-SOLICITATION**. During the term of this agreement and for a period of twelve (12) months thereafter, Supplier and anyone acting on its behalf shall not, directly or indirectly, employ, retain or solicit the services of any person employed by or performing services for Vendor or Client, whether as employee or contractor.
  - (B) **CIRCUMVENTION OF VENDOR**. During the term of this agreement and for twelve (12) months thereafter, if Supplier supplies technical services personnel, other than through Vendor, to any Client of Vendor that Supplier was introduced to by Vendor or any Client of Vendor for which Supplier performed services under this Agreement, then Supplier shall pay Vendor a finder's fee of \$25,000 for each individual placed at, or assigned to, Client by Supplier. "Client" as used in this Section 7(B) includes any customer of Client for which Supplier performed services under this Agreement.
8. **WARRANTY** Supplier represents, warrants and covenants that (i) all information provided to Vendor in regard to the qualifications of its Personnel is accurate and complete, (ii) that its Personnel are qualified to perform the services which they have been selected to perform, (iii) that neither it nor its Personnel are subject to or during the term of their services will become subject to any contractual, conflict of interest or other limitation on their right and ability to perform the services under this Agreement, (iv) that the services provided by Supplier and its Personnel shall be of good quality and performed in accordance with the highest industry standards and practices applicable to the services being provided and will be supplied and performed in accordance with this Agreement and (v) the services and any deliverables do not infringe on the intellectual property rights of any third party.
9. **PERSONNEL STATUS, CONDUCT, TAXES AND BENEFITS** For all of Supplier's Personnel performing services for Client, Supplier represents, warrants and covenants that throughout their services:
  - (A) All Personnel are employees of Supplier paid directly by Supplier and on its W-2 payroll and they are not independent contractors or subcontractors of Supplier, unless expressly authorized in writing.
  - (B) Supplier at all times retains the primary control over its Personnel, including the right to recruit, qualify, hire, terminate, assign and re-assign initial and subsequent duties, set compensation and benefits (including vacation, sick and other leave), establish codes of conduct, monitor, supervise, discipline, establish minimum or maximum work hours, establish beginning and end times of work and work breaks, establish work locations, set other conditions of work, and otherwise control the means and manner by which such Personnel perform their work.

- (C) No Supplier Personnel are entitled to any rights, benefits or privileges provided by Vendor or Client to their own respective employees. Further, neither Vendor nor Client will be liable for payment of employment taxes (including, but not limited to FICA, Medicare, FUTA / SUTA, FIT), worker's compensation, or other benefits provided. Supplier has negotiated, respectively with Vendor and with Supplier's Personnel, its fees from Vendor and its compensation to its Personnel with the express knowledge and agreement of its sole responsibility for such taxes and benefits.
- (D) Prior to the commencement of services by any of its Personnel, Supplier will advise them of their obligations under this Agreement and of their obligation to abide thereby, and it will provide Vendor an executed copy of the attached Agreement of Supplier's Personnel for all individuals providing services.

**10. COMPLIANCE WITH LAWS AND CONTRACTUAL OBLIGATIONS, INCLUDING LAWS ON USE OF ALIEN WORKERS**

Supplier agrees, represents and warrants that throughout the period of time Supplier is providing services:

- (A) Supplier will comply with all federal, state and local laws and regulations, including, without limitation, those regarding registration and authorization to do business, authorization to work, employment, wages and wage payments, discrimination, harassment, taxes and benefits (including, without limitation, the Affordable Care Act), and Supplier's obligations include, but are not limited to, the following:
  - i. Supplier will comply with the Immigration Reform Act of 1986, as amended, including all requirements relating to Form I-9.
  - ii. In regard to wages and wage payments, Supplier will timely and fully pay its Personnel all amounts due to them in accordance with any agreement and as required by law, without regard to its receipt of payment from Vendor. Supplier further agrees to maintain copies of all payroll, wage and hour, and similar records required by any federal, state and local government agencies in the United States of America ("USA").
  - iii. In regard to taxes and benefits, Supplier will timely and fully pay / withhold, at its own expense, all FICA, Medicare, FUTA / SUTA, FIT, SIT and similar employment taxes with regard to such Personnel, and will provide such workers compensation coverage and other benefits as may be required by law and under its agreements with such Personnel, including without limitation, laws pertaining to health insurance, family leave, and sick leave.
  - iv. Supplier is properly registered and authorized to do business and in good standing, in the state of its formation and the state(s) where its Personnel are performing services for Client.
- (B) For any Supplier Personnel working under an H-1B visa, Supplier represents and warrants that such Personnel are employees of Supplier, a Labor Condition Application ("LCA") has been properly filed, approved, posted and maintained; that the LCA states the correct job description, wage level, prevailing wage and work location(s) for all Personnel; that all Personnel are authorized to work in the work location(s) where the work is being performed for Client; that all Personnel are being paid the higher of the actual or prevailing wage, they are not subject to any improper deductions (such as for non-productive bench time) or improper claims for reimbursement (such as for repayment of visa filing fees), and such wage does not include the value of any non-cash or in-kind benefits such as apartment, auto rentals, living expenses or any amounts reimbursed to the employee as per diem expenses, or the value of any other such fringe benefits; and that such Personnel were offered benefits on the same basis and under the same criteria as Supplier offers its Personnel who are USA citizens.

**11. RIGHTS TO OWNERSHIP** Supplier hereby agrees that all services, deliverables, material, documentation and other tangible expressions of information including but not limited to software programs and software documentation, technical data or marketing data as applicable, whether in final production or draft, which result from any work performed by Supplier for the Client, shall be deemed to be works made for hire and all rights, title and interest shall belong exclusively to Clients, and are hereby assigned or will be assigned to Clients unless other arrangements have been agreed to by all parties in writing.

**12. INSURANCE** Before and during the performance of providing services, Supplier will obtain and maintain for itself and its Personnel at its own expense, Commercial Automobile Liability and Commercial General Liability (CGL) Insurance covering Supplier's operations, with combined single limits for bodily injury, personal injury and property damage not less than \$1,000,000 and including coverage as follows: Commercial General Liability (Comprehensive Form), Broad Form Contractual Liability, Independent Contractors (if any part of Services are subcontracted), Broad Form Property Damage, and Personal Injury. The CGL policy will name and cover both Vendor and Client as Additional Insureds. Supplier will also obtain and maintain Worker's Compensation

coverage in each state where services are performed with no less than statutory limits and Employer's Liability coverage with limits no less than \$1,000,000 per occurrence, whichever is greater. The Workers Compensation and Employer's Liability policies shall include a waiver of subrogation against Vendor and Client. Supplier will also maintain Professional Liability/Errors and Omissions Insurance with limits of not less than \$1,000,000 and Employee Dishonesty/Fidelity Bond with limits of not less than \$1,000,000 which policy shall be endorsed to name Vendor as an additional Loss Payee. The Supplier will provide a certificate of insurance to Vendor and/or Client demonstrating the limits required herein and indicating Vendor's status as an additional insured and Loss Payee as set forth herein prior to performing any services under this Agreement. In no event will terms of any such certificate serve to reduce or waive the insurance requirements of this agreement.

**13. INDEMNIFICATION** Supplier will indemnify, defend and hold harmless Vendor and Client and their respective directors, officers, employees and agents, from and against all claims, demands, lawsuits, losses, costs and expenses (including reasonable attorney fees, expenses and court costs) arising out of: a) the failure of Supplier or its Personnel to comply with applicable laws, regulations or ordinances including, without limitation, laws and regulations set forth in Section 10 above; b) any act or omission, negligence or gross negligence or intentional misconduct on the part of Supplier, its officers, Personnel (including Personnel supplied to perform services hereunder) or agents; c) breach of any representation, warranty, covenant or obligation contained in this Agreement by Supplier or its Personnel; d) infringement by Supplier or Supplier's Personnel of any patent, copyright or any other intellectual property right of any person or entity or e) the performance of the services by Supplier and its Personnel under this Agreement. Supplier's indemnity obligations shall include indemnifying, defending and holding harmless Vendor from Client claims, demands, lawsuits, losses, costs and expenses (including reasonable attorney fees, expenses and court costs) arising out of the Supplier's or its Personnel's acts or omissions, including, without limitation, those acts or omissions set forth in sub-clauses (a) through (e) of this Section 10.

**14. LIMITATION OF LIABILITY** Vendor shall not be liable for any incidental, consequential, exemplary, special, or punitive damages, including lost profits, that arise in connection with this Agreement, regardless of how characterized, even if Vendor knew or should have known of the possibility of such damages.

**15. BREACH** The remedies for a breach of this Agreement by Supplier shall include one or more of the following, in addition to such other remedies as may be available to Vendor in law (e.g., damages) or equity: (A) Vendor may terminate this Agreement and any services hereunder effective upon sending of notice to Supplier; (B) Vendor may withhold payment of invoices in the event Supplier fails to fully and properly compensate its Personnel; (C) Vendor may arrange for any employer (including Vendor, Client, or any other employer) to directly or indirectly hire or retain, without any restriction or cost, any of Supplier's Personnel in regard to whom Supplier has committed a breach, and Supplier will release such Personnel, Vendor, Client and other entity from any restrictions and liabilities related to such hire; (D) Further, the parties agree that injunctive relief (both temporary and permanent) shall be available for any breach or prospective breach of sections 6 or 7 of this Agreement, in addition to any other available remedies, without limitation of the right to seek injunctive relief relating to other sections where legally appropriate.

**16. OTHER PROVISIONS** The following other provisions apply to this Agreement:

- (A) This Agreement and any attached Purchase Order(s) represent the entire agreement of the parties regarding services to be performed after its effective date. Any modification of this Agreement must be in writing and signed by both parties and specifically stated to be a modification of this Agreement. No other written or oral communications or agreement, whether before or after the date of this Agreement, shall modify any terms of this Agreement.
- (B) Supplier agrees that it will be bound by all provisions in Vendor's contract with Client that are applicable to the services being supplied. A copy of the relevant provisions of Vendor's Client contract is available for inspection by Supplier.
- (C) The failure of either party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision nor a waiver of the right of such party thereafter to enforce any such provision.
- (D) Supplier may not assign, subcontract, or otherwise transfer this Agreement or any interest hereunder to any third-party without the prior written consent of Vendor.

- (E) This Agreement shall be binding upon and inure to the benefit of heirs, successors, assigns of the parties hereto.
- (F) Each provision of this Agreement, including individual sections, paragraphs, subparagraphs and sentences, shall be considered severable such that if any provision is determined to be illegal or unenforceable in whole or in part, this determination shall not affect any other provisions of this Agreement. The illegal or unenforceable provisions shall be deemed modified to the extent necessary in a court's opinion to render them legal and enforceable, or they shall be deleted if they cannot be so modified, and in either case all remaining provisions shall be given full effect to the extent possible without the illegal or unenforceable provision.
- (G) Sections 6,7,8,11,13, 14 and 16 shall survive termination of this Agreement as well as any other provisions which by their nature survive termination to give effect to their meaning.
- (H) The headings and titles in this Agreement are for convenience only and shall not be used in any construction of any part of this Agreement.
- (I) This Agreement shall be governed by the laws of the Commonwealth of Massachusetts without regard to, choice of law principles, regardless of where the services were performed, and any litigation shall be brought in the state or federal courts of the Commonwealth of Massachusetts. Supplier agrees to the exercise of personal jurisdiction over it by such courts in the Commonwealth of Massachusetts and waives any objection to jurisdiction or venue.

**For and on behalf of:**  
**Whitridge Associates, Inc.**

By: \_\_\_\_\_  
(Authorized signature)

\_\_\_\_\_  
(Typed or printed)

Title: \_\_\_\_\_

**For and on behalf of:**  
**Itlize Global LLC**

By: \_\_\_\_\_  
(Authorized signature)

\_\_\_\_\_  
(Typed or printed)

Title: \_\_\_\_\_

Supplier's EIN # 47-4113111