

## NAVEGATE, INC.

### End User Terms of Service

Effective: November 4, 2020

These Terms of Service constitute a legally binding agreement between you and International Software Associates, Inc. dba as Navegate, Inc. (together with its affiliates, “**Company**”, “**we**,” “**our**” or “**us**”) governing your use of our software-as-a-service offerings and website (the “**Site**” and collectively with the foregoing, the “**Services**”).

YOU ACKNOWLEDGE AND AGREE THAT, BY CLICKING ON THE “I AGREE” OR SIMILAR BUTTON, REGISTERING FOR AN ACCOUNT, DOWNLOADING THE APP OR ANY APP UPGRADES OR ACCESSING OR USING THE SERVICES, YOU ARE INDICATING THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY THESE TERMS OF SERVICE, WHETHER OR NOT YOU HAVE REGISTERED WITH THE SITE OR THE APP. IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE, THEN YOU HAVE NO RIGHT TO ACCESS OR USE THE SERVICES. These Terms of Service are effective as of the date you first click “I agree” (or similar button or checkbox) or use or access the Services, whichever is earlier. If you accept or agree to these Terms of Service on behalf of your employer or another legal entity, you represent and warrant that (i) you have full legal authority to bind your employer or such entity to these Terms of Services; (ii) you have read and understand these Terms of Service; and (iii) you agree to these Terms of Service on behalf of the party that you represent. In such event, “you” and “your” will refer and apply to your employer or such other legal entity.

Any personal data that you submit to us or that we collect about you is governed by our Privacy Policy (“**Privacy Policy**”), available at [https://www.navegate.com/wp-content/uploads/Privacy-Policy\\_2019.pdf](https://www.navegate.com/wp-content/uploads/Privacy-Policy_2019.pdf). You acknowledge that by using the Services, you have reviewed the Privacy Policy. The Privacy Policy is incorporated by reference into these Terms of Service and together form and are hereinafter referred to as this “**Agreement.**”

PLEASE NOTE: THIS AGREEMENT GOVERNS HOW DISPUTES BETWEEN YOU AND Company CAN BE RESOLVED. IT CONTAINS A BINDING AND FINAL ARBITRATION PROVISION (SECTION 9). PLEASE READ CAREFULLY AS IT AFFECTS YOUR LEGAL RIGHTS.

#### **1. Account, Password and Security**

You must register with Company and create an account to use the Services (an “**Account**”) and as part of that process you will be requested to provide certain information, including without limitation your name and email address. By using the Services, you agree to provide true, accurate, current and complete information as prompted by the registration process and to maintain and promptly update the Account information to keep it accurate, current and complete. You are the sole authorized user of your Account. You are responsible for maintaining the confidentiality of any log-in, password, and Account number provided by you or given to you by Company for accessing the Services. You are solely and fully responsible for all activities that occur under your password or Account, even if not authorized by you. Company has no control over the use of any user’s Account and expressly disclaims any liability derived therefrom. Should you suspect that any unauthorized party may be using your password or Account or you suspect any other breach of security, you agree to contact Company immediately.

The person signing up for the Services will be the contracting party (“**Account Owner**”) for the purposes of these Terms of Service and will be the person who is authorized to use any corresponding Account we provide to the Account Owner in connection with the Services; provided, however, that if you are signing up for the Services on behalf of your employer, your employer shall be the Account Owner. As the Account Owner, you are solely

responsible for complying with these Terms of Service and only you are entitled to all benefits accruing thereto. Your Account is not transferable to any other person or account. You must immediately notify us of any unauthorized use of your password or identification or any other breach or threatened breach of our security or the security of your Account.

## **2. Representations and Warranties**

You represent and warrant that: (i) you are 18 years of age or older or are at least of the legally required age in the jurisdiction in which you reside, and are otherwise capable of entering into binding contracts, and (ii) you have the right, authority and capacity to enter into this Agreement and to abide by the terms and conditions of this Agreement, and that you will so abide. Where you enter into this Agreement on behalf of a company or other organization, you represent and warrant that you have authority to act on behalf of that entity and to bind that entity to this Agreement.

You further represent and warrant that (i) you have read, understand, and agree to be bound by these Terms of Service and the Privacy Policy in order to access and use the Services and (ii) when using or accessing the Services, you will act in accordance with any applicable local, state, or federal law or custom and in good faith.

You agree not to engage in any of the following prohibited activities, among others: (i) copying, distributing, or disclosing any part of the Services in any medium other than as allowed by the Services and these Terms of Service; (ii) using any automated system (other than any functionalities of the Services), including without limitation “robots,” “spiders,” “offline readers,” etc., to access the Services; (iii) transmitting spam, chain letters, or other unsolicited email or attempting to phish, pharm, pretext, spider, crawl, or scrape; (iv) attempting to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Services; (v) violating any international, federal, provincial or state regulations, rules, laws, or local ordinances; (vi) conducting any unlawful purposes or soliciting others to perform or participate in any unlawful acts; (vii) uploading invalid data, viruses, worms, or other software agents through the Services; (viii) infringing upon or violate our intellectual property rights or the intellectual property rights of others; (ix) impersonating another person or otherwise misrepresenting your affiliation with a person or entity, conducting fraud, hiding or attempting to hide your identity; (x) harassing, insulting, harming, abusing, defaming, abusing, harassing, stalking, threatening, intimidating or otherwise violating the legal rights (such as of privacy and publicity) of any other users or visitors of the Services or staff member of Company; (xi) interfering with or any activity that threatens the performance, security or proper functioning of the Services; (xii) uploading or transmitting viruses or any other type of malicious code; (xiii) attempting to decipher, decompile, disassemble or reverse engineer any of the software or algorithms used to provide the Services; (xiv) bypassing the security features or measures we may use to prevent or restrict access to the Services, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Services or the content therein; (xv) attempting to access unauthorized Accounts or to collect or track the personal information of others; (xvi) using the Services for any purpose or in any manner that infringes the rights of any third party; or (xvii) encouraging or enabling any other individual to do any of the foregoing.

You hereby warrant and represent that, other than as fully and promptly disclosed to Company as set forth below, you do not have any motivation, status, or interest which Company may reasonably wish to know about in connection with the Services, including without limitation, if you are using or will or intend to use the Services for any journalistic, investigative, or unlawful purpose. You hereby warrant and represent that you will promptly disclose to Company in writing any such motivation, status or interest, whether existing prior to registration or as arises during your use of the Services.

### **3. Termination and Suspension**

Unless otherwise agreed to in writing between you and Company, either party may terminate these Terms of Service for any or no cause, at any time. You may cancel and delete your Account at any time by either using the features on the Services to do so (if applicable and available) or by written notice to [success@navegate.com](mailto:success@navegate.com). After cancellation, you will no longer have access to your Account, your profile or any other information through the Services. The provisions of these Terms of Service which by their intent or meaning intended to survive such termination, including without limitation the provisions relating to disclaimer of warranties, limitations of liability, and indemnification, shall survive the any termination of these Terms of Service and any termination of your use of or subscription to the Services and shall continue to apply indefinitely.

We reserve the right to refuse the Services to anyone for any reason at any time. Company may terminate or limit your right to use the Services in the event that we are investigating or believe that you have breached any provision of this Agreement, by providing you with written or email notice. Such termination or limitation will be effective immediately upon delivery of such notice. If Company terminates or limits your right to use the Services pursuant to this section, you are prohibited from registering and creating a new Account under your name, a fake or borrowed name, or the name of any third party, even if you may be acting on behalf of the third party.

Even after your right to use the Services is terminated or limited, this Agreement will remain enforceable against you. Company reserves the right to take appropriate legal action, including but not limited to pursuing arbitration in accordance with Section 9 of these Terms of Service.

Company reserves the right to modify or discontinue, temporarily or permanently, all or any portion of the Services at its sole discretion. Company is not liable to you for any modification or discontinuance of all or any portion of the Services. Company has the right to restrict anyone from completing registration as a user if Company believes such person may threaten the safety and integrity of the Services, or if, in Company's discretion, such restriction is necessary to address any other reasonable business concern.

Following the termination or cancellation of your Account (as defined below), we reserve the right to delete all your data, including any User Generated Content, in the normal course of operation. Your data cannot be recovered once your Account is terminated or cancelled.

### **4. Links to Third-Party Websites**

The Services may contain links (such as hyperlinks) to third-party websites. Such links do not constitute endorsement by Company or association with those websites, their content or their operators. Such links (including without limitation external websites that are framed by the Services as well as any advertisements displayed in connection therewith) are provided as an information service, for reference and convenience only. Company does not control any such websites, and is not responsible for their (i) availability or accuracy, or (ii) content, advertising, products, or services. It is your responsibility to evaluate the content and usefulness of the information obtained from other websites. You acknowledge and agree that Company is not involved in the creation or development of third-party websites and disclaims any responsibility for third-party websites, and cannot be liable for claims arising out of or relating to third-party websites. Further, you acknowledge and agree that Company has no obligation to monitor, review, or remove links to third-party websites, but reserves the right to limit or remove links to third-party websites on the Services at its sole discretion.

The use of any website controlled, owned or operated by third parties is governed by the terms and conditions of use and privacy policies for those websites. You access such third-party websites at your own risk. Company expressly disclaims any liability arising in connection with your use and/or viewing of any websites or other

material associated with links that may appear on the Services. You hereby agree to hold Company harmless from any liability that may result from the use of links that may appear on the Services.

## 5. Intellectual Property Rights

All text, graphics, editorial content, data, formatting, graphs, designs, HTML, look and feel, photographs, music, sounds, images, software, videos, designs, trademarks, logos, typefaces and other content (collectively "**Proprietary Material**") that users see or read through the Services is owned by Company, excluding User Generated Content, which users hereby grant Company a license to use. Proprietary Material is protected in all forms, media and technologies now known or hereinafter developed. Company owns all Proprietary Material, as well as the coordination, selection, arrangement and enhancement of such Proprietary Materials as a Collective Work under the United States Copyright Act, as amended. The Proprietary Material is protected by the domestic and international laws governing copyright, patents, and other proprietary rights. You may not copy, download, use, redesign, reconfigure, or retransmit anything from the Services without Company's express prior written consent and, if applicable, the holder of the rights to the User Generated Content.

Any use of such Proprietary Material, other than as permitted therein, is expressly prohibited without the prior permission of Company and, if applicable, the holder of the rights to the User Generated Content.

The service marks and trademarks of Company, including without limitation Company and Company logos, are service marks owned by Company. Any other trademarks, service marks, logos and/or trade names appearing via the Services are the property of their respective owners. You may not copy or use any of these marks, logos or trade names without the express prior written consent of the owner.

Additionally, you may choose, or we may invite you, to submit comments, ideas, or feedback about the Services, including without limitation about how to improve our services or our products ("**Feedback**"). By submitting any Feedback, you agree that your disclosure is gratuitous, unsolicited, and without restriction and will not place Company under any fiduciary or other obligation, and that we are free to use the Feedback without any additional compensation to you, and/or to disclose the Feedback on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, Company does not waive any rights to use similar or related Feedback previously known to Company, developed by its employees, or obtained from sources other than you. You acknowledge that all email and other correspondence that you submit to us shall become our sole and exclusive property.

## 6. Confidential Information

You acknowledge that Confidential Information (as defined below) is a valuable, special and unique asset of Company and agree that you will not disclose, transfer, use (or seek to induce others to disclose, transfer or use) any Confidential Information for any purpose other than using the Services in accordance with these Terms of Service. If relevant, you may disclose the Confidential Information to your authorized employees and agents provided that they are also bound to maintain the confidentiality of Confidential Information. You shall promptly notify Company in writing of any circumstances that may constitute unauthorized disclosure, transfer, or use of Confidential Information. You shall use best efforts to protect Confidential Information from unauthorized disclosure, transfer or use. You shall return all originals and any copies of any and all materials containing Confidential Information to Company upon termination of this Agreement for any reason whatsoever.

The term "**Confidential Information**" shall mean any and all of Company's trade secrets, confidential and proprietary information, and all other information and data of Company that is not generally known to the public or other third parties who could derive value, economic or otherwise, from its use or disclosure. Confidential

Information shall be deemed to include technical data, know-how, research, product plans, products, services, customers, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, strategic and other proprietary and confidential information relating to Company or Company's business, operations or properties, including information about Company's staff, users or partners, or other business information disclosed directly or indirectly in writing, orally or by drawings or observation.

## **7. Disclaimer of Warranties**

THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THE CONTENT PROVIDED THROUGH THE SERVICES OR THE CONTENT OF ANY SITES LINKED TO THE SERVICES AND ASSUMES NO LIABILITY OR RESPONSIBILITY IN CONTRACT, WARRANTY OR IN TORT FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE SERVICES, (III) ANY ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN; AND (IV) EVENTS BEYOND OUR REASONABLE CONTROL.

UNDER NO CIRCUMSTANCES WILL COMPANY AND AFFILIATES OR THEIR CORPORATE PARTNERS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, ACTUAL, CONSEQUENTIAL, ECONOMIC, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF DATA, LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE, SYSTEM FAILURE, FAILURE TO STORE ANY INFORMATION OR OTHER CONTENT MAINTAINED OR TRANSMITTED BY COMPANY, OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES) ARISING IN CONNECTION WITH YOUR USE OF OR INABILITY TO USE THE SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF THE SAME. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU IN THEIR ENTIRETY.

IF, NOTWITHSTANDING THE FOREGOING EXCLUSIONS, IT IS DETERMINED THAT COMPANY AND AFFILIATES OR THEIR CORPORATE PARTNERS ARE LIABLE FOR DAMAGES, IN NO EVENT WILL THE AGGREGATE LIABILITY, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEED ONE HUNDRED DOLLARS (\$100), TO THE EXTENT PERMITTED BY APPLICABLE LAW.

## **8. Indemnification**

You hereby agree to indemnify, defend, and hold harmless Company and its officers, directors, employees, agents, attorneys, insurers, successors and assigns (the "**Indemnified Parties**") from and against any and all Liabilities incurred in connection with (i) your use or inability to use the Services, or (ii) your breach or violation of this Agreement; (iii) your violation of any law, or the rights of any user or third party and (iv) any content submitted by you or using your Account to the Services, including, but not limited to the extent such content may infringe on the intellectual rights of a third party or otherwise be illegal or unlawful. You also agree to indemnify the Indemnified Parties for any Liabilities resulting from your use of software robots, spiders, crawlers, or similar data gathering and extraction tools, or any other action you take that imposes an unreasonable burden or loan on our infrastructure. Company reserves the right, in its own sole discretion, to assume the exclusive defense and control at its own expense of any matter otherwise subject to your indemnification. You will not, in any event, settle any claim or matter without the prior written consent of Company.

## 9. Dispute Resolution – Arbitration

PLEASE READ THIS SECTION CAREFULLY — IT AFFECTS YOUR LEGAL RIGHTS AND GOVERNS HOW YOU AND Company CAN BRING CLAIMS AGAINST EACH OTHER. THIS SECTION WILL, WITH LIMITED EXCEPTION, REQUIRE YOU AND Company TO SUBMIT CLAIMS AGAINST EACH OTHER TO BINDING AND FINAL ARBITRATION ON AN INDIVIDUAL BASIS.

You agree that, in the event any dispute or claim arises out of or relating to your use of the Services, you will contact us at [success@navegate.com](mailto:success@navegate.com) and you and Company will attempt in good faith to negotiate a written resolution of the matter directly. You agree that if the matter remains unresolved for 30 days after notification (via certified mail or personal delivery), such matter will be deemed a “Dispute” as defined below. Except for the right to seek injunctive or other equitable relief described under the “Binding Arbitration” section below, should you file any arbitration claims, or any administrative or legal actions without first having attempted to resolve the matter by mediation, then you agree that you will not be entitled to recover attorneys’ fees, even if you may have been entitled to them otherwise.

**Binding Arbitration.** You and Company agree that any dispute, claim or controversy arising out of or relating to this Agreement or to your use of the Services (collectively “Disputes”) will be settled by binding arbitration, except that each party retains the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of a party’s copyrights, trademarks, trade secrets, patents, or other intellectual property rights. **This means that you and Company both agree to waive the right to a trial by jury.**

**Arbitration Administration and Rules.** The arbitration will be administered by JAMS pursuant to JAMS’ Streamlined Arbitration Rules and Procedures (the “JAMS Rules”).

**Arbitration Process.** A party who desires to initiate the arbitration must provide the other party with a written Demand for Arbitration as specified in the JAMS Rules. The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of Minnesota and will be selected by the parties from JAMS’s roster of arbitrators with relevant experience. If the parties are unable to agree upon an arbitrator within seven days of delivery of the Demand for Arbitration, then JAMS will appoint the arbitrator in accordance with the JAMS Rules.

**Arbitration Location and Procedure.** Unless you and Company agree otherwise, the seat of the arbitration shall be in Minneapolis, Minnesota. If your claim does not exceed USD\$10,000, then the arbitration will be conducted solely on the basis of documents you and Company submit to the arbitrator, unless you request a hearing and the arbitrator then determines that a hearing is necessary. If your claim exceeds USD\$10,000, your right to a hearing will be determined by the JAMS Rules. Subject to JAMS Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration. Hearings may be conducted by telephone or video conference, if requested and agreed to by the parties.

**Arbitrator’s Decision and Governing Law.** The arbitrator shall apply Minnesota law consistent with the Federal Arbitration Act and applicable statutes of limitations, and shall honor claims of privilege recognized by law. The arbitrator will render an award within the timeframe specified in the JAMS Rules. Judgment on the arbitration may be entered in any court having jurisdiction thereof. Any award of damages by an arbitrator must be consistent with the “Disclaimers and Limitations of Liability” section above. The arbitrator may award declaratory or injunctive relief in favor of the claimant only to the extent necessary to provide relief warranted by the claimant’s individual claim.

**Fees.** Each party's responsibility to pay the arbitration filing, administrative and arbitrator fees will depend on the circumstances of the arbitration and are set forth in the JAMS Rules.

**10. Governing Law**

Except as provided in Section 9 or expressly provided in writing otherwise, this Agreement and your use of the Services will be governed by, and will be construed under, the laws of the State of Minnesota, without regard to choice of law principles. This choice of law provision is only intended to specify the use of Minnesota law to interpret this Agreement.

**11. No Agency; No Employment**

No agency, partnership, joint venture, employer-employee or franchiser-franchisee relationship is intended or created by this Agreement.

**12. General Provisions**

Failure by Company to enforce any provision(s) of this Agreement will not be construed as a waiver of any provision or right. This Agreement constitutes the complete and exclusive agreement between you and Company with respect to its subject matter, and supersedes and governs any and all prior agreements or communications. The provisions of this Agreement are intended to be interpreted in a manner which makes them valid, legal, and enforceable. In the event any provision is found to be partially or wholly invalid, illegal or unenforceable, (i) such provision shall be modified or restructured to the extent and in the manner necessary to render it valid, legal, and enforceable or, (ii) if such provision cannot be so modified or restructured, it shall be excised from the Agreement without affecting the validity, legality or enforceability of any of the remaining provisions. This Agreement may not be assigned or transferred by you without our prior written approval. We may assign or transfer this Agreement without your consent, including but not limited to assignments: (1) to a parent or subsidiary, (2) to an acquirer of assets, or (3) to any other successor or acquirer. Any assignment in violation of this section shall be null and void. This Agreement will inure to the benefit of Company, its successors and assigns.

**13. Changes to this Agreement and the Services**

Company reserves the right, at its sole and absolute discretion, to change, modify, add to, supplement, suspend, discontinue, or delete any of the terms and conditions of this Agreement (including these Terms of Service and Privacy Policy) and review, improve, modify or discontinue, temporarily or permanently, the Services or any content or information through the Services at any time, effective with or without prior notice and without any liability to Company. Company will endeavor to notify you of material changes by email, but will not be liable for any failure to do so. If any future changes to this Agreement are unacceptable to you or cause you to no longer be in compliance with this Agreement, you must terminate, and immediately stop using, the Services. Your continued use of the Services following any revision to this Agreement constitutes your complete and irrevocable acceptance of any and all such changes. Company may also impose limits on certain features or restrict your access to part or all of the Services without notice or liability.

**14. No Rights of Third Parties**

None of the terms of this Agreement are enforceable by any persons who are not a party to this Agreement.

**15. Notices and Consent to Receive Notices Electronically**

You consent to receive any agreements, notices, disclosures and other communications (collectively, “**Notices**”) to which this Agreement refers electronically including without limitation by e-mail or by posting Notices on this Site. You agree that all Notices that we provide to you electronically satisfy any legal requirement that such communications be in writing. Unless otherwise specified in this Agreement, all notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or email; or the day after it is sent, if sent for next day delivery by a recognized overnight delivery service.

**16. Contacting Us**

If you have any questions about these Terms of Service or about the Services, please contact us by email at [success@navegate.com](mailto:success@navegate.com).