

NAVIGATE360 - ORDER FORM

Customer: Warren County School District (PA)
Brandon Deppen
deppenb@wcsdpa.org

Proposal No: Q-06557
Proposal Expires: 8/21/2020
Proposal By: Colton Cottis
Email: ccottis@navigate360.com
Opp Number: 112780

Term: The 36 month term for subscription Services begins on **8/14/2020** and ends on **8/13/2023**.

Payment: 100% in advance

SUBSCRIPTION SERVICES

Item	Description	Quantity	Price
1000	Elearning Users (K12)	100	\$1,520.00
1200	Elearning Support & Maintenance	1	\$300.00
1001-1000-1005-1005	The Understanding Bullying course is divided into eight, 10-minute segments geared toward school faculty and staff. This course will introduce learners to the four types of bullying: physical, relational, verbal, and cyberbullying. Learners will be introduced to warning signs of the different types of bullying. Learners will also discover the internalizing and externalizing effects on victims that can lead to active shootings or suicide in extreme cases. Learners will be given access to in-depth resources on bullying and creating an anti-bullying policy for their school.	100	\$0.00
1001-1000-1005-1006	The Recovery: Trauma Response course will guide learners through successfully creating a strategy of recovery for their school in the event of a Violent Critical Incident. This interactive, 7-part course will help users prepare for what to do in the immediate hours following the Violent Critical Incident and beyond, apply healthy coping mechanisms and healing activities for dealing with trauma, and construct a plan for post-incident aspects, including how to handle the media, memorials, anniversaries, and safety drills.	100	\$0.00

Annual Subscription Price: \$1,820.00

TOTAL SUBSCRIPTION PRICE OVER TERM: \$5,460.00

Accurate Sales Tax will be added when applicable.

MASTER SERVICES AGREEMENT

This Master Services Agreement (this “Agreement”), dated as of **8/14/2020** (the “Effective Date”), is by and between Navigate360, LLC, a Nevada limited liability company, with offices located at 3900 Kinross Lake Parkway, Second Floor, Richfield, Ohio 44286 (the “Company”) and **Warren County School District (PA)**, a(n) **PA, Education K-12** (the “Customer”), whose contact information is more fully set forth on the applicable Order Form.

WHEREAS, Customer desires to retain Company to provide certain safety and emergency preparedness and/or threat assessment services upon the terms and conditions hereinafter set forth, and Company is willing to perform such services.

In consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. Definitions.

“Affiliate” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

“Authorized Service Recipients” means the individuals who are authorized by Customer and Company to receive or use the Services, as set forth in the applicable Order Form. Authorized Services Recipients may include Customer’s employees, contractors, consultants, and agents.

“Confidential Information” means any information that is treated as confidential by a party, including, but not limited to, all non-public information about its business affairs, products or services, Intellectual Property Rights, third-party confidential information, and other sensitive or proprietary information, whether disclosed orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential”. Confidential Information shall not include information that: (a) is already known to the Receiving Party without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Receiving Party; (c) is developed by the Receiving Party independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Receiving Party from a third party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.

“Company Personnel” means all employees and Company Subcontractors, if any, engaged by Company to perform the Services.

“Company Subcontractor” means any Person, including all subcontractors and Affiliates of Company, other than Company’s employees, engaged by Company to provide any Services or Deliverables to Customer.

“Customer Contract Manager” has the meaning set forth in Section 4.1(a)

“Customer Materials” any documents, data, know-how, methodologies, software, and other materials provided to Company by Customer.

“Deliverables” means all documents, work product, and other materials that prepared by or on behalf of Company in the course of performing the Services and delivered to Customer hereunder, and identified as such in an Order Form.

“Disclosing Party” means a party that discloses Confidential Information under this Agreement.

“Force Majeure Event” has the meaning set forth in Section 14.

“Initial Term” has the meaning set forth in Section 5.1.

“Intellectual Property Rights” means all (a) patents, patent disclosures, and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, and other similar designations of source or origin, together with all of the goodwill associated therewith, (c) copyrights and copyrightable works (including computer programs), and rights in data and databases, (d) trade secrets, know-how, and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

“Law” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

“Losses” mean all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“Order Form” mean each Order Form entered into by the parties and attached to this Agreement, substantially in the form of Exhibit A.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other entity.

“Pre-Existing Materials” means all documents, data, know-how, methodologies, software, and other materials, including computer programs, reports and specifications, provided by or used by Company in connection with performing the Services, in each case developed or acquired by the Company prior to the commencement or independently of this Agreement.

“Receiving Party” means a party that receives or acquires Confidential Information directly or indirectly under this Agreement.

“Renewal Term” has the meaning set forth in Section 5.2.

"Services" mean the services to be provided by Company under this Agreement, as described in more detail in the attached addenda (each, an "Addendum," and collectively the "Addenda") and any corresponding Statements of Work, and Company's obligations under this Agreement.

"Term" has the meaning set forth in Section 5.

2. Services.

2.1 Company shall provide the Services to Customer pursuant to the Addenda that are marked with an "X" below and initialed at the end of each Addendum, and as described in more detail in any corresponding Statements of Work, in accordance with the terms and conditions of this Agreement:

X

___ Addendum A: Software Services

___ Addendum B: Professional Services (for example, in-person active shooter response training, site mapping, safety audits, and/or software installations)

The Addenda set forth specific terms and conditions applicable to the Services. Only Addenda marked with an "X" shall be provided with this Agreement. Additional Services may be purchased subject to execution of additional Addendum. Each Addendum will be a separate agreement between Customer and Company or the Affiliate of Company executing such Addendum. As applicable to each Addendum, all subsequent references to "Company" in this Agreement will be deemed references to the Company Affiliate that signed the Addendum.

2.2 Each Order Form shall include the following information, if applicable:

- (a) a detailed description of the Services to be performed pursuant to the Order Form;
- (b) the date upon which the Services will commence and the term of such Order Form;
- (c) the fees to be paid to Company under the Order Form;
- (d) any criteria for completion of the Services; and
- (e) any other terms and conditions agreed upon by the parties in connection with the Services to be performed pursuant to such Order Form.

3. Company's Obligations.

3.1 Company shall:

- (a) appoint Company Personnel, who shall be suitably skilled, experienced, and qualified to perform the Services;
- (b) before the date on which the Services are to start, obtain, and at all times during the Term of this Agreement maintain, all necessary licenses and consents and comply with all relevant Laws applicable to the provision of the Services;
- (c) comply with, and ensure that all Company Personnel comply with, all rules, regulations, and policies of Customer that are communicated to Company in writing, including security procedures concerning systems and data and remote access thereto, building security procedures, and general health and safety practices and procedures;
- (d) maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Company in providing the Services. During the Term, upon Customer's written request, Company shall allow Customer or Customer's representative to inspect and make copies of such records and interview Company Personnel in connection with the provision of the Services; provided, that, any such inspection shall take place during regular business hours no more than once per year and Customer provides Company with at least 10 business days advance written notice; and
- (e) require each Company Subcontractor to be bound in writing by the confidentiality and intellectual property assignment or license provisions of this Agreement.

3.2 Company is responsible for all Company Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits.

4. Customer's Obligations.

4.1 Customer shall:

- (a) cooperate with Company in all matters relating to the Services and appoint a Customer employee to serve as the primary contact, as well as two Customer employees to serve as backup contacts, with respect to this Agreement and who will have the authority to act on behalf of Customer with respect to matters pertaining to this Agreement (the "Customer Contract Manager");
- (b) provide, subject to Section 3.1(c), such access to Customer's premises, and such office accommodation and other facilities as may reasonably be requested by Company, for the purposes of performing the Services;
- (c) respond promptly to any Company request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Company to perform the Services in accordance with the requirements of this Agreement;
- (d) provide such Customer information as Company may request, in order to carry out the Services, in a timely manner, and ensure that it is complete and accurate in all material respects; and
- (e) obtain and maintain all necessary licenses and consents and comply with all applicable Law in relation to the Services, in all cases before the date on which the Services are to start.

4.2 If Company's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer, any Authorized Service Recipient, or their agents, subcontractors, consultants, or employees, Company shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

5. Term and Termination.

5.1 Term. This Agreement shall commence as of the Effective Date and shall continue thereafter for a period of three years (the "Initial Term"), unless sooner terminated pursuant to this Section 5.

5.2 Renewal. Upon expiration of the Initial Term, this Agreement shall automatically renew for additional successive one year terms unless either party provides written notice of nonrenewal at least 60 days prior to the end of the then-current term (each a "Renewal Term" and together with the Initial Term, the "Term"). If the Term is renewed for one or more Renewal Term, the terms and conditions of this Agreement during each Renewal Term shall be the same as the terms and conditions in effect immediately prior to such renewal. If either party provides timely notice of nonrenewal, then this Agreement shall terminate on the expiration of the then-current Term, unless sooner terminated as provided in this Section 5.

5.3 Termination of this Agreement for Cause. Either party may terminate this Agreement, effective upon written notice to the other party (the "Defaulting Party"), if the Defaulting Party:

- (a) materially breaches this Agreement, and such breach is incapable of cure, or with respect to a breach capable of cure, the Defaulting Party does not cure such breach within 30 days after receipt of written notice of such breach; or
- (b) (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within 15 business days or is not dismissed or vacated within 30 days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

5.4 Order Form Termination. Any Order Form for the Services may be terminated by either party in the event the other has failed to perform any obligation required to be performed under such Order Form or these terms and conditions as it relates to such Order Form, provided, that such failure is not corrected within 30 days from receipt of written notice from the other party advising of such failure. Customer also may terminate any Order Form in its entirety or postpone or cancel scheduled work under an Order Form without cause on not less than 45 business days written notice (or such other period as is set forth in the Order Form). ANY TERMINATION OF AN ORDER FORM WITHOUT CAUSE SHALL NOT ENTITLE CUSTOMER TO A REFUND OF ANY PREPAID SERVICES FEES. ALL PAYMENT OBLIGATIONS ARE NON-CANCELABLE AND FEES PAID ARE NON-REFUNDABLE.

5.5 Effects of Termination or Expiration.

(a) Of an Order Form. Customer shall pay all undisputed amounts due for all Services performed by Company under any terminated Order Form prior to the date of termination, and Company shall deliver to Customer all Deliverables for which payment is made by Customer. In addition, if Customer terminates an Order Form in its entirety or postpones or cancels scheduled work under an Order Form without cause on less than 15 business days written notice (or such other period as is set forth in the Order Form), Customer shall pay such additional amounts for reallocation of Company's resources as are necessary to cover Company's resource costs during such period for any resources that Company cannot reasonably reallocate to other projects. Termination of any Order Form shall not relieve Customer of Customer's obligation to pay all charges that accrued prior to such termination. Each party shall return to the other party all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the other party's Confidential Information pertaining to such terminated Order Form.

(b) Of this Agreement. Upon expiration or termination of this Agreement for any reason each party shall (i) return to the other party all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the other party's Confidential Information, (ii) permanently delete all of the other party's Confidential Information from its computer systems, and (iii) certify in writing to the other party that it has complied with the requirements of this clause. Upon any termination for cause by Company, Customer shall pay any unpaid fees covering the remainder of the Term under all Order Forms after the effective date of termination. In no event shall any termination relieve Customer of the obligation to pay any fees payable to Company for the period prior to the effective date of termination.

5.6 The rights and obligations of the parties set forth in this Section 5.6 and Section 1, Section 5.5, Section 6, Section 7, Section 8, Section 9, Section 10, Section 11, Section 14, and Section 16, and any right or obligation of the parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement, and with respect to Confidential Information that constitutes a trade secret under applicable law, the rights and obligations set forth in Section 9 hereof will survive such termination or expiration of this Agreement until, if ever, such Confidential Information loses its trade secret protection other than due to an act or omission of Company or its affiliates and its or their employees, officers, directors, shareholders, agents, independent contractors, sublicensees, subcontractors, attorneys, accountants, and financial advisors.

6. Fees and Expenses; Payment Terms.

6.1 In consideration of the provision of the Services by the Company and the rights granted to Customer under this Agreement, Customer shall pay the fees set forth in the applicable Order Form. Payment to Company of such fees and the reimbursement of expenses pursuant to this Section 6 shall constitute payment in full for the performance of the Services, and, Customer shall not be responsible for paying any other fees, costs, or expenses.

6.2 Where the Services are provided on a time and materials basis:

(a) the fees payable for the Services shall be calculated in accordance with Company's daily fee rates for the Company Personnel set forth in the applicable Order Form; and

(b) Company shall issue invoices to Customer monthly in arrears for its fees for time for the immediately preceding month, calculated as provided in this Section 6.2.

6.3 Where Services are provided for a fixed price, the total fees for the Services shall be the amount set out in the applicable Order Form. The total price shall be paid to Company either in full or in installments, as set out in the Order Form. If paid in installments, at the start of a period specified in the applicable Order Form in respect of which an installment is due, Company shall issue invoices to Customer for the fees that are then payable.

6.4 Customer agrees to reimburse Company for all reasonable travel and out-of-pocket expenses incurred by Company in connection with the performance of the Services.

6.5 The parties agree that after the initial 12 months of the Term, for Services provided on a time and materials basis, Company may increase its standard fee rates specified in the applicable Order Form upon written notice to Customer; provided, that:

(a) Company provides Customer written notice of such increase at least 60 days prior to the effective date of such increase;

(b) such increases occur no more frequently than once per contract year of the Term; and

(c) the amount of such increase shall not exceed the greater of:

(i) the percentage rate of increase for the immediately preceding 12-month period in the Consumer Price Index published by the Bureau of Labor Statistics of the US Department of Labor for all urban consumers, U.S. City Average, "All items less food and energy" index (the base period: 1982-84=100, not seasonally adjusted, or, if such index is not available, such other index as the parties may agree most closely resembles such index; or

(ii) three percent (3%).

6.6 Company shall issue invoices to Customer only in accordance with the terms of this Section, and Customer shall pay all properly invoiced amounts due to Company within 30 days after Customer's receipt of such invoice. All payments hereunder shall be in US dollars and made by check or wire transfer.

6.7 If Customer fails to make any payment when due, without limiting Company's other rights and remedies: (i) Company may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (ii) Customer shall reimburse Company for all costs incurred by Company in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and (iii) if such failure continues for 90 days or more, Company may suspend Customer's and its Authorized Service Recipients' access to any portion or all of the Services until such amounts are paid in full, without incurring any obligation or liability to Customer or any other Person by reason of such suspension.

6.8 Customer shall be responsible for all sales, use, and excise taxes, value added, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder. Any such taxes, duties, and charges currently assessed or which may be assessed in the future, that are applicable to the Services are for the Customer's account, and Customer hereby agrees to pay such taxes; provided, that, in no event shall Customer pay or be responsible for any taxes imposed on, or with respect to, Company's income, revenues, gross receipts, personnel, or real or personal property or other assets.

7. Intellectual Property Rights; Ownership.

7.1 Except as set forth in Section 7.2, Customer is, and shall be, the sole and exclusive owner of all right, title, and interest in and to the Deliverables, including all Intellectual Property Rights therein. Company agrees, and will cause its Company Personnel to agree, that with respect to any Deliverables that may qualify as "work made for hire" as defined in 17 U.S.C. § 101, such Deliverables are hereby deemed a "work made for hire" for Customer. To the extent that any of the Deliverables do not constitute a "work made for hire," Company hereby irrevocably assigns, and shall cause the Company Personnel to irrevocably assign to Customer, in each case without additional consideration, all right, title, and interest throughout the world in and to the Deliverables, including all Intellectual Property Rights therein. The Company shall cause the Company Personnel to irrevocably waive, to the extent permitted by applicable Law, any and all claims such Company Personnel may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of droit moral with respect to the Deliverables.

7.2 Company and its licensors are, and shall remain, the sole and exclusive owners of all right, title, and interest in and to the Pre-Existing Materials, including all Intellectual Property Rights therein. Company hereby grants Customer and its Authorized Service Recipients a limited, non-transferable (except in accordance with Section 16.7), non-sublicenseable license to use, perform, display, execute, reproduce, distribute, and transmit any Pre-Existing Materials to the extent incorporated in, combined with or otherwise necessary for the use of the Deliverables solely to the extent reasonably required in connection with Customer's receipt or use of the Services and Deliverables. All other rights in and to the Pre-Existing Materials are expressly reserved by Company.

7.3 Customer and its licensors are, and shall remain, the sole and exclusive owner of all right, title, and interest in and to the Customer Materials, including all Intellectual Property Rights therein. Company shall have no right or license to use any Customer Materials except solely during the Term of the Agreement to the extent necessary to provide the Services to Customer. All other rights in and to the Customer Materials are expressly reserved by Customer.

8. Confidential Information.

8.1 The Receiving Party agrees:

- (a) not to disclose or otherwise make available Confidential Information of the Disclosing Party to any third party without the prior written consent of the Disclosing Party; provided, however, that the Receiving Party may disclose the Confidential Information of the Disclosing Party to its officers, employees, consultants, and legal advisors, and, in the case of Company, its Affiliates, who have a "need to know", who have been apprised of this restriction, and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Section 8;
- (b) to safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the same degree of care it uses to protect its own Confidential Information and no less than a reasonable degree of care;
- (c) to use the Confidential Information of the Disclosing Party only for the purposes of performing its obligations under the Agreement or, in the case of Customer, to make use of the Services and Deliverables, as permitted under this Agreement; and
- (d) to promptly notify the Disclosing Party in the event it becomes aware of any loss or disclosure of any of the Confidential Information of Disclosing Party.

8.2 If the Receiving Party becomes legally compelled to disclose any Confidential Information, the Receiving Party shall provide:

- (a) prompt written notice of such requirement so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other remedy; and
- (b) reasonable assistance, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure.

If, after providing such notice and assistance as required herein, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose no more than that portion of the Confidential Information which, on the advice of the Receiving Party's legal counsel, the Receiving Party is legally required to disclose.

9. Representations and Warranties.

9.1 Each party represents and warrants to the other party that:

- (a) it is duly organized, validly existing, and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization, or chartering;
- (b) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted hereunder, and to perform its obligations hereunder;
- (c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the party;
- (d) when executed and delivered by such party, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms; and
- (e) it is in compliance with all applicable Laws regarding the provision and receipt of services.

9.2 Company represents and warrants to Customer that:

- (a) it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner and shall devote adequate resources to meet its obligations under this Agreement; and
- (b) (i) to Company's knowledge, none of the Services, Deliverables, and Customer's use thereof infringe or will infringe any registered or issued patent, copyright or trademark of any third party arising under the Law of the United States, and, (ii) as of the date hereof, there are no pending or, to Company's knowledge, threatened claims, litigation, or other proceedings pending against Company by any third party based on an alleged violation of such Intellectual Property Rights, in each case, excluding any infringement or claim, litigation, or other proceedings to the extent arising out of (x) any Customer Materials or any instruction, information, designs, specifications, or other materials provided by Customer to Company, (y) use of the Deliverables in combination with any materials or equipment not supplied or specified by Company, if the infringement would have been avoided by the use of the Deliverables not so combined, and (z) any modifications or changes made to the Deliverables by or on behalf of any Person other than Company. Company's sole liability and Customer's sole and exclusive remedy for Company's breach of this Section 9.2(b) are Company's obligations under Section 10.2.

9.3 EXCEPT FOR THE EXPRESS WARRANTIES IN THIS SECTION 9, (A) EACH PARTY HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT, AND (B) COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

9.4 THE SERVICES PROVIDE GUIDANCE AND TRAINING ON THEN-CURRENT BEST PRACTICES FOR RESPONDING TO CERTAIN EMERGENCY SITUATIONS AND/OR SAFETY THREATS; REFRESHER COURSES ARE RECOMMENDED AT LEAST EVERY TWO YEARS. COMPANY DOES NOT WARRANT THAT RELIANCE UPON THE SERVICES WILL PREVENT ACCIDENTS AND LOSSES OR, EXCEPT AS EXPRESSLY STATED IN WRITING IN AN APPLICABLE ORDER FORM, THAT THE SERVICES SATISFY LOCAL, STATE, OR FEDERAL REGULATIONS REGARDING INCIDENT RESPONSE. AN INDIVIDUAL MUST USE HIS/HER OWN DISCRETION DURING AN EMERGENCY AND/OR SAFETY THREAT AS TO HOW HE/SHE CHOOSES TO RESPOND.

10. Indemnification.

10.1 Company shall defend, indemnify, and hold harmless Customer and its officers, directors, employees, agents, successors, and permitted assigns (each, a "Customer Indemnitee") from and against all Losses awarded against a Customer Indemnitee in a final judgment arising out of or resulting from:

- (a) bodily injury, death of any person, or damage to real or tangible, personal property resulting from the willful, fraudulent, or grossly negligent acts or omissions of Company or Company Personnel; and
- (b) Company's material breach of any representation, warranty, or obligation of Company set forth in in Section 9.1 or Section 9.2 of this Agreement.

10.2 Company shall defend, indemnify, and hold harmless the Customer Indemnitees from and against all Losses awarded against a Customer Indemnitee in a final judgment based on a claim that any of the Services or Deliverables or Customer's receipt or use thereof infringes any Intellectual Property Right of a third party arising under the Laws of the United States; provided, however, that Company shall have no obligations under this Section 10.2 with respect to claims to the extent arising out of:

- (a) any Customer Materials or any instruction, information, designs, specifications, or other materials provided by Customer to Company;
- (b) use of the Deliverables in combination with any materials or equipment not supplied to Customer or specified by Company in writing, if the infringement would have been avoided by the use of the Deliverables not so combined; or
- (c) any modifications or changes made to the Deliverables by or on behalf of any Person other than Company or Company Personnel.

10.3 Customer shall defend, indemnify, and hold harmless Company and Company's Affiliates and their officers, directors, employees, agents, successors, and permitted assigns from and against all Losses arising out of or resulting from any third-party action arising out of or resulting from:

- (a) bodily injury, death of any person, or damage to real or tangible, personal property resulting from the grossly negligent or willful acts or omissions of Customer;
- (b) the transfer of any personal information from Customer to Company, and the subsequent use and/or processing of that information for the purposes of this Agreement; and
- (c) Customer's breach of any representation, warranty, or obligation of Customer in this Agreement.

10.4 The party seeking indemnification hereunder shall promptly notify the indemnifying party in writing of any action and cooperate with the indemnifying party at the indemnifying party's sole cost and expense. The indemnifying party shall immediately take control of the defense and investigation of such action and shall employ counsel of its choice to handle and defend the same, at the indemnifying party's sole cost and expense. The indemnifying party shall not settle any action in a manner that adversely affects the rights of the indemnified party without the indemnified party's prior written consent, which shall not be unreasonably withheld or delayed. The indemnified party's failure to perform any obligations under this Section 10.4 shall not relieve the indemnifying party of its obligations under this Section 10.4 except to the extent that the indemnifying party can demonstrate that it has been materially prejudiced as a result of such failure. The indemnified party may participate in and observe the proceedings at its own cost and expense.

10.5 Notwithstanding anything to the contrary in this Agreement, the indemnifying party is not obligated to indemnify, hold harmless, or defend the indemnified party against any claim (whether direct or indirect) if such claim or corresponding losses arise out of or result from, in whole or in part, the indemnified party's:

- (a) gross negligence or more culpable act or omission (including recklessness or willful misconduct); or
- (b) bad faith failure to comply with any of its material obligations set forth in this Agreement.

11. LIMITATION OF LIABILITY.

11.1 EXCEPT AS OTHERWISE PROVIDED IN SECTION 11.3, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT, OR LOSS OF DATA, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 11.3, IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO COMPANY IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

11.3 The exclusions and limitations in Section 11.1 and Section 11.2 shall not apply to:

- (a) damages or other liabilities arising out of or relating to a party's failure to comply with its obligations under Section 7 (Intellectual Property Rights; Ownership);
- (b) damages or other liabilities arising out of or relating to a party's failure to comply with its obligations under Section 8 (Confidentiality);
- (c) a party's indemnification obligations under Section 10 (Indemnification);
- (d) damages or other liabilities arising out of or relating to a party's gross negligence, willful misconduct, or intentional acts;
- (e) death or bodily injury or damage to real or tangible personal property resulting from a party's negligent acts or omissions; and
- (f) damages or liabilities to the extent covered by a party's insurance.

12. **Non-Solicitation.** Each party acknowledges and agrees that the employees of the other party who are involved in the performance of the Services are a valuable asset to such party and are difficult to replace. Accordingly, during the Term of any Order Form and for a period of one year after the completion of Services under such Order Form, neither party shall, directly or indirectly, in any manner solicit or induce for employment any person who performed any work under such Order Form who is then in the employ of the other party. A general advertisement or notice of a job listing or opening or other similar general publication of a job search or availability to fill employment positions, including on the internet, shall not be construed as a solicitation or inducement for the purposes of this Section 12, and the hiring of any employee or independent contractor who freely responds thereto shall not be a breach of this Section 12.

13. **Non-Exclusivity.** Company retains the right to perform the same or similar type of services for third parties during the Term of this Agreement.

14. **Export Compliance.** The Services may be subject to US export control laws, including the Export Control Reform Act and its associated regulations. Customer will not directly or indirectly, export, re-export, or release the Services to, or make the Services accessible from, any country, jurisdiction, or Person to which export, re-export, or release is prohibited by applicable Law. Customer will comply with all applicable Laws and complete all required undertakings (including obtaining any necessary export license or other governmental approval) prior to exporting, re-exporting, releasing, or otherwise making the Services available outside the US.

15. **Force Majeure.**

15.1 No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; or (h) other similar events beyond the reasonable control of the party affected by the Force Majeure Event. The affected party shall give notice within five business days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue.

15.2 The affected party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized and shall resume performance of its obligations as soon as reasonably practicable after the removal of the cause. If the affected party's failure or delay remains uncured for a period of 30 days following written notice given by it under this Section 14, the other party may thereafter terminate this Agreement or an applicable Order Form upon 30 days' written notice.

16. **Miscellaneous.**

16.1 Each party shall, upon the reasonable request of the other party, execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

16.2 The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

16.3 Neither party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement, or otherwise use the other party's trademarks, service marks, trade names, logos, symbols, or brand names, in each case, without the prior written consent of the other party.

16.4 All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses indicated below (or at such other address for a party as shall be specified in a notice given in accordance with this Section 16.4).

If to Company:

Navigate360, LLC
3900 Kinross Lake Parkway, Second Floor
Richfield, Ohio 44286
Email: cro@navigate360.com
Attention: Chief Revenue Officer

If to Customer:

Email:

Attention:

16.5 For purposes of this Agreement, (a) the words "include," "includes," and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Sections, Schedules, Exhibits, and Statements of Work refer to the Sections of, and Schedules, Exhibits, and Statements of Work attached to this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Schedules, Exhibits, and Statements of Work referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

16.6 This Agreement, together with all Schedules, Exhibits, and Statements of Work and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Agreement and those of any Schedule, Exhibit, or Order Form, the following order of precedence shall govern: (a) first, this Agreement, exclusive of its Exhibits and Schedules; (b) second, any Exhibits and Schedules to this Agreement; and (c) third, the applicable Order Form. No terms or conditions in Customer's purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

16.7 Neither party may assign, transfer, or delegate any or all of its rights or obligations under this Agreement, including by operation of law, change of control, or merger, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided, that, either party may assign the Agreement in its entirety (including all Order Forms) to an Affiliate of such party or to a successor of all or substantially all of the assets of such party through merger, reorganization, consolidation, or acquisition. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer, or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

16.8 This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

16.9 The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

16.10 This Agreement may be amended, modified, or supplemented only by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

16.11 If any term or provision of this Agreement is invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

16.12 This Agreement and all related documents including all exhibits attached hereto, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by, and construed in accordance with, the laws of the State of Ohio, United States of America (including R.C. 2307.39), without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Ohio.

16.13 Each party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other party in any way arising from or relating to this Agreement, including all exhibits, schedules, attachments,

and appendices attached to this Agreement, and all contemplated transactions, in any forum other than the US District Court for the Northern District of Ohio or, if such court does not have subject matter jurisdiction, the courts of the State of Ohio sitting in Cuyahoga County, and any appellate court from any thereof. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding only in the US District Court for the Northern District of Ohio or, if such court does not have subject matter jurisdiction, the courts of the State of Ohio sitting in Cuyahoga County. Each party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

16.14 Each party acknowledges that a breach by a party of Section 7 (Intellectual Property Rights; Ownership) or Section 8 (Confidentiality) may cause the non-breaching party irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

16.15 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Navigate360, LLC

By

Name:

Title:

Customer

By

Name:

Title:

SOFTWARE SERVICES ADDENDUM

This Software Services Addendum ("Addendum A") is made as of **8/14/2020** (the "Effective Date"), by and between Navigate360, LLC, a Nevada limited liability company, with offices located at 3900 Kinross Lake Parkway, Second Floor, Richfield, Ohio 44286 (the "Company") and the customer identified in that certain Master Services Agreement of the same date (the "MSA") to which this Addendum A is attached.

WHEREAS, Company and Customer desires to enter into this Addendum A to the MSA in order to set forth the additional terms and conditions pursuant to which Company will provide and Customer may use the software services.

In consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. **Integration.** The MSA to which this Addendum A is attached, this Addendum A and all exhibits hereto, and the applicable Order Form together (this "Agreement") constitute a binding agreement between Company and Customer in accordance with the terms and conditions thereof. In the event any of the provisions of this Addendum A are in conflict with any of the provisions of the MSA, the terms and provisions of the MSA shall control, unless this Addendum A expressly provides that its terms and provisions shall control.

2. **Definitions.**

"Maintenance Release" means any update, upgrade, release, or other adaptation or modification of the Platform, including any updated Deliverables, that Company may develop and provide to Customer from time to time during the Subscription Term, which may contain, among other things, error corrections, enhancements, improvements, new features, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Platform, but does not include any New Version. Maintenance Releases may also modify or delete in their entirety certain features and functionality.

"Malicious Code" means viruses, worms, time bombs, Trojan horses, and other harmful or malicious code, files, scripts, agents, or programs.

"New Version" means any new version of the Platform, in whole or in part, that Company may from time to time introduce and market generally as a distinct licensed product (as may be indicated by Company's designation of a new version number), and which Company may make available to Customer at an additional cost under a separate Order Form.

"Platform" means the online, web-based applications and safety training systems that include Company's software products for active shooter response and safety management, as well as tools for developing, managing, accessing, and implementing Customer's safety information, provided by Company to Customer hereunder, as set forth in an Order Form.

"Scheduled Downtime" shall mean those hours, as determined by Company, during which time Company shall perform scheduled maintenance, updates, or adjustments to the Platform.

"Subscription Term" has the meaning set forth in the applicable Order Form.

"Uploaded Content" means the Customer Materials selected, up-loaded, and/or modified within Customer's area of the Platform by Customer, rather than Company.

Capitalized terms used but not defined in this Addendum A have the meaning given to those terms in the MSA.

3. **Access and Use.**

3.1 **Provision of Access.** Pursuant to this Agreement, Company hereby grants Customer a non-exclusive, non-transferable (except in compliance with Section 16.7 of the MSA) right to access and use the Platform during the Subscription Term, solely for use by Authorized Service Recipients in accordance with the terms and conditions set forth in this Agreement. Such use is limited to Customer's internal use. The total number of Authorized Service Recipients and buildings covered (if applicable) set forth in the applicable Order Form cannot be decreased during the Subscription Term, and the total number of Authorized Service Recipients and buildings for which the Platform is used (if applicable) will not exceed the number set forth in the applicable Order Form, except as expressly agreed to in writing by the Parties and, if increased, subject to any appropriate adjustment of the fees payable in connection therewith. If any amount owing by Customer under this or any other agreement for the Services is 30 or more days overdue, Company may, without limiting Company's other rights and remedies, accelerate Customer's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Company's use of the Platform until such amounts are paid in full.

3.2 **Access and Use Restrictions.** Customer shall not use the Platform for any purposes beyond the scope of the access granted in this Agreement. Customer may not access or use the Platform if Customer is Company's direct competitor, except with Company's prior written consent. In addition, Customer may not access or use the Platform for purposes of monitoring its availability, performance, or functionality, or for any other benchmarking or competitive purposes. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Service Recipients to: (i) copy, frame, mirror, modify, or create derivative works of the Platform or Pre-Existing Materials, in whole or in part, other than copying or framing on Customer's own intranets or otherwise for Customer's own internal business purposes; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Platform or Pre-Existing Materials; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; or (iv) remove any proprietary notices from the

Platform or Deliverables. Customer shall not disclose the results of any benchmark tests run on the Platform, without the prior written approval of Company.

3.3 Passwords. Customer and its Authorized Service Recipients are responsible for keeping its passwords and access credentials associated with the Platform confidential and assumes all responsibility for doing the same. Neither Customer nor any Authorized Service Recipients shall sell or transfer them to any other person or entity. Customer will promptly notify Company about any unauthorized access to its passwords or access credentials. Company acknowledges that Company must have access to Customer's systems and any and all systems and resources to perform its duties. As such, Company must have access to Customer's passwords. If a password is lost or not available, Company will not be held liable for being unable to provide the Platform or the Services.

3.4 Suspension. Company may suspend or terminate Customer's right to access or use any portion or all of the Platform, or its Services, immediately upon notice if: (i) Customer's use of the Platform (a) poses a security risk to the Platform or any third party, (b) could adversely impact Company systems, the Platform, or the systems or data of any other Company customer or third party, (c) could subject Company, its affiliates, or any third party to liability, or (d) could be fraudulent, illegal, or contrary to Company's documentation or instructions; or (ii) Customer is in breach of this Agreement. If Company suspends Customer's right to access or use any portion or all of the Platform, Customer remains responsible for all fees and charges Customer incurs during the period of suspension.

4. Service Levels and Support. Company shall make the Platform available in accordance with the service levels set out in Exhibit A-1, as set forth in the applicable Order Form.

5. Platform Availability. Company shall use commercially reasonable efforts to keep the Platform operating smoothly and efficiently and to make the Platform available 24 hours a day, 7 days a week, except for: (i) Scheduled Downtime, of which Company shall give notice via the Platform and which Company shall schedule to the extent practicable during the weekend hours (i.e., from 8:00 p.m. Eastern time Friday to 5:00 a.m. Eastern time Monday) or such other days and times so as to minimize interference with Customer's daytime business activities; or (ii) any unavailability caused by circumstances beyond Company's reasonable control, including without limitation, Force Majeure Events, strikes or other labor problems (other than those involving Company's employees), or internet service provider failures or delays. Customer acknowledges and agrees that, given that the Platform operates using computer equipment, computer software programs, telecommunications services, and the internet, Company shall not be responsible for delays or service interruptions attributable to causes beyond its reasonable control. Company will maintain adequate backup arrangements and equipment in order to maintain Customer's data stored on or through the Platform in the event of the failure of any of Company's equipment.

6. Platform Downtime. If Customer opts out or otherwise objects in writing to Company prior to commencement of a Scheduled Downtime, Company shall not be liable for the failure to obtain any such updates or other maintenance or adjustments to the Platform.

Notwithstanding any provision to the contrary, Company shall not be responsible for any delays or deficiencies to the extent that such delays or deficiencies are caused by Customer's action or omissions. In the event that such delays or deficiencies occur, Company shall be permitted to extend any relevant deadline as Company deems necessary to accommodate such delays or deficiencies.

7. Maintenance Releases. During the Subscription Term, Company will provide Customer with all Maintenance Releases (including updated Deliverables) that Company may, in its sole discretion, make generally available to its licensees at no additional charge. All Maintenance Releases provided by Company to Customer are deemed part of the Platform. Customer agrees that Company has no obligation to continue to provide or enable any particular features or functionality. Customer does not have any right hereunder to receive any New Versions of the Platform that Company may, in its sole discretion, release from time to time. Company may license any New Version at Company's then-current list price and subject to a separate Order Form, provided that Customer is in compliance with the terms and conditions of this Agreement.

8. Platform Suggestions and Improvements. If Customer provides any suggestions to Company or its affiliates, Company will be entitled to use the suggestions without restriction. Customer hereby irrevocably assigns to Company all right, title, and interest in and to the suggestions and agrees to provide assistance in documenting, perfecting, and maintaining Company's rights in the suggestions.

9. Use of Data. Customer hereby grants Company a perpetual, royalty-free license to use all data and analytics related to the Platform, and Customer's use thereof, for purposes of using the data to improve the Platform and the product offerings of Company, and for other purposes, including, without limitation, other business applications by Company, all of which rights shall survive the expiration of the term or termination, and shall be without any payment from Company.

10. Student and Staff Records. Company acknowledges that it may create, receive from or on behalf of Customer or Customer authorized parties, or have access to records or record systems that are subject to certain federal, state, and local laws and regulations (such records collectively, "Records"). The Records are the sole property of Customer. Company shall maintain the confidentiality of the Records. Company shall not be liable for any unauthorized or inappropriate disclosure of confidential student or staff information by Customer. Company may disclose confidential student or staff information when required by law to do so or when authorized by

Customer to make such a disclosure. Customer is solely responsible for obtaining all rights, permissions, and consents from its users and other personnel that are necessary to grant the rights under this Agreement.

11. Company's Responsibilities.

11.1 Company shall provide the Platform in accordance with applicable laws and government regulations.

11.2 Company will employ reasonable safeguards that are commensurate with the state of the art to protect the security of the Platform.

11.3 Company further agrees to comply with Addendum A.1, when attached hereto and signed by the parties.

12. Customer's Responsibilities.

12.1 Customer shall pay the subscription fees set forth in the applicable Order Form, and pursuant to the payment terms set forth in the MSA.

12.2 Customer is responsible and liable for all uses of the Platform and Deliverables resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Service Recipients, and any act or omission by an Authorized Service Recipients that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Service Recipients aware of this Addendum A's provisions as applicable to such Authorized Service Recipients' use of the Platform and shall cause Authorized Service Recipients to comply with such provisions.

12.3 Customer shall: (i) be solely responsible for the accuracy, quality, integrity, and legality of Customer Materials and of the means by which Customer acquired its Customer Materials; (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Platform, and notify Company promptly of any such unauthorized access or use; and (iii) use the Platform only in accordance with Company's guidelines, including those set forth in the Platform Terms of Use available through the Platform, as may be amended from time to time, and applicable laws and government regulations.

12.4 Customer shall not: (i) make the Platform available to anyone other than Authorized Service Recipients; (ii) use the Platform to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (iii) use the Platform to store or transmit Malicious Code; (iv) interfere with or disrupt the integrity or performance of the Platform; or (v) attempt to gain unauthorized access to the Platform or its related systems or networks.

12.5 If Customer is in material breach of Customer's obligations as set forth in this Section 12, in addition to any of its other rights or remedies, Company reserves the right to immediately suspend Customer's use of the Platform without liability to Customer, until such breach is cured.

13. Threat Assessment Wizard. If Customer has purchased the Threat Assessment Wizard, the following additional terms and conditions apply. Customer acknowledges that the Threat Assessment Wizard incorporates threat assessment principles developed and published by the United States Secret Service, Department of Homeland Security, and the United States Department of Education.

It is intended to be a useful resource, and a mechanism for gathering information consistent with those principles. Company assumes no liability for the development or application of those principles. The effectiveness of the Threat Assessment Wizard will depend upon a number of variables, including the quality of information collected and entered by Customer. Customer is responsible for reviewing and modifying all content to match its policies, plans, and practices. The use of the Threat Assessment Wizard does not guarantee compliance with federal, state, or local law. This tool is not intended to serve as legal advice or as a recommendation based on Customer's specific circumstances. The Threat Assessment Wizard is not intended to be the sole or exhaustive means of ensuring the safety of persons or the security of property.

14. Acknowledgements. Customer acknowledges that the Platform and the Services are commercially valuable proprietary products belonging to Company or its licensors, the design and development of which have involved the expenditure of substantial amounts of money over a long period of time, and which afford Company and its licensors a commercial advantage over its/their competitors. Customer understands that loss of this competitive advantage due to any unauthorized copying or downloading or use of the Platform or the Deliverables would cause substantial damage to Company and its licensors. Customer further acknowledges that Company is under no obligation to further develop, maintain, or market the Platform, and may abandon its technical or other support at any time. Future versions of the Platform, if any, may not be compatible with the current release of the Platform and the hardware and software.

Customer is responsible for: (i) providing power, other hardware, equipment and components, not part of those supplied by Company as part of the Platform; (ii) internet access necessary to access and/or use the Platform; and (iii) complying with any policies and procedures as submitted by Company from time to time.

15. Reservation of Rights. Customer acknowledges that, as between Customer and Company, Company owns all right, title, and interest, including all intellectual property rights, in and to the Platform. Subject to the limited rights expressly granted hereunder, Company reserves all rights, title, and interest in and to the Platform, including all related intellectual property rights. No rights are granted to Customer other than as expressly set forth herein. Customer acknowledges that the Platform is made available to Customer pursuant to license in accordance with the terms and conditions of this Agreement, and neither the Platform nor any Platform services constitute Deliverables under the MSA.

16. Warranties and Warranty Disclaimer.

16.1 Company warrants that (i) the Platform will perform materially in accordance with documentation made available to Customer and (ii) the functionality of the Platform will not be materially decreased during a Subscription Term. For any breach of warranty by Company, Customer's exclusive remedy shall be to terminate this Addendum A and the applicable Order Form for cause as provided in Section 19.1.

16.2 EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 16.1, THE PLATFORM IS PROVIDED "AS IS" AND COMPANY HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

16.3 Each party represents and warrants that (i) it has the legal power to enter into this Addendum A and (ii) it will not transmit to the other party any Malicious Code.

16.4 Customer warrants that it and its agents, and any person acting for the benefit of Customer or on its behalf or with its authorization, will in all respects comply with all applicable laws and regulations and refrain from violating the rights or infringing the interests (or attempting to do so) of any third parties in connection with the use of the Platform, including without limitation in the selection, gathering, creation, modification, uploading onto the Platform, maintenance, preservation, retrieval, dissemination, other utilization, and (for Customer, only) granting access of and to the Uploaded Content stored in Customer's Platform area. Customer affirms that it has, and at all times will have, all necessary rights, licenses, consents, and permissions (without the need for any additional approval, waivers, or releases, or payment to another person or entity) to submit, store, develop, use, disseminate, and grant access to all of the Uploaded Content with regard to any restraints that otherwise might be imposed by law or contract protecting copyrights, patents, trademarks, trade secrets, trade names, or privacy, publicity, or confidentiality (including statutory and contractual restrictions on disclosure and appropriation), and/or for any other intellectual property rights or rights or interests arising in connection with proprietary information.

17. Mutual Indemnification.

17.1 Indemnification by Company. Company shall defend Customer against any claim, demand, suit, or proceeding ("Claim") made or brought against Customer by a third party alleging that the use of the Platform as permitted hereunder or any Deliverables provided hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify Customer for any damages finally awarded against, and for reasonable attorney's fees incurred by, Customer in connection with any such Claim; provided, that Customer: (i) promptly give Company written notice of the Claim; (ii) give Company sole control of the defense and settlement of the Claim (provided that Company may not settle any Claim unless the settlement unconditionally releases Customer of all liability); and (iii) provide to Company all reasonable assistance, at Company's expense.

17.2 Indemnification by Customer. Customer shall defend Company against any Claim made or brought against Company by a third party: (a) alleging that Customer Materials, or Customer's use of the Platform in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law; or (b) in any other way relating to or arising from Customer Materials or a breach of Customer's Obligations set forth in Section 12, and shall indemnify Company for any damages finally awarded against, and for reasonable attorney's fees incurred by, Company in connection with any such Claim; provided, that Company: (i) promptly give Customer written notice of the Claim; (ii) give Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless the settlement unconditionally releases Company of all liability); and (iii) provide to Customer all reasonable assistance, at Customer's expense.

17.3 This Section 17 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this Section.

18. Limitation of Liability. EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 18 OF THIS ADDENDUM A, THE LIMITATIONS OF LIABILITY SET FORTH IN SECTION 11 OF THE MSA SHALL APPLY TO THIS ADDENDUM A.

19. Termination.

19.1 For any breach of warranty in accordance with Section 16, a party may terminate this Addendum A and the applicable Order Form for cause upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period. Upon any such termination for cause by Customer, Company shall refund Customer any prepaid fees covering the remainder of the Subscription Term after the effective date of termination, as well as any prepaid fees for Professional Services that are not delivered prior to the effective date of termination. Upon any such termination for cause by Company, Customer shall pay any unpaid fees covering the remainder of the Subscription Term under all Order Forms after the effective date of termination. In no event shall any termination relieve Customer of the obligation to pay any fees payable to Company for the period prior to the effective date of termination. This Section 19.1 deals only with termination for cause for a breach of warranty in Section 16. ANY OTHER TERMINATION IS GOVERNED BY SECTION 5 OF THE MSA and any other termination does NOT cancel any payment obligations.

19.2 Upon expiration or earlier termination of this Addendum A, Customer shall immediately discontinue use of the Platform. Company will promptly return to Customer or securely dispose of all Customer Materials in its possession. Customer shall pay Company's then-current standard rates for Company's work to destroy or to format, prepare, and deliver Customer Materials to

Customer. If Company is not reasonably able to return or securely dispose of Customer Materials, including, but not limited to, data stored on backup media, archives, and disaster recovery systems, Company will continue to protect such Customer Materials in accordance with the terms of this Agreement until such time that it can reasonably return or securely dispose of such Customer Materials in the ordinary course.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum A as of the date first above written.

Navigate360, LLC

By

Name:

Title:

Customer

By

Name:

Title:

ADDENDUM A
Exhibit A-1
SERVICE LEVELS AND SUPPORT

1. **Subscription to Support Services.** Upon the Effective Date, and annually thereafter during the Subscription Term, Customer shall have the option to subscribe to one or more software support packages offered by Company as described below, in exchange for the annual support fee (the "Support Fee") set forth in the applicable Order Form. Once Customer subscribes to the desired support package, the annual Support Fee will remain fixed and shall not change until the annual anniversary of the Effective Date, at which time the Support Fee shall be subject to change at Company's discretion with no prior written notice.

2. **Types of Support Services Available.** Company shall provide the Customer with one or more of the following support services, as specified by the Customer in the applicable Order Form, in exchange for the Support Fees set forth therein:

2.1 Basic Support Services.

(a) **Telephonic Hotline and Email Support.** Company shall maintain a telephone hotline and email service that allows Customer to obtain assistance in operating the Platform and report defects in its functionality between the hours of 8 a.m. and 5 p.m. EST, Monday through Friday, except on national holidays.

(b) **Software Maintenance and Error Correction.** Company performs regular maintenance on the Platform and will provide Customer with access to Maintenance Releases per the terms contained herein. In addition, Company shall use reasonable diligence to correct verifiable and reproducible errors in the Platform as follows:

(i) **Severity Level 1 Errors** – Problems that involve fundamental operability or functionality of the Platform that preclude productive use shall be addressed promptly upon report by Customer and on a continuous basis, 12 hours per day, seven days per week, until the problem is resolved.

(ii) **Severity Level 2 Errors** – Significant problems that involve the functionality of the Platform, but do not preclude productive use, shall be addressed promptly upon report by Customer and on a continuous basis, eight hours per day, five days per week, until the problem is resolved or a reasonably acceptable workaround is provided.

(iii) **Severity Level 3 Errors** – Inconvenient problems that do not preclude productive use of the Platform shall be addressed promptly following report by Customer and will be resolved in future Maintenance Releases.

Notwithstanding any of the foregoing, Company shall not be obligated to provide error correction support services set forth in this subsection for the Platform if it has been modified, repaired, or altered in any way except as authorized in writing by Company, or superseded for at least nine months by a subsequent Maintenance Release. Company also shall not be required to provide any error correction support services where Customer fails to submit a listing of output from the Platform and any other data Company may require to reproduce any error and the operating conditions under which it occurred. Finally, Company shall not be obligated to provide error correction support services for any software other than software comprising the Platform subscribed for pursuant to this Addendum A and the applicable Order Form, or provide any error correction support services required due to the fault or negligence of Customer, or service any equipment of Customer, or provide Customer with any supplies or accessories.

2.2 Additional Support Services.

(a) **Additional Training.** Additional training in the use of the Platform shall be available at times mutually convenient to Company and Customer during the Subscription Term and Company reserves the right to charge additional fees for such training.

(b) **On-Site Support.** Company will use reasonable efforts to provide on-site support for the Platform to Customer within 15 business days of Customer's request therefor, but Customer acknowledges and agrees that scheduling of such on-site support is entirely dependent upon the availability of Company Personnel and may not occur within such 15-day period. Where Company provides on-site support in any instance other than correcting a problem constituting a Severity Level 1 Error as specified above, Customer shall pay an additional fee for reasonable travel time and expenses (including, but not limited to, airfare, hotel, and meal expenses) incurred by Company Personnel providing the on-site support. Notwithstanding the foregoing, in lieu of on-site support, Company, in its sole discretion, may provide support services through the use of remote meeting software or video conference.

(c) **Project Management Support.** Project management support shall consist of the efforts of Company Personnel providing services to Customer other than the services listed above, including, but not limited to, assisting Customer in installing and using the Platform. Company reserves the right to charge additional fees for such support.

Terms and Conditions

Please see the Master Services Agreement and Addenda thereto for the terms and conditions that govern this Order Form. Customer agrees that Customer's purchases hereunder are neither contingent on the delivery of any future functionality or features of the Services nor dependent on any oral or written public comments made by Company regarding future functionality or features.

IN WITNESS WHEREOF, the parties have caused their respective duly authorized representatives to execute this Agreement in consideration of the promises and mutual covenants contained herein.

NAVIGATE360 SIGNATORY

Name: _____
Date: _____
Signature: _____

CUSTOMER SIGNATORY

Name: _____
Title: _____
Date: _____
Signature: _____

CUSTOMER BILLING INFORMATION

A/P Contact Name: _____
A/P Phone: _____
A/P Email: _____
A/P Address: _____
City: _____
State (2 Letter Abbreviation): _____
Zip Code: _____
Federal Tax ID: _____
Purchase Order: _____
Sales Tax Exempt No. _____

Sales Tax Exemption Certificate must be attached.

Upload Document: