

MASTER TERMS AND CONDITIONS
("TERMS")

THESE MASTER TERMS AND CONDITIONS, INCLUDING ANY EXHIBITS, SCHEDULES AND ATTACHMENTS, SET FORTH THE TERMS AND CONDITIONS UNDER WHICH COMPANY AGREES TO PROVIDE SOFTWARE AND SERVICES AND ARE MADE A PART OF ALL STATEMENTS OF WORK ("SOW") COLLECTIVELY, THE "AGREEMENT".

1. **TERMS.** These Terms shall remain in effect for the full term of the Agreement. Any counteroffer, proposed addition to, or supplement of the Terms is hereby expressly rejected unless in writing and agreed to by the Company.

2. **SOFTWARE AND SERVICES.** Customer agrees to buy and/or license (as applicable), and Company agrees to deliver (as applicable) (a) the professional consulting services ("Services"), (b) software ("Software"), including any documentation thereto, (c) Software Support Level Agreement ("SLA"), and (d) Cloud Service Maintenance Agreement, if applicable, as described in the separate Statements of Work, Contracts, Change Orders, or other such documents signed by authorized representatives of both parties (collectively the "Software and Services").

3. **SOFTWARE LICENSE.** Customer accepts license of Software in accordance with the terms of the applicable Licensor End User License Agreement ("EULA"). Ownership of intellectual property rights in the Software is set forth in the applicable EULA. As between said Licensor and Customer, Licensor shall retain all right, title and interest, including all intellectual property rights, in and to all documentation, code and data. Except as expressly set forth in these Terms, any warranties, obligations and liabilities of Licensor in relation to Software are set forth in the applicable EULA.

4. **SERVICES.** Services provided by Naviant, Inc. ("Company") shall be as described in the Agreement. Any work product that is a result of Services provided by Company remains the intellectual property of Company. Customer will have a perpetual, non-exclusive, revocable right to use said work product for the period of time that the work product is in use by Customer, but shall have no right to resell, transfer or assign the same. Company warrants to Customer that it possesses the necessary expertise, capability, equipment and personnel to properly and professionally perform the Services hereunder, that it is properly and legally licensed (if applicable) to perform the Services, and that it shall at all times in the performance of the Services comply with all applicable laws, ordinances and regulations and shall perform all Services in a good, workmanlike, professional and efficient manner.

5. **MAINTENANCE AND SUPPORT.** Customer agrees to abide by the provisions set forth in the SLA Provisions located at www.naviant.com/services/tech-support-onbase.

6. **PRICE.** Customer shall pay the agreed upon amounts for the Software and Services without setoff or deduction in accordance with the payment terms set forth in the Statement of Work. Such Prices generally exclude any excise, sales, use or like taxes, and therefore such prices are subject to increase in the amount of any such tax (excluding tax on net income) that Company may be required to collect or pay upon the sale of Software or performance of Services. Prices are, and all payments shall be made, in U. S. dollars. Customer shall pay Company's reasonable travel expenses associated with the performance of Services.

7. **PAYMENT TERMS.** Unless stated differently in the SOW, the Company follows the billing cycle and service period of the Software Licensor for Subscription Software, Manufacturer Software Maintenance, Cloud Hosting, and other recurring billings. This includes billings for the initial order and any subsequent add-on orders. Payments are due within twenty (20) days of date of invoice. Past due amounts bear interest at a

rate of one and one-half percent (1 ½%) per month or at the maximum rate allowed by law, whichever is less. Company reserves the right to cancel or reschedule performance of Services if Customer fails to make any payment when due. Customer shall be liable for all expenses attendant to collection of past due amounts due Company, including actual attorney's fees.

8. **PERFORMANCE.** Company shall use commercially reasonable efforts to deliver the Software and perform the Services in accordance with any agreed upon performance date(s). However, Company does not guarantee compliance with any such date(s) and Customer agrees that Company shall not be liable for any damages as a result of any delay in delivery or performance for any reason. If Services are to be performed on Customer's premises, Customer shall keep such premises safe and accessible to Company during business hours, and Customer warrants that each such premises is in compliance with all applicable health and safety regulations and other applicable laws and regulations. Customer shall indemnify and hold Company harmless from any claims arising from Customer's failure to comply with such laws and regulations or due to breach of the warranty set forth in the preceding sentence.

9. **LIMITED WARRANTIES-SERVICES.** COMPANY WARRANTS TO CUSTOMER THAT ALL SERVICES PERFORMED BY COMPANY SHALL BE PERFORMED IN A WORKMANLIKE MANNER. COMPANY WARRANTS FOR A PERIOD OF THIRTY (30) DAYS AFTER PROJECT COMPLETION THAT THE SERVICES ARE IN COMPLIANCE WITH THE AGREEMENT. CUSTOMER'S EXCLUSIVE REMEDY AND COMPANY'S SOLE LIABILITY FOR ANY BREACH OF THE FOREGOING SERVICE WARRANTY SHALL BE THE RE-PERFORMANCE OF THE APPLICABLE SERVICES, FAILING WHICH, AT COMPANY'S OPTION, COMPANY SHALL REFUND THE PORTION OF FEES PAID WHICH RELATE TO THE SPECIFIC NON-CONFORMING SERVICES. **THE EXPRESS WARRANTIES IN THIS SECTION ARE IN LIEU OF, AND COMPANY HEREBY EXPRESSLY DISCLAIMS, ALL OTHER WARRANTIES IN RELATION TO THE SERVICES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, PROFITABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

10. **LIMITED WARRANTY-SOFTWARE.** COMPANY PASSES ON TO CUSTOMER, IF POSSIBLE, ANY WARRANTY OFFERED BY THE SOFTWARE LICENSOR. SHOULD THE SOFTWARE NOT OPERATE, YOUR EXCLUSIVE REMEDY SHALL BE AS PROVIDED BY THE SOFTWARE LICENSOR'S WARRANTY. EXCEPT AS EXPLICITLY PROVIDED HEREIN, THE SOFTWARE IS PROVIDED "AS IS" AND, TO THE MAXIMUM EXTENT PERMITTED BY LAW, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF NON-INFRINGEMENT, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT WARRANT THAT THE SOFTWARE OR ITS FUNCTIONS WILL MEET CUSTOMER'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE. CUSTOMER BEARS ALL RISK RELATING TO CUSTOMER' USE OF THE SOFTWARE.

11. **LIMITATION OF LIABILITY.** COMPANY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY DELAY IN FURNISHING THE SERVICES OR THE SOFTWARE. COMPANY SHALL NOT BE LIABLE FOR ANY LOSS, DESTRUCTION, OR DAMAGE TO ANY DOCUMENTS OR DATA OF CUSTOMER, HOWEVER CAUSED. COMPANY ENCOURAGES CUSTOMER TO INSURE FOR THE RECOVERY OF THE INFORMATION CONTAINED WITHIN THEIR DOCUMENTS AND DATA VIA AVAILABLE MEANS, SUCH AS VALUABLE PAPERS INSURANCE. **IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY**

SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, INDIRECT OR SIMILAR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, LOSS OF REVENUE AND LOST DATA) ARISING OUT OF THIS AGREEMENT (WHETHER FOR BREACH OF AGREEMENT, TORT, NEGLIGENCE OR OTHER FORM OF ACTION), OR ITS CANCELLATION, IRRESPECTIVE OF WHETHER COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGES UNDER OR AS A RESULT OF THE AGREEMENT IN EXCESS OF THE AGGREGATE AMOUNTS ACTUALLY PAID BY CUSTOMER TO COMPANY UNDER THE AGREEMENT FOR THE SOFTWARE OR SERVICES OUTLINED IN SECTION 2 HEREOF THAT IS IN DISPUTE. THE PARTIES AGREE THAT THE LIMITATIONS ON LIABILITY SET FORTH IN THE TERMS ARE INDEPENDENT OF ANY EXCLUSIVE OR LIMITED REMEDIES, AND SHALL SURVIVE AND APPLY EVEN IF SUCH REMEDIES ARE FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. NO ACTION ARISING OUT OF OR RELATED TO THE AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN ONE (1) YEAR AFTER SUCH CAUSE OF ACTION HAS ARISEN.

12. **CONFIDENTIAL INFORMATION.** The separate Nondisclosure Agreement between the parties and which is part of the Agreement shall govern the protection of any confidential information disclosed by either party hereunder. If there is no Nondisclosure Agreement, all information disclosed by either party regardless of the form in which it is disclosed, is, and shall remain the confidential information of disclosing party ("Confidential Information"). The information contained in this and other Agreements between the parties is confidential and shall not be disclosed by either party without the prior written consent of the other party. Both parties shall protect such Confidential Information from disclosure to others with at least the same degree of care it exercises in protecting its own Confidential Information, but in no event less than a reasonable degree of care. The parties shall not duplicate or reproduce any Confidential Information without the express prior written consent of disclosing party. The parties shall not use any Confidential Information except as is contemplated by the Agreement. The parties shall enforce against its employees and agents these obligations of confidentiality. Notwithstanding the foregoing, information disclosed shall not be deemed to be Confidential Information if (a) receiving party establishes that the information was already known to receiving party, without any obligation to keep it confidential, at the time of its receipt from disclosing party, as evidenced by documents in the possession of receiving party prepared prior to disclosing party's disclosure, or (b) receiving party establishes that the information was publicly known at the time of its receipt by receiving party from disclosing party or has become publicly known other than by a breach of the Terms or other action or omission by receiving party. The Terms shall not prevent either party from disclosing Confidential Information to the extent required by law, provided that receiving party promptly notifies disclosing party to allow intervention and cooperates with disclosing party to contest or minimize the scope of the disclosure.

13. **NON-SOLICITATION.** During the term of the Agreement and for a period of two (2) years after the termination of the Agreement on any basis, neither party shall, directly or indirectly, solicit or induce, or attempt to solicit or induce, any employee or consultant of the other party to terminate their employment with or services to their employer. Each party recognizes and agrees that compliance with the preceding sentence is reasonable and necessary for the protection of each party's interest in their respective employees and consultants. In the event of a breach or any threatened breach, the parties acknowledge and agree that no adequate remedy at law exists for, and such provisions may be enforced by, any equitable remedy, including injunction, without bond and without limiting right to proceed to remedy at law. If the period of time or scope should be judged unreasonable in any court proceeding, then the parties agree that the court shall enforce such requirements and the period of time or scope shall be reduced by such time or scope that is deemed unreasonable, so that

such non-solicitation provision may be enforced using such period of time or scope as is judged to be reasonable.

14. **USE OF NAME.** Unless otherwise authorized under the Agreement, neither party may represent that it is associated with the other party for its own promotional purposes without prior written permission of such other party.

15. **CANCELLATION.** Company may cancel the Agreement by written notice to Customer due to (a) Customer's material breach of, or failure to comply with, the Agreement or any of the Terms or any subsequent agreements between the parties; or (b) Customer filing a petition of any type as to its bankruptcy, being declared bankrupt, becoming insolvent, making an assignment for the benefit of creditors or going into liquidation or receivership. If Company cancels the Agreement as set forth above, Customer agrees to pay to Company all amounts due for Software ordered and Services performed prior to the effective date of termination and to indemnify and hold Company harmless from any amounts due by Company to third parties as a result of the cancellation. This Section and Sections 3, 4, 6, 8, 9, 10, 11, 12, 13, 14, and 15 shall survive any cancellation of this Agreement.

16. **SOFTWARE AND SERVICES.** Customer may only use the Software expressly permitted by the license granted in the applicable EULA. Without limiting the generality of the foregoing, the Software may not be resold, leased, sublicensed, distributed, or transferred in any way except as expressly permitted under the applicable EULA. Company may make any changes to the Software or Services or discontinue any of the Services at Company's sole discretion. The parties acknowledge and agree that Company, in the course of performing Services, may use or incorporate its pre-existing materials and other intellectual property developed or otherwise owned by Company ("Pre-Existing Intellectual Property"). Company shall at all times retain all rights to such Pre-Existing Intellectual Property and any Customer specific by-product of the utilization of Pre-Existing Intellectual Property for purposes of completing Services shall be considered intellectual property of Company and Customer is granted a perpetual license to utilize any by-product that is derived as a result of the requirements of the Agreement.

17. **INDEPENDENT CONTRACTOR.** In performance of all Services, Company shall be deemed to be an "independent contractor" and as such, shall not be entitled to any benefits applicable to the employees of the Customer. Company declares that it is engaged in an independent business and that similar services are provided for other customers and the Customer is not Company's sole and only customer. Neither party shall in any way be deemed to be an agent or representative of the other party. Neither party shall have any authority to bind or speak for the other party except as may be specifically given to such party in writing from time to time.

18. **INSURANCE.** Company shall maintain the following insurance coverages:

General Liability

Each Occurrence - \$1,000,000

General Aggregate - \$2,000,000

Products/Completed Operations Aggregate - \$2,000,000

Personal/Advertising Injury - \$1,000,000

Professional/Cyber Liability - \$5,000,000

Automobile Liability (Combined Single Limit - \$1,000,000

Umbrella Liability

Each Occurrence - \$10,000,000

General Aggregate - \$10,000,000

Workers Compensation and Employers' liability

Each Accident - \$500,000

Disease Policy Limit - \$500,000

19. **INDEMNIFICATION.** Each party agrees to indemnify and hold harmless the other party, its officers, directors, agents and employees for any loss, including actual attorney's fees, costs or damages that either party

may incur, in connection with the Agreement or the Services as a result of the negligent acts or omissions of the other party, its employees or its agents. Neither party shall be liable to the other party for incidental, indirect or consequential damages, except where same arises out of the gross negligence or willful misconduct of such party. Under all circumstances, the maximum damages under the Agreement are the amount paid by Customer for the Services.

20. ASSIGNMENT. The Agreement may not be assigned by Customer without prior written permission from Company. Any attempt to assign any rights or delegate any duties or obligations, which arise under the Agreement without such permission, shall be void

21. DISPUTES. Each party consents to the forum, jurisdiction, and venue of the state courts of the State of Wisconsin and federal courts located therein in any actions, disputes or controversies under the Agreement. The rights and obligations of a party shall survive completion of performance in accordance with the provisions of the Agreement and any Change Orders issued thereunder.

22. SEVERABILITY. Any provision or part thereof of the Agreement held to be void or unenforceable by any court shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties. The court may reform or replace such stricken provision or part thereof with a valid and enforceable provision, which expresses the intent of the stricken provision.

23. GOVERNING LAW. The Agreement shall be governed by and interpreted in accordance with the laws of the State of Wisconsin, without regard to conflicts of laws principles.

24. ENTIRE AGREEMENT. The Agreement, including all Change Orders issued thereunder, constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties. The Agreement may be amended only by a writing signed by the duly authorized representative of each party. The terms and conditions of any purchase order, acknowledgement, invoice, or other commercial form issued by Customer to Company are specifically excluded and shall not be deemed a part of or to modify or amend the Agreement, unless such other party expressly agrees in writing to be bound by such commercial form.

25. FORCE MAJEURE. Neither party shall be responsible or liable for delays or failure to perform related to any cause or contingency beyond its reasonable control including, without limitation, acts of God, floods, fires, explosions, extreme heat or cold, earthquakes, storms or other adverse weather; power shortages, epidemic or pandemic, transportation difficulties, strikes, lockouts or other industrial disturbances, wars, acts of terrorism or sabotage, or any law, rule, order or action of any court or instrumentality of the federal, state or local government.

26. NOTICES. Any notice provided for or concerning the Agreement shall be in writing and shall be deemed sufficiently given when sent by certified mail to the address as set forth in the Agreement.

Any notice provided for or concerning these Master Terms and Conditions shall be in writing and shall be deemed sufficiently given when sent by certified mail to the address as set forth below.

NAVIANT, INC.
201 Prairie Heights Drive
Verona, WI 53593

DocuSigned by:
Michael Carr
ID:12EEA812B04E8

Authorized Signature
Michael Carr, President & CEO

Print Name and Title

8/30/2022

Date

CUSTOMER

Customer Name

Street Address

City, State Zip Code

Authorized Signature

Print Name and Title

Date

Napa County Counsel
Approved as to Form by:

John L. Myers
John L. Myers (e-sign)

August 2, 2022
PL No. 75645