

Dapresy Software as a Service (“SaaS”) Agreement

Access to the SaaS is provided by the Forsta Entity stated in the applicable Sales Order (“**Forsta**”). This Agreement shall govern the use of all Software and Services unless specifically noted otherwise in this Agreement.

The term “**Client**” as used herein refers to you and all individuals and entities accessing the Services for any reason.

PLEASE READ THIS DOCUMENT CAREFULLY. BY USING OR CONTINUING TO USE THE SERVICES, YOU ARE INDICATING YOUR ACCEPTANCE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT BETWEEN YOU AND FORSTA. IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS STATED IN THIS AGREEMENT, FORSTA IS NOT WILLING TO ALLOW YOU TO USE THE SERVICES AND YOU SHOULD IMMEDIATELY STOP USING THE SERVICES.

Terms and Conditions

WHEREAS: Forsta provides multitenant web-based data collection and reporting services and certain other services and products related thereto. The Service (as defined in Schedule 7), based on Forsta’s proprietary Dapresy Software or other Forsta software, provides, amongst other functionalities, data analysis and reporting functionalities; and

WHEREAS: Client wishes to obtain from Forsta a license to access and use the Service and to obtain from Forsta certain other related services and products further specified in this Agreement, and Forsta wishes to provide such license to Client and to provide such other services and products on the terms set out herein.

NOW THEREFORE, the parties hereto agree as follows:

1. CONTRACT DOCUMENTS

- 1.1. This agreement (the “**Agreement**”) consists of:
 - 1.1.1. the terms and conditions set out below (“**T&C**”) and all attached Schedules;
 - 1.1.2. any Sales Orders incorporated by reference to Schedule 3;
 - 1.1.3. any addenda to the above mentioned agreed in a signed written instrument between the Parties from time to time; and
 - 1.1.4. any other documents that are expressly referred to and incorporated in this Agreement.
- 1.2. In the event of conflict or inconsistency between the T&C and Schedules on the one part, and the Sales Orders, statement of work, or any other documents that are expressly referred to and incorporated into this Agreement on the other, the T&C and Schedules shall govern except when the terms in an Sales Order, statement of work, or any other referenced or incorporated document directly state that they supersede a term or condition of the T&C and Schedules. Each addendum agreed in writing between the Parties takes precedence over the original document which it amends, and any previously agreed addenda thereto. No terms or conditions endorsed upon, delivered with, or contained in Client’s purchase order, specification, or similar document will form part of this Agreement unless agreed in a signed written instrument between the Parties.
- 1.3. The definitions applicable to the terms used in the text of this Agreement are either set forth in-text or in Schedule 7.

2. LICENSE TO USE AND TERM OF LICENSE

- 2.1. Subject to the terms of this Agreement, Forsta shall grant Client a non-exclusive, non-transferable (except as set forth in Section 19.1 below) license, for the duration of the Term, to access and use the Service and the Documentation. The Service offers access to the functionalities of the Software, a full description of which is detailed in the applicable Documentation. The functionalities available as part of the Service may vary over time, provided however that removed functionality will be replaced with other functionality permitting performance of substantially the same fundamental activities.
- 2.2. Unless this Agreement has already been terminated in accordance with the provisions of Article 17 below or any other article herein, this Agreement automatically extends for successive Term Extensions each of one (1) year, unless either Party has sent notification to the other Party in writing no later than thirty (30) days before the expiration of the then-current Term Extension, or, in the case of the first Term Extension, thirty (30) days before the expiration of the term stated in the Sales Order (“**Initial Term**”), that this Agreement will not be extended. In case of such automatic extension, if no renewal Sales Order has been executed between the Parties, each successive Term Extension will be subject to License Fees and Dapresy Units in the same quantities as the total across all Sales Orders applicable to the immediately preceding one-year term, and at the same annual price (or at the price specifically agreed in a signed written instrument by the Parties), but with a consumer price index adjustment (“**CPI Adjustment**”) as per Schedule 2, Article 5.
- 2.3. Notwithstanding anything to the contrary in the Agreement, unless otherwise expressly agreed in writing between the Parties, Client may not permit the use of User IDs by: (i) its Affiliates; or (ii) any of its stand-alone business divisions, business units, or functions.
- 2.4. Client may only assign User IDs to individually named users and limited to the contracted amounts in the applicable Sales Order.
- 2.5. Client is responsible for understanding the regulatory requirements applicable to Client’s business and for selecting and

using the Licensed Materials in a manner that complies with the applicable requirements. Unless otherwise agreed in writing as part of this Agreement, Client may not use the Licensed Materials in a way that would subject Forsta to such regulatory requirements. E.g., any use by Client of the Service for purposes of processing “protected health information” (as defined in 45 C.F.R. §160.103 under US federal regulations) is only permitted upon the Parties’ execution of a separate business associate agreement.

3. SYSTEM REQUIREMENTS

- 3.1. Terms regarding system requirements applicable to Client’s use of the Service are set out in Schedule 1.

4. DESIGNATED USERS

- 4.1. Client is responsible for ensuring that the Service shall only be accessed and used by individually named users who are employees of Client or Contractors and who are provided with a User ID by Forsta (the “**Designated Users**”). User IDs shall be uniquely named and refer to a named e-mail address (no generic names and addresses are accepted). No more than one (1) Designated User shall have access to each User ID, and Client shall ensure that User IDs are not shared. Client shall be responsible for all activity that occurs under each User ID and shall be liable to Forsta for the acts and omissions of each Designated User (whether a Designated User of Client or of any Contractor) as though they were the acts and omissions of Client itself.
- 4.2. Client retains the right to re-assign User IDs upon first notifying Forsta and obtaining from Forsta a new User ID, as long as such re-assignments do not contradict any other terms of this Agreement. Client shall ensure that passwords shall always be changed when a User ID is being transferred from one Designated User to another. To increase the number of User IDs allocated to Client, a Sales Order must be executed by the Parties.

5. PERMITTED USE OF THE LICENSED MATERIALS

- 5.1. Client may use the Service to process its and their own data for its and their own internal and commercial business purposes, including data collection and reporting activities which Client performs on behalf of its clients, provided however that Client shall not directly or indirectly resell or sublicense the Licensed Materials or purport to do so.
- 5.2. Client is permitted:
 - 5.2.1. to invite Respondents to access the Service for the limited purposes of responding to surveys made available through the Service by Client; and
 - 5.2.2. upon licensing the relevant Add-On or Third-Party Accesses to grant third parties access to the relevant reporting features of the Software, including closed feedback loops and action management. Third-Party Accesses are uniquely named accesses and shall not be shared.
- 5.3. Client may make additional copies of the Documentation provided that distribution of such copies will be restricted to Client employees and Contractors and will be subject to the mutual confidentiality terms set out in Schedule 6.

6. REGULATIONS OF USE OF THE LICENSED MATERIALS

- 6.1. With the exception of Contractors, Client is not permitted to grant a User ID to its customers, or to any other third-party, nor permit them to use a User ID to access the Service. Contractors’ access to and use of the Service shall be restricted to the performance of activities which Client has engaged Contractor to perform for it. Contractors are not allowed to use the Licensed Materials to perform work on their own behalf or on behalf of any other party.
- 6.2. Client shall be bound by, and shall ensure that all Designated Users use the Software solely as described in the Documentation, and comply with the AUP applicable to the Service as set forth in the Documentation or on Forsta’s website. The AUP is incorporated into this Agreement by reference.
- 6.3. In using the Licensed Materials, Client shall comply, and will ensure that Contractors will comply, with (a) the terms of this Agreement, and (b) applicable laws and regulations (including in the United States federal, state, and local laws, rules, and regulations), including those governing the collection, processing, and dissemination of data and the sending of email and other electronic or digital communications and messages. Client shall not, and will ensure that Contractors shall not, use the Service for any illegal purpose or in any unlawful manner or in a manner that can be reasonably anticipated to interfere with any third-party’s use of the Service.
- 6.4. Except to the extent strictly permitted by applicable law notwithstanding contractual prohibition, Client shall not, and will ensure that Contractors shall not download, copy, decompile, revise, reverse engineer, modify, or derive source code from the Software or any other software provided as part of the Service, nor prepare translations or derivative works based upon, distribute, sublicense, rent, lease, sell or otherwise commercially exploit the Software, the Service, or the Documentation. Client may only integrate external applications with the Software by utilizing Forsta’s application programming interfaces (“**APIs**”) available at that time, offered as an Add-On subject to separate terms and conditions.
- 6.5. Client shall not release, publish, or otherwise make available to any third-party the results of any performance, functional, or security evaluation of the Software or the Service without the prior written approval of Forsta.

7. SUPPORT

- 7.1. Terms regarding support, support hours, Client support administration, Service Enhancements, Additional Services, travel expenses, are set out in Schedule 4.

8. FEES, CHARGES, PRICING, & PAYMENT

- 8.1. Terms regarding fees, charges, pricing, and payment are set out in Schedule 2.

9. OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS

- 9.1. Client recognizes, acknowledges, and agrees that the Licensed Materials are a valuable asset of Forsta and the parties from which Forsta derives its rights to the Licensed Materials (jointly, the “**Owners**”), developed by the expenditure of

considerable work, time, and money, and Client acknowledges that it has no proprietary interest therein. The Owners hold all IPR relating to the Licensed Materials. This Agreement grants to Client only the rights expressly granted to Client to access the Service and use the Software and the Documentation within the limits of and subject to the restrictions established by this Agreement. All other rights in the Licensed Materials, including all IPR, shall remain with the Owners.

- 9.2. Forsta shall make no claim to either the title to or IPR in, Client Materials.
- 9.3. Client grants Forsta a nonexclusive, worldwide, royalty-free, and fully paid license to use, reproduce, distribute, and digitally display the Client Materials, during the Term of this Agreement, to the extent necessary to provide Client with services under this Agreement.
- 9.4. Client shall not, and will ensure that Contractors shall not, remove, obscure, suppress, or modify any proprietary marking, including any trade mark or copyright notice, logo, or branding, appearing in the Licensed Materials, and shall incorporate all such proprietary markings in any copy of the Documentation which the Client makes in accordance with this Agreement. Subject to Section 9.5 below, the restrictions in this Section 9.4 shall not apply to changes Client is allowed to make as set forth in the Documentation.
- 9.5. Client shall, and will ensure that Contractors shall, include an attribution stating “Powered by Forsta” in all interview templates. Any attribution made by Client or Contractors shall not infer that Client Contractors, or any third-party owns or states any claim to the IPR in the Licensed Materials.
- 9.6. Forsta may, at its sole discretion use or incorporate into the Service any suggestions, ideas, enhancement requests, feedback, or recommendation provided by Client or Contractors relating to the Software, the Service, and the Documentation (“**Client Ideas**”), provided that such Client Ideas do not contain any Confidential Information of Client.
- 9.7. Client shall promptly notify Forsta if Client becomes aware of unauthorized access to, use of, or copying of the Service, the Software, and the Documentation or any other breach or violation of any of the terms of this Agreement.

10. WARRANTIES

- 10.1. **Applicable Laws.** Each Party warrants that it has the right and authority to enter into and perform its obligations under this Agreement and that it shall, at its own expense, comply with all laws, regulations, and other legal requirements that apply to such Party and to its role under this Agreement, including laws relating to IPR, the right to privacy, and defamation. Client warrants that it shall only provide lawful instructions to Forsta in relation to its use of the Service and to the processing of Client Materials. Notwithstanding anything to the contrary in this Agreement, Forsta will not be liable towards Client, Contractor, or any third-party, or be deemed to be in breach of its warranty and indemnification obligations, to the extent that Forsta’s proper fulfillment of any instructions should constitute a breach by Forsta of this Agreement or of any applicable law or regulation. Forsta shall however remain liable towards Client to the extent Forsta has not complied with obligations applicable to it under applicable laws or where Forsta has acted outside or contrary to lawful instructions of Client.
- 10.2. Forsta further warrants (“**The Limited Warranty**”) that (i) the Software and Service will perform during the Term substantially in accordance with the specifications set forth in the applicable Documentation at any time; (ii) it shall provide the Service as defined in the Service Level Agreement; (iii) any Additional Services provided under this Agreement will be performed using Personnel of required skill, experience and qualifications and in a professional and workmanlike manner and in accordance with generally accepted industry practices and performance standards; and (iv) the Service shall not cause or occasion the introduction of Malicious Code to Client provided that Forsta shall not be liable in circumstances where: (x) Client or Contractors introduce or contribute to the introduction of Malicious Code into the Service; or (y) the introduction of Malicious Code could not have been prevented notwithstanding Forsta’s timely deployment of industry standard anti-virus software, such as in the instance of zero day vulnerabilities.
- 10.3. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS ARTICLE 10, THE LICENSED MATERIALS ARE PROVIDED “AS IS”, AND “AS AVAILABLE,” AND TO THE FULLEST EXTENT PERMITTED BY LAW, FORSTA EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, CONDITIONS, AND OTHER TERMS, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE LICENSED MATERIALS, INCLUDING ANY WARRANTIES, CONDITIONS, OR OTHER TERMS AS TO MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY, CONDITION, OR OTHER TERM ARISING FROM A COURSE OF DEALING OR COURSE OF PERFORMANCE. NO ORAL OR WRITTEN INFORMATION PROVIDED BY FORSTA OR ITS EMPLOYEES OR REPRESENTATIVES WILL CREATE ANY WARRANTY, AND THIS WARRANTY DISCLAIMER SUPERSEDES ANY SUCH INFORMATION. CLIENT ACKNOWLEDGES AND AGREES IT HAS SELECTED THE SERVICE AND IS SOLELY RESPONSIBLE FOR ANY RESULTS OBTAINED FROM THE SERVICE AND HAS NOT AND SHALL NOT RELY UPON ANY REPRESENTATIONS OR WARRANTIES AS TO THE SUITABILITY OR UTILITY OF THE SERVICE TO MEET CLIENT’S NEEDS OR REQUIREMENTS. FORSTA DOES NOT REPRESENT OR WARRANT THAT THE SERVICE SHALL BE UNINTERRUPTED OR ERROR-FREE. NOTHING IN THIS SECTION 10.3 LIMITS OR EXCLUDES FORSTA’S LIABILITY FOR FRAUDULENT MISREPRESENTATION.
- 10.4. In the event of a breach of the Limited Warranty, Client’s sole remedy and Forsta’s sole obligation is that Forsta shall make commercially reasonable efforts to restore the Service to the contracted level. If Forsta is unable to restore the Service within a reasonable time or at a reasonable cost, either Forsta or Client may terminate this Agreement in writing, and in such case Forsta will refund a pro rata share of the unused portion of the fees Client has pre-paid to Forsta under this Agreement and with no continuing obligation for fees owed thereafter in the event of a multi-year Term.
- 10.5. Forsta shall not be liable for any failures, errors, and malfunctions caused in whole or in significant part by:
 - 10.5.1. Client’s or Contractors’: (i) operation of the Software and Service in an a manner not anticipated by the Documentation; (ii) non-compliance with any of the terms of this Agreement to the extent such non-compliance

- affects Forsta's Service performance; or (iii) use of the Service in combination with software or equipment not expressly approved by Forsta via the Documentation or in a support ticket;
- 10.5.2. subject to Section 5.2, the access to or operation of the Service by someone who is not a Designated User where such access has been occasioned or permitted by Client or any Contractor; or
 - 10.5.3. the failure of Client's or Contractors' internal systems to meet the system requirements (as per Schedule 1) in effect at the time of occurrence; or
 - 10.5.4. issues due to general internet latency and connection loss, or issues related to Client's inadequate bandwidth, insufficient network, or similar.
- 10.6. Forsta shall not be liable for any Client or Contractors' data system failures or damage to Client's or Contractors' internal system as a result of interaction between the Software and such internal systems, unless the failure or damage is clearly the result of a defect in the Software or a malfunctioning of the Service for which Client has not been pre-warned in writing by Forsta.
- 10.7. As a condition for invoking the Limited Warranty, Client must give Forsta written notice of the failure, error, or malfunction Client complains of as soon as practical after it comes to Client's attention. Furthermore, Client will make commercially reasonable efforts to deliver to Forsta a detailed written explanation of how to reproduce the alleged breach of the Limited Warranty. Client understands that if Client does not provide such explanation, Forsta may not be able to address the issue.
- 10.8. Client represents and warrants that (i) where consent is required by applicable law and emails are being sent to individuals who are not Client's employees, it has obtained consent to send emails to those individuals via the Service; (ii) it shall promptly and thoroughly respond to any request or complaint in relation to emails sent via the Service; and (iii) it shall process opt-out and unsubscribe requests from email recipients and promptly cease contacting them.
- 10.9. Client shall make reasonable efforts not to provide any person or entity that is in the business of developing data collection or reporting software with access to the Licensed Materials.
- 10.10. Forsta may, subject to the Parties' mutual agreement, provide to Client access to Software features that are not yet deemed production ready by Forsta ("**Limited Availability**"). Any use by Client of such activated Limited Availability features shall be at Client's sole risk and Forsta shall not, notwithstanding anything to the contrary in this Agreement, have any responsibility for the consequences of the use thereof.

11. LIMITATION OF LIABILITY

FOR AGREEMENTS GOVERNED BY THE LAWS OF THE UNITED STATES (SEE SECTION 20.1) THE FOLLOWING APPLIES:

- 11.1. TO THE FULLEST EXTENT ALLOWED BY LAW, FORSTA SHALL NOT UNDER ANY CIRCUMSTANCES, REGARDLESS OF THE FORM OF ACTION OR THE BASIS OF THE CLAIM, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES HOWSOEVER CHARACTERIZED, ARISING FROM OR IN ANY MANNER RELATED TO THIS AGREEMENT, ANY SALES ORDER, THE SERVICE, SOFTWARE, DOCUMENTATION, OR THE SUBJECT MATTER HEREOF, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFITS, WASTED ADMINISTRATIVE TIME, COST OF PROCURING OR MIGRATING TO SUBSTITUTE SERVICES, OR DAMAGES RESULTING FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DESTRUCTION, LOSS OR DELETION OF TRANSIENT DATA, OR DELAYS IN OPERATION OR TRANSMISSION. IN THE EVENT OF ANY BREACH BY EITHER PARTY OF THIS AGREEMENT, WITH THE EXCEPTION OF BREACHES OF SUB-SECTION 10.1: "APPLICABLE LAWS"; ARTICLE 12: "INDEMNIFICATION"; OR ARTICLE 13: "CONFIDENTIAL INFORMATION", IN NO EVENT SHALL THE AGGREGATE LIABILITY OF THE BREACHING PARTY EXCEED ONE HUNDRED TWENTY-FIVE PERCENT (125%) OF THE TOTAL AMOUNT INVOICED BY FORSTA TO CLIENT DURING THE PRECEDING TWELVE (12) MONTHS, EXCLUDING SALES TAX.
- 11.2. EXCEPT AS SET FORTH IN THIS ARTICLE, EACH PARTY'S LIABILITY UNDER THIS AGREEMENT, AT LAW OR IN EQUITY, IF ANY, SHALL BE LIMITED SOLELY TO DAMAGES AWARDED BY A COURT OF COMPETENT JURISDICTION IN ACCORDANCE WITH THE PROVISIONS AND LIMITATIONS SET FORTH IN THIS ARTICLE. EACH PARTY ACKNOWLEDGES AND AGREES THE FOREGOING LIMITATIONS, DISCLAIMER, AND EXCLUSIONS ARE REASONABLE AND PART OF THE BARGAINED-FOR ALLOCATION OF RISK AND SHALL NOT, AND WAIVES ANY RIGHT TO, PLEAD, ALLEGE, OR CLAIM ANY SOLE OR EXCLUSIVE RIGHT OR REMEDY PROVIDED HEREIN IS INVALID OR UNENFORCEABLE BECAUSE IT WILL OR DOES FAIL ITS ESSENTIAL PURPOSE.

FOR AGREEMENTS GOVERNED BY THE LAWS OF ENGLAND, CANADA, BOSNIA & HERZEGOVINA, SWEDEN, GERMANY, OR NORWAY (SEE SECTION 20.1) THE FOLLOWING APPLIES:

- 11.1. NEITHER PARTY'S LIABILITY: (a) FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES OR AGENTS; (b) FOR FRAUD OR FRAUDULENT MISREPRESENTATION; (c) TO PAY AMOUNTS PROPERLY DUE AND OWING UNDER THIS AGREEMENT; OR (d) THAT IS NOT PERMITTED TO BE EXCLUDED OR LIMITED BY APPLICABLE LAW IS EXCLUDED OR LIMITED BY THIS AGREEMENT EVEN IF ANY OTHER TERM OF THIS AGREEMENT WOULD OTHERWISE SUGGEST THAT THIS MIGHT BE THE CASE.
- 11.2. SUBJECT TO SECTION 11.1, NEITHER PARTY SHALL BE LIABLE (WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, OR FOR ANY OTHER REASON) FOR ANY: (a) LOSS OF PROFITS; (b) LOSS OF SALES; (c) LOSS OF REVENUE; (d) LOSS OF ANY SOFTWARE OR TRANSIENT DATA; (e) LOSS OF USE OF HARDWARE, SOFTWARE, OR TRANSIENT DATA; (f) WASTED ADMINISTRATIVE TIME; (g) COST OF PROCURING OR MIGRATING TO SUBSTITUTE SERVICES, OR (h) INDIRECT, CONSEQUENTIAL OR SPECIAL LOSS.
- 11.3. SUBJECT TO SECTIONS 11.1 AND 11.2 AND WITH THE EXCEPTION OF: (a) ANY BREACH OF SUB-SECTION 10.1

“APPLICABLE LAWS”; (b) ANY LIABILITY UNDER ARTICLE 12: “INDEMNIFICATION”; OR (c) ARTICLE 13: “CONFIDENTIAL INFORMATION” EACH PARTY’S TOTAL LIABILITY UNDER THIS AGREEMENT AND IN RELATION TO ANYTHING WHICH THAT PARTY HAS DONE OR NOT DONE IN CONNECTION WITH THIS AGREEMENT (AND WHETHER THE LIABILITY ARISES BECAUSE OF BREACH OF CONTRACT, NEGLIGENCE, OR FOR ANY OTHER REASON) SHALL BE LIMITED IN AGGREGATE FOR ALL CLAIMS ARISING DURING THE TERM TO AN AMOUNT EQUAL TO ONE HUNDRED TWENTY-FIVE PERCENT (125%) OF THE TOTAL AMOUNT INVOICED BY FORSTA TO CLIENT DURING THE PRECEDING TWELVE (12) MONTHS, EXCLUDING SALES TAX. THE TOTAL LIABILITY OF THE RELEVANT PARTY FOR ANY SPECIFIC EVENT WILL NOT EXCEED THE TOTAL AGGREGATE LIABILITY FOR SUCH PARTY, AS CALCULATED ABOVE, LESS ANY SUMS PAYABLE FOR PREVIOUS EVENTS GIVING RISE TO LIABILITY ON THE PART OF SUCH PARTY THAT HAVE OCCURRED PRIOR TO THE DATE OF THE SPECIFIC EVENT.

FOR AGREEMENTS GOVERNED BY AUSTRALIAN LAW (SEE SECTION 20.1) THE FOLLOWING APPLIES:

- 11.1. NEITHER PARTY’S LIABILITY: (a) FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES OR AGENTS; (b) FOR FRAUD OR FRAUDULENT MISREPRESENTATION; (c) TO PAY AMOUNTS PROPERLY DUE AND OWING UNDER THIS AGREEMENT; OR (d) THAT IS NOT PERMITTED TO BE EXCLUDED OR LIMITED BY APPLICABLE LAW IS EXCLUDED OR LIMITED BY THIS AGREEMENT EVEN IF ANY OTHER TERM OF THIS AGREEMENT WOULD OTHERWISE SUGGEST THAT THIS MIGHT BE THE CASE.
- 11.2. SUBJECT TO SECTIONS 11.1, 11.3, AND 11.4, NEITHER PARTY SHALL BE LIABLE (WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, OR FOR ANY OTHER REASON) FOR ANY: (a) LOSS OF PROFITS; (b) LOSS OF SALES; (c) LOSS OF REVENUE; (d) LOSS OF ANY SOFTWARE OR TRANSIENT DATA; (e) LOSS OF USE OF HARDWARE, SOFTWARE, OR TRANSIENT DATA; (f) WASTED ADMINISTRATIVE TIME; (g) COST OF PROCURING OR MIGRATING TO SUBSTITUTE SERVICES, OR (h) INDIRECT, CONSEQUENTIAL, OR SPECIAL LOSS.
- 11.3. WITHOUT LIMITING SECTION 11.1(d), UNDER AUSTRALIAN CONSUMER LAW (THE “ACL”), CONSUMERS HAVE CERTAIN RIGHTS WHICH CANNOT BE EXCLUDED, INCLUDING GUARANTEES AS TO THE ACCEPTABLE QUALITY AND FITNESS FOR PURPOSE OF GOODS AND SERVICES. NOTHING IN THIS AGREEMENT WILL BE READ OR APPLIED SO AS TO EXCLUDE, RESTRICT, OR MODIFY OR HAVE THE EFFECT OF EXCLUDING, RESTRICTING, OR MODIFYING ANY CONDITION, WARRANTY, GUARANTEE, RIGHT, OR REMEDY IMPLIED BY THE ACL AND WHICH BY LAW CANNOT BE EXCLUDED, RESTRICTED, OR MODIFIED, EVEN IF ANY OTHER TERM OF THIS AGREEMENT WOULD OTHERWISE SUGGEST THAT THIS MIGHT BE THE CASE.
- 11.4. SUBJECT TO SECTION 11.3 AND TO THE EXTENT PROVIDED BY LAW, IF FORSTA FAILS TO COMPLY WITH A STATUTORY GUARANTEE WHICH BY LAW CANNOT BE EXCLUDED THEN TO THE EXTENT THE LAW PERMITS IT TO LIMIT ITS LIABILITY IN RESPECT OF SUCH FAILURE ITS LIABILITY IS LIMITED TO: (a) IN THE CASE OF GOODS, THE REPLACEMENT OR REPAIR OF THE GOODS OR SUPPLY OF EQUIVALENT GOODS, OR THE PAYMENT OF THE COST OF HAVING THE GOODS REPLACED OR REPAIRED OR THE COST OF ACQUIRING EQUIVALENT GOODS; AND (b) IN THE CASE OF SERVICES, THE SUPPLY OF THE SERVICES AGAIN, OR THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN.
- 11.5. SUBJECT TO SECTIONS 11.1 AND 11.2, AND WITH THE EXCEPTION OF: (a) ANY BREACH OF SECTION 10.1 “APPLICABLE LAWS”; OR (b) ANY LIABILITY UNDER ARTICLE 12: “INDEMNIFICATION”; OR (c) ANY LIABILITY UNDER ARTICLE 13: “CONFIDENTIAL INFORMATION”; OR (d) ANY LIABILITY REFERRED TO IN SECTIONS 11.3 AND 11.4, TO THE EXTENT PERMITTED BY LAW, EACH PARTY’S TOTAL LIABILITY UNDER THIS AGREEMENT AND IN RELATION TO ANYTHING WHICH THAT PARTY HAS DONE OR NOT DONE IN CONNECTION WITH THIS AGREEMENT (AND WHETHER THE LIABILITY ARISES BECAUSE OF BREACH OF CONTRACT, NEGLIGENCE, OR FOR ANY OTHER REASON) SHALL BE LIMITED, IN AGGREGATE FOR ALL CLAIMS ARISING DURING THE TERM TO AN AMOUNT EQUAL TO ONE HUNDRED TWENTY-FIVE PERCENT (125%) OF THE TOTAL AMOUNT INVOICED BY FORSTA TO CLIENT DURING THE PRECEDING TWELVE (12) MONTHS, EXCLUDING SALES TAX. THE TOTAL LIABILITY OF THE RELEVANT PARTY FOR ANY SPECIFIC EVENT WILL NOT EXCEED THE TOTAL AGGREGATE LIABILITY FOR SUCH PARTY, AS CALCULATED ABOVE, LESS ANY SUMS PAYABLE FOR PREVIOUS EVENTS GIVING RISE TO LIABILITY ON THE PART OF SUCH PARTY THAT HAVE OCCURRED PRIOR TO THE DATE OF THE SPECIFIC EVENT.

12. INDEMNIFICATION

- 12.1. Client shall defend and hold Forsta and its Affiliates harmless from, and indemnify Forsta and its Affiliates against, all Losses suffered or incurred by it or them as a result of any third-party claim arising out of or related to any allegation that the proper executions by Forsta of Client’s instructions, or any Client Materials, constitute actual or alleged infringement of any IPR or third-party rights, are defamatory, breach any right to privacy, or are otherwise unlawful.
- 12.2. Forsta shall defend and hold Client harmless from, and indemnify Client against, all Losses suffered or incurred by it or them as a result of any third-party claim that Client’s access to or use of the Licensed Materials, in accordance with the terms of this Agreement, infringes any IPR in Australia, New Zealand, Canada, the United States, or any country belonging to the European Economic Area. Notwithstanding anything to the contrary herein, Forsta will have no obligation under this Section or otherwise with respect to any infringement claim based upon any Client Materials.
- 12.3. The indemnification obligations contained in this Article 12 are subject to the party requesting indemnification (the “**Indemnified Party**”):
 - 12.3.1. promptly notifying the other party (the “**Indemnifying Party**”) of any claim or litigation that is subject to such indemnification obligation; and

12.3.2. not making any admission or statement or taking any action that will cause an increase to the Indemnified Party's liability; and

12.3.3. permitting the Indemnifying Party, at its election, to control the defense or settlement of any such claim or litigation, provided always that no settlement may be made by Indemnifying Party that involves an admission of liability on the part of the Indemnified Party without such Indemnified Party's prior written consent, which shall not be unreasonably withheld or delayed. The Indemnified Party shall have the right, at its own expense, to participate in the defense of any such claim or litigation through counsel of its own choosing and shall in any event cooperate reasonably with the Indemnifying Party in the defense of such claim or litigation.

12.4. If at any time an allegation of infringement of any third-party rights is made or in Forsta's opinion is likely to be made in respect of the Licensed Materials, Forsta may at its own expense:

12.4.1. obtain for Client the right to continue using the Licensed Materials; or

12.4.2. modify or replace the Licensed Materials so as to avoid infringement; or

12.4.3. in the event Forsta is unable to offer either remedy set out in Sub-Sections 12.4.1 or 12.4.2 at a reasonable cost and within a reasonable time, Forsta may terminate this Agreement and reimburse Client a pro rata share of the unused portion of the fees Client has pre-paid to Forsta under this Agreement and with no continuing obligation for fees owed thereafter in the event of a multi-year Term.

12.5. This Article states the entire liability of either Party with respect to the infringement or alleged infringement of any third-party rights of any kind whatever by the Licensed Materials.

13. CONFIDENTIAL INFORMATION

13.1. Terms regarding mutual confidentiality are set out in Schedule 6.

14. FORCE MAJEURE

14.1. Each Party shall be excused from delays in its performance of or failure to perform its obligations under this Agreement (other than payment obligations) if performance is prevented or delayed by events outside such Party's ordinary business control, including delays or interruptions due to third-party connectivity failure, failure of the internet or of any network, third-party denial-of-service attack, telecommunications, and similar operational failures. However, in the event that a Party's delay in performance or failure to perform due to such events has continued for four (4) weeks or more, the other Party may terminate the Agreement upon ten (10) days' written notice.

15. PERMITTED PURPOSES

15.1. Forsta has the right to monitor and store a record of Service activities in order to maintain uptime and security, to perform support and troubleshooting, for billing purposes, to confirm Client's compliance with the terms of this Agreement, and as otherwise necessary for Forsta to perform under the terms of this Agreement (jointly, the "Permitted Purposes"). Such record of Service activities shall not be used for other than Permitted Purposes.

15.2. Forsta Personnel may access and process Personal Data only for Permitted Purposes, and always in accordance with Section 16.2 below.

16. DATA PROTECTION, SUBCONTRACTORS, DATA BREACH NOTIFICATION

16.1. The Parties acknowledge and agree that (i) Client will be and remain the controller of the Client Materials for purposes of applicable laws relating to data privacy, Personal Data, transborder data flow, and data protection; (ii) Client is the party instructing Forsta in relation to the use of Client Materials for activities including emailing, data collection, and reporting; (iii) Forsta shall be processing Client Materials on Client's behalf; and that (iv) Client determines the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects. Forsta consequently:

16.1.1. does not participate in Client's or Contractors' selection of the individuals targeted by e-mails or questionnaires or individuals to whom data or access to reports is provided;

16.1.2. does not influence or control the type of data and information gathered from individuals or the content of the material displayed to individuals; and

16.1.3. does not influence or control the use and distribution of the data and information collected or inputted by Client or Contractors.

16.2. Forsta:

16.2.1. maintains, and shall ensure that any third-party supplier maintains, appropriate technical and organizational processes to protect: (i) against unauthorized access to such Personal Data; and (ii) against accidental loss or destruction of or damage to such Personal Data held or processed by it at all times in accordance with generally accepted industry practice;

16.2.2. undertakes, and shall ensure that any third-party supplier undertakes, to act only on the instructions of Client or Contractors or as otherwise reasonably necessary for performance of services under this Agreement in relation to the processing of such Personal Data;

16.2.3. is hereby authorized by Client to use, subject to Section 16.2.5, third-party suppliers to manage the SaaS Hosting Environment, as of the Effective Date being Rackspace Inc. (US), Rackspace Ltd. (UK), Rackspace Pty. (Australia), Rackspace affiliates, Iron Mountain (Netherlands), Aptum (US, UK, Canada), and Arcade (Switzerland);

16.2.4. will, where Personal Data is to be processed by third-parties other than Affiliates or other than the third-party suppliers set forth in Section 16.2.3 above, obtain Client's prior written approval;

16.2.5. shall, where it initiates the transfer of Personal Data from the EU/EEA for processing outside of the EU/EEA,

have in place with the entities in Sections 16.2.3 and 16.2.4., as well as with Forsta Affiliates, standard contractual clauses adopted by the EU Commission pursuant to GDPR article 46 (2) c), or other EU approved basis for transfer of Personal Data to third countries;

- 16.2.6. undertakes to inform Client in writing no later than sixty (60) days in advance of replacement of third-party suppliers under Section 16.2.3 or change of location of the SaaS Hosting Environment, and thirty (30) days in advance for replacement of third-party suppliers under Section 16.2.4. If Client objects to such replacement, Client shall without undue delay, but no later than within fifteen (15) days of its receipt of the information, notify Forsta thereof in writing and include explanation of the grounds of its objection. Client shall not object to changes required under applicable law. The Parties undertake to discuss in good faith possible adjustments with the aim of enabling Client to approve the replacement. Should the Parties not be able to reach mutual agreement within either fifteen (15) days of Forsta's receipt of Client's notice or within the time when the intended changes are to be implemented, Client may without penalty terminate, upon written notice, the part(s) of the Sales Orders affected by such objection. In the event of any termination under this Clause 16.2.6 Forsta will, as Client's sole and exclusive remedy, refund the pro rata share of the unused portion of the fees Client has pre-paid to Forsta under the applicable Sales Order and with no continuing obligation for fees owed thereafter in the event of a multi-year Term, as applicable;
 - 16.2.7. will have in place with any third-party suppliers to which Forsta discloses any Personal Data for the purposes of carrying out Forsta's obligations under this Agreement contractual confidentiality and data protection terms equivalent in scope to those set forth in this Agreement and will remain responsible for the acts and omissions of such third-party suppliers under the terms of this Agreement;
 - 16.2.8. will ensure that Forsta's own Personnel authorized by it to process Personal Data under this Agreement have (i) undergone security training appropriate to their roles, and (ii) have committed to confidentiality and data protection terms equivalent in scope to those set forth in this Agreement;
 - 16.2.9. will not disclose to any third-party, other than to Forsta's own Personnel, any Personal Data which comes to its knowledge or possession under or in respect to this Agreement, save as permitted under the terms of the Agreement, and save as Forsta is compelled to disclose by order of a court or other body having similar authority or pursuant to governmental or other regulations;
 - 16.2.10. subject to Sections 7.2 and 7.3 of Schedule 6, and except as reasonably required for the performance of its obligations under the Agreement or as required by law, agrees it will not, and shall ensure that any third-party supplier responsible for the SaaS Hosting Environment will not, retain any copy, abstract, précis, or summaries of any such Personal Data beyond the Term;
 - 16.2.11. shall make reasonable efforts to provide Client with information necessary to assist Client in Client's efforts to comply with applicable data protection legislation and for Client to respond to inquiries from data protection authorities and Respondents. Forsta shall upon Client's request and at no cost to Client provide Client with (i) Forsta's standard security documentation; (ii) available reports of internal or third-party performed application and vulnerability scans of the Service; (iii) records of processing activities and (iv) respond to follow-up questions in relation to the foregoing. Any assistance beyond the foregoing, such as but not limited to Forsta's provision of assistance to Client in relation to Client's security audits and reviews, notification obligations, data protection impacts assessments, consultation with data protection authorities and exercise of Respondent rights pursuant to applicable law, shall be subject to terms and costs to be agreed mutually in writing between the Parties;
 - 16.2.12. shall, upon receipt of a request from a data subject (a "DSR") invoking rights under applicable laws to its Personal Data held by Client, inform Client of the DSR within five (5) business days and provide relevant information reasonably requested by Client. Assistance under this clause 16.2.12 may be chargeable to the extent Client is able to address the DSR at its own initiative by using the Service or other tools and software provided to it under this Agreement; and
 - 16.2.13. shall without undue delay upon becoming aware notify Client of any data breach related to Personal Data where the aforementioned results or is likely to result in accidental, unlawful or unauthorized access or modification to, or use or disclosure of, Personal Data, except to the extent the data breach is unlikely to result in a risk to the rights and freedoms of natural persons impacted by it. To the extent the data breach is the responsibility of Forsta, Forsta shall at no cost to Client provide assistance to reasonably support Client's efforts to comply with applicable data breach requirements under applicable laws and regulations.
- 16.3. Client:
- 16.3.1. undertakes that it (i) has sufficient legal basis to process Personal Data, including sufficient legal basis to instruct Forsta to process Personal Data; (ii) is responsible for the accuracy integrity, content, reliability, and legality of the Personal Data; (iii) complies with applicable laws on notification to and authorization from relevant data protection authorities; and (iv) informs Respondents where required in accordance with applicable law;
 - 16.3.2. shall document its instructions to Forsta in writing whereas Client's self-service use of the Service shall be deemed to be documented instructions;
 - 16.3.3. shall promptly address all matters related to privacy, data protection, DSRs, spam, and similar issues which are brought to Client's attention by data subjects, third parties or by Forsta and arising out of Client's use of the Service; and
 - 16.3.4. understands and agrees that, notwithstanding anything to the contrary in the Agreement, proper data protection is also contingent on Client (i) ensuring that all of its Designated Users take all appropriate legal, organizational, and

technical measures to protect Client's Personal Data, keeping in mind the nature of such data; and (ii) utilize at their own initiative the security features available in the Service.

17. TERMINATION RIGHTS

- 17.1. Each Party shall have the right without prejudice to its other rights or remedies and without being liable to the other Party for any loss or damage which may be occasioned to terminate this Agreement immediately by written notice to the other if the other is in material or persistent breach of this Agreement and either that breach is incapable of remedy or such other Party shall have failed to remedy that breach within fifteen (15) days after receiving written notice requiring it to do so.
- 17.2. Client shall be deemed to be in material breach if, without limitation, Client:
 - 17.2.1. grants or occasions any individuals, other than Designated Users or those allowed under Article 5, to access to or use of the Service; or
 - 17.2.2. uses or permits the use of the Service in breach of the terms of this Agreement; or
 - 17.2.3. fails to pay Uncontested Invoices in a timely manner in accordance with Schedule 2, Article 3 and thereafter fails to cure the payment default within ten (10) business days after Client receives written notice of the default from Forsta; or
 - 17.2.4. misappropriates the Forsta IPR.
- 17.3. Either Party may terminate the Agreement on written notice, effective immediately, if the other Party becomes insolvent, makes composition with its creditors, has a receiver or administrator of its undertaking or the whole or a substantial part of its assets appointed, or an order is made, or an effective resolution is passed, for its administration, receivership, liquidation, winding-up, or other similar process, or has any distress, execution, or other process levied or enforced against the whole or a substantial part of its assets, which is not discharged, paid out, withdrawn or removed within twenty eight (28) days, or is subject to any proceedings which are equivalent or substantially similar to any of the foregoing under any applicable jurisdiction, or ceases to trade or threatens to do so.
- 17.4. The termination or expiration of the Agreement shall terminate all of the rights of Client and Contractors to use the Licensed Materials but shall be without prejudice to the rights and obligations of each Party which may have accrued before the date of termination or expiration.
- 17.5. The termination or expiration of this Agreement will not affect the coming into force or the continuation in force of any of its provisions that expressly or by implication are intended to come into force or continue in force on or after termination or expiration. Without prejudice to the foregoing, Articles 9, 11, 12, 13, 20, 21 and 22 shall survive termination or expiration of this Agreement.

18. TAXES

- 18.1. Client agrees to pay all sales (including value added tax), use, ad valorem, personal property, or general intangibles tax and any registration fees arising out of this Agreement and the use of the Service contemplated herein except for any taxes or fees based upon the net income of Forsta.
- 18.2. Client shall not deduct from payments to Forsta any taxes paid or payable to third parties, however designated, unless required to do so by applicable law, in which event Client shall promptly provide to Forsta the documentation related to Client's payment of such taxes sufficient to enable Forsta to make a valid claim for the repayment of such sums from said third-party.

19. ASSIGNMENT

- 19.1. Neither Party may assign any rights or delegate any obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either Party may assign this agreement without the other's consent to (a) an affiliate; or (b) to any person, firm, organization, corporation, or other entity which succeeds to the business of either Party by acquisition, merger, reorganization, or otherwise; upon prior written notice and provided such successor entity: i) is not a direct competitor of the non-assigning Party; ii) has the financial viability to perform the respective obligations under this Agreement; and (iii) agrees in writing to be bound by, and subject to, this Agreement.
- 19.2. The right to receive payments under this Agreement may be freely assigned by Forsta to any third-party for purposes of debt collection.
- 19.3. Any assignment or attempted assignment contrary to the terms of this Article will be a material breach of this Agreement and shall be null and void. This Agreement will be binding upon the successors, legal representatives and permitted assigns of the Parties.

20. GOVERNING LAW

- 20.1. This Agreement shall be construed in accordance with and governed by the laws of, and resolution of any disputes arising from or related to this Agreement shall be subject to exclusive jurisdiction of the courts located in, one of the following based on the Forsta Entity entering into this Agreement as stated in the Sales Order:

Confirmit AS	Norway.
Confirmit Ltd or FV Europe LTD	England and Wales.
Confirmit, Inc.	The State of New York not including its choice of law provisions.
FocusVision Worldwide, Inc.	The State of California not including its choice of law provisions.
Confirmit Australia Pty Ltd.	New South Wales, Australia.
Confirmit Solutions Inc.	British Columbia, Canada.
Dapresy D.O.O.	Bosnia & Herzegovina.

Dapresy AB	Sweden.
Dapresy Deutschland GmbH	Germany.

20.2. THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THIS AGREEMENT OR THE SUBJECT MATTER HEREOF.

21. NOTICES

- 21.1. Notices required under this Agreement shall be in writing and addressed to the relevant Party at its address as indicated on the first page of this Agreement or as later updated in writing by such Party. Notices required for termination by Sections 2.2, 10.4, 10.7, Sub-Section 12.3.1, Section 14.1, Sub-Section 16.2.6, and Article 17 shall be by certified mail or by reputable overnight courier delivery, charges pre-paid.
- 21.2. Any communication between the Parties with regard to this Agreement, including any negotiations, notices, disputes, or legal proceedings, shall be made and held in the English language.

22. MISCELLANEOUS

- 22.1. Any use of the word “including” in this Agreement shall mean “including but not limited to”.
- 22.2. If any term(s), provision(s), covenant(s), or condition(s) of this Agreement is held by a court or other tribunal of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions herein shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.
- 22.3. This Agreement contains the entire agreement between the Parties relating to its subject matter and supersedes any previous agreement, communication, representation, or promise, whether written or oral. Nothing in this Section 22.3 limits or excludes liability for fraudulent misrepresentation.
- 22.4. All waivers must be in writing. A waiver of or failure to enforce a provision of or right under this Agreement on one or more occasions shall not be deemed a waiver of that provision or right nor of any other provision or right under this Agreement on any future occasion.
- 22.5. The Parties shall have the status of independent contractors relative to each other, and nothing herein shall be deemed to place the Parties in the relationship of employer-employee, principal-agent, franchisor-franchisee, partners, or parties in a joint venture.
- 22.6. The headings of the Articles, Sections, and Sub-Sections of this Agreement are included for convenience and are not to be used in interpreting the Agreement.
- 22.7. By the execution of this Agreement, Client and Forsta agree to cooperate in good faith to produce a press release or a case study, subject always to Client’s prior approval.
- 22.8. The Parties agree that electronic signatures or scanned images of signatures are the same as original signatures and that digital images of this Agreement shall be as valid as an original. This Agreement may be executed as counterparts, each of which is deemed an original, and all of which together constitute one agreement. The signature of all Parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other Party to this Agreement.
- 22.9. Changes and additions to this Agreement shall only be valid when made in writing and signed by authorized representatives of both Parties.
- 22.10. No term of this Agreement is intended to confer a benefit on or to be enforceable by any person who is not a Party to this Agreement.

**SCHEDULE 1
DOCUMENTATION & SYSTEM REQUIREMENTS**

1. DOCUMENTATION

- 1.1. Documentation will be made available to Client (a) under Manuals at <https://portal.dapresy.com/> or (b) as delivered by Forsta to Client.
- 1.2. Without prejudice to the last sentence of Section 2.1 of the Terms and Conditions of the Agreement, the Documentation is subject to ongoing changes so to properly reflect the Software version at any time available via the Service, provided however that Designated Users will receive newsletters with information on main changes and improvements to the Software.

2. SYSTEMS REQUIREMENTS

- 2.1. In order to access and use the SaaS Service, the workstations of Designated Users and of those using Third Party Accesses must comply with the requirements (the "System Requirements") applicable at any time, available at: <http://www.confirmit.com/legal>. The System Requirements are subject to change. Changes in System Requirements will take effect no less than thirty (30) days after information thereof is provided by e-mail to Designated Users. System Requirements will not reduce limits in place as of the Effective Date, but new limits may be introduced in relation to (i) new features provided to the SaaS Service; (ii) maintaining or improving security; and (iii) updating third party components no longer supported.

**SCHEDULE 2
FEES, CHARGES, PRICING, & PAYMENT**

1. FEES FOR DAPRESY SOFTWARE

- 1.1. Client shall pay to Forsta the fees mutually agreed in the applicable Sales Order(s), including:
 - 1.1.1. *License Fees*, payable in advance for each one-year license term.
 - 1.1.2. *Fees for Additional Services*, payable as set forth in the Sales Order.

2. PRICE CHANGES

- 2.1. Price increases may only take effect at the beginning of each Term Extension, provided that Forsta has informed Client in writing via Sales Order, e-mail, or otherwise of the increase no later than forty-five (45) days before the expiration of the Initial Term or the then-current Term Extension, as the case may be.
- 2.2. Where Client upon renewal reduces purchased amounts for a product (e.g. Units, User IDs, Third Party Accesses, or similar) compared to a previous purchase, the unit cost of such licensed components may increase. Such unit cost increase shall not be deemed to be a price increase under Section 2.1 above.

3. PAYMENT

- 3.1. License Fees and Dapresy Unit Fees are payable in full at the beginning of each one-year period. Subsequent purchases of such elements during any one-year period are invoiced at the time of purchase or otherwise as agreed between the Parties.
- 3.2. Payments shall be made no later than thirty (30) days after receipt by Client of an Uncontested Invoice for the fees and charges in question.
- 3.3. If Client fail to pay an Uncontested Invoice when due, Forsta shall be entitled to late charges at the rate of ten percent (10%) per annum of the unpaid balance from the date the invoice originally came due. Imposition of late charges shall be without prejudice to Forsta's right to seek other remedies.
- 3.4. If payment of any Uncontested Invoice to Forsta is delayed for more than ten (10) days after a payment reminder having been sent to Client, Forsta reserves the right without prejudice to any other right or remedy and without any liability to Forsta to immediately withhold Support to Client and to suspend parts of or all access to the Service granted hereunder until such payments have been received by Forsta. For clarity, any suspension of Support or access to the Service occasioned by Client's failure to make correct payment shall not remove Client's obligation of payment hereunder in respect of such period of suspension, and the suspension shall not cause the last date of the current period of the Agreement to be changed.

4. MERGERS AND ACQUISITION

- 4.1. This Article 4 shall apply if during the Term directly or indirectly Client: (i) acquires, merges, or consolidates with or is acquired by, merged, or consolidated into any other entity; or (ii) acquires all or a substantial proportion of the assets of another entity (either of the foregoing an "**M&A Event**"), and such other entity was at the time of the M&A Event an existing licensee of the Licensed Materials (irrespective of version or whether a SaaS or on-premise model) (a "**Relevant Entity**").
- 4.2. Upon occurrence of an M&A Event, Client shall, subject to Section 4.3 below, be entitled to: (i) permit any Relevant Entity to access and use Licensed Materials subject to the terms of this Agreement; and (ii) use (or permit any of Client's Affiliates to use) Licensed Materials on behalf of any such Relevant Entity or the assets of any such Relevant Entity. The agreement and sales orders of the Relevant Entity (the "**Entity Terms**") shall remain in full force and effect until they terminate or expire in accordance with such Entity Terms.
- 4.3. Where 4.2(i) or (ii) above apply, Client shall pay the following based on the total fees invoiced to the Relevant Entity in respect of the 12-month period immediately preceding the M&A Event ("**Relevant Entity Fees**"): (i) for the first year following the M&A Event, the agreed price for any Licensed Materials used by that Relevant Entity but in any case not less than seventy-five percent (75%) of the Relevant Entity Fees; and (ii) for the second year following the M&A Event, the agreed price for any Licensed Materials used by that Relevant Entity but in any case not less than fifty percent (50%) of the Relevant Entity Fees. By way of example, if the remaining license period under the Entity Terms at the M&A Event is nine (9) months, then fees under the Entity Terms shall remain due for those nine (9) months until the Entity Terms expire; then additionally Client shall pay no less than seventy-five percent (75%) of the Relevant Entity Fees outlined above prorated for three (3) months and then no less than fifty percent (50%) of the Relevant Entity Fees for the next twelve (12) months thereafter.
- 4.4. In exchange for the fees paid by Client in accordance with Sections 4.3 (i) and (ii) Client shall be entitled to request and obtain for the relevant license period Licensed Materials up to that value calculated using the same product price levels as those agreed in the applicable Client Sales Order under this Agreement.

5. CPI ADJUSTMENTS

- 5.1. The index to be used in the calculations set forth in Section 2.2 of the Agreement will depend on the denomination selected in the Sales Order and will be:
 - 5.1.1. For NOK, the index will be the KPI Totalindeks published by SSB. The current internet address for this is <http://www.ssb.no/kpi/>.
 - 5.1.2. For GBP, the index will be the All Items Retail Price Index in UK.
 - 5.1.3. For USD, the index will be the United States Department of Labor's Bureau of Statistics "Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items" currently available from <http://www.bls.gov/cpi/tables.htm> (e.g., December 2014 Index was 234.812).

- 5.1.4. For EURO, the index will be the Harmonized Indices of Consumer Prices (HICPs) for “All Item”, code: “EA: EURO Area”. The current internet address for the HICP All Items is:
<http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=teicp000>
For AUD, the index will be the All Groups Consumer Price Index as published by the Reserve Bank of Australia currently found at <http://www.rba.gov.au/inflation/measures-cpi.html>.
- 5.1.5. Where any other denomination is used on the Sales Order, Forsta reserves the right to select and use an appropriate publicly published index.

SCHEDULE 3 SALES ORDER(S)

Any applicable Sales Orders executed by and between the Parties under this Agreement are incorporated herein by reference.

SCHEDULE 4 SUPPORT

1. Support terms applicable to the Service are available from https://docs.dapresy.com/documents/dapresy_user_agreement.pdf and maintenance terms are available in the Dapresy SLA.
2. Client acknowledges and agrees that the Dapresy help desk (dapresysupport@confirmit.com) provides support for all Administrator Users. Contacting support will generate a job ticket and notify multiple Forsta employees of the issue. A response – not necessarily a solution – is typically provided within 2 hours of when the Administrator User contacts the help desk within the published support hours. If the issue is a technical problem, it is escalated to Forsta’s development team who then determine and provide the solution timeline.
3. Support and maintenance for the Service may be provided by a team different than the one supporting the Service.
4. Forsta reserves the right to perform upgrades and maintenance of the Service (including version changes). This may lead to the Service being temporarily unavailable to the Client and respondents.
5. SERVICE ENHANCEMENTS. During the Term of this Agreement and to the extent Forsta deems it necessary Forsta will enhance the Service by upgrading the Software or the equipment supporting the Service. Software upgrades will ensure backwards compatibility unless Client’s Designated Users have been notified otherwise via e-mail or Forsta newsletter no less than ninety (90) days in advance.
6. ADDITIONAL SERVICES
 - 6.1 Subject to availability of Forsta’s resources and subject to the Parties’ agreement concerning pricing and other terms Forsta will upon Client’s request provide Client with Additional Services.
 - 6.1.1 Rates for Additional Services will be set forth in the applicable Sales Order. Forsta shall bill Client for Additional Services in thirty (30) minute increments.
 - 6.2 Additional Services are offered in the four following categories:
 - 6.2.1 **Professional Services/Project and Authoring Assistance/Implementation Services:** Tasks that Client chooses to outsource to Forsta.
 - 6.2.2 **Technical Consultancy/Systems Development:** Tasks such as recovery from backups after deletion caused by client or development of custom tailored functions both in questionnaires and reporting.
 - 6.2.3 **Error correction payable by Client:** Rectification of errors occurring under the conditions mentioned in Section 10.5 of this Agreement.
 - 6.2.4 **On Site Support or User Support outside Standard Support Hours:** Where Client’s Designated Support Contact requests support assistance either at its location or outside Standard Support Hours then this shall be classified as an Additional Service and payable as a consultancy service.
 - 6.2.5 **Training:** Other than initial training and onboarding as set forth in Schedule 8 hereto.
 - 6.3 If a problem Forsta has tried to resolve on the assumption that it falls within the Limited Warranty does not in fact do so, Client shall subject to Client’s prior written approval pay for the Support and other services Forsta has provided to investigate the problem at the rates Forsta ordinarily charges for Additional Services.
7. TRAVEL EXPENSES. Client shall reimburse Forsta for pre-approved (in writing, including e-mail) travel expenses and living expenses (coach airfare, standard hotel, food, and rental vehicle).

SCHEDULE 5 STATEMENTS OF WORK

Any applicable SOWs executed by and between the Parties under this Agreement are incorporated herein by reference.

**SCHEDULE 6
MUTUAL CONFIDENTIALITY TERMS**

1. CONFIDENTIAL INFORMATION

- 1.1. Each Party to this Agreement recognizes that throughout the Term they and their Affiliates may need to disclose to the other Party and its Affiliates certain commercial or technical information, including methodologies, ideas, concepts, analytical techniques, data, templates, software and tools, product details, financial and pricing information, market data, and third-party information, in whatever form such may be disclosed, which information may be proprietary and thus require protection both as to use and as to further disclosure by the Recipient.
- 1.2. **“Confidential Information”** is defined as any information or data in whatever form disclosed by either Party or its Affiliates hereto to the other Party or its Affiliates, which is either designated as Confidential Information by the Disclosing Party by an appropriate stamp, legend, or any other notice in writing, when disclosed orally has been identified as Confidential Information at the time of disclosure, or any other such information which can reasonably be expected to be Confidential Information. For clarity, the Licensed Materials are the Confidential Information of Forsta, and Client Materials are the Confidential Information of Client.

2. THE PARTIES AGREE

- 2.1. The Parties agree that all Confidential Information received from the Disclosing Party remains the property of the Disclosing Party and its licensors and the Recipient undertakes, subject to the exceptions in Article 3 of this Schedule:
 - 2.1.1. to treat and hold as confidential all such information obtained from the other; and
 - 2.1.2. to use such information solely for the purpose for which it was supplied, which unless otherwise stated in writing at time of disclosure by the Disclosing Party means solely in connection with the subject matter of the Agreement; and
 - 2.1.3. not to disclose such information in whole or in part to any third-party without the Disclosing Party's prior written consent and to only disclose such information to its Personnel on a need to know basis who are subject to confidentiality agreements no less restrictive than the confidentiality provisions of this Agreement covering the information and who are informed by the Recipient of the confidential nature of the Confidential Information so received and each Party's confidentiality obligations under this Agreement; and
 - 2.1.4. not to use such information for itself or on behalf of third parties to design, develop, or manufacture similar products or products in competition to those of the Disclosing Party.
- 2.2. Each Party shall use all reasonable efforts to ensure that its Personnel comply with the provisions hereof.
- 2.3. Nothing in this Agreement will prevent either Party from using in any manner whatsoever its own Confidential Information or Confidential Information generated by its own agents, representatives, or employees, including its own Personnel, without the use of the Confidential Information of the other Party.
- 2.4. Recipient is not prohibited from developing or having developed for it information, products, concepts, systems, or solutions (the **“Products”**) that are similar to or compete with the Products of Disclosing Party provided that Recipient does not violate any confidentiality obligations under this Agreement or infringe any IPR.
- 2.5. For the purpose of clarity and further to Sub-Section 2.1.3 in this Schedule any Confidential Information exchanged under this Agreement may be made available by Forsta to employees of its Affiliates and to its and other Forsta group companies' third-party suppliers for the furtherance of the Agreement. Such release of Confidential Information will be strictly on a need to know basis to employees who are subject to written confidentiality agreements protecting the information by terms comparable in scope with the terms of this Schedule 6 and who are informed by Forsta of the confidential nature of the Confidential Information so received and each Party's obligations under this Agreement.
- 2.6. Except as otherwise permitted by this Agreement, Forsta agrees not to publish, advertise, promote or acknowledge activities relating to this Agreement or use any logo or trademark or any other Client's IPR without the prior written consent of Client.

3. EXCEPTIONS

- 3.1. The provisions of Article 2 of this Schedule shall not extend to information:
 - 3.1.1. which was rightfully in the possession of the Recipient prior to receipt from the Disclosing Party; or
 - 3.1.2. which is already public knowledge or becomes so at a future date otherwise than as a result of a breach of this Agreement by the Recipient; or
 - 3.1.3. which is obtained from a third-party free of restriction, such third-party having the right to so disclose; or
 - 3.1.4. which is independently developed by the Recipient without the participation of individuals who have had access to the Confidential Information; or
 - 3.1.5. which is ordered to be released by law or by any court or tribunal of competent jurisdiction, provided that unless prohibited by applicable law or court order Recipient provides the Disclosing Party with prompt written notice of such requirement so that the Disclosing Party may seek a protective order or other appropriate relief. Subject to the foregoing sentence, such Recipient may furnish that portion and only that portion of the Confidential Information that the Recipient is legally compelled or is otherwise legally required to disclose; provided, however, that the Recipient provides such assistance as the Disclosing Party may reasonably request at Disclosing Party's expense in obtaining such order or other relief.

4. OWNERSHIP

- 4.1. No rights, obligations, representations, or terms other than those expressly set forth herein are to be implied from this Agreement.

- 4.2. In particular, without limitation, no license is hereby granted directly or indirectly under any patent, trademark, trade secret, or copyright held by or which is or may be licensable by either Party to the other unless expressly provided in this Agreement.
- 4.3. Furthermore, no intellectual property rights of any kind are transferred from one Party hereto to the other by virtue of this Agreement.
- 4.4. Disclosure of information by either Party hereto to the other in no way constitutes any representation or warranty as to the accuracy of such information, and the Disclosing Party shall in no way become liable for any loss or damage suffered by the Recipient due to any inaccuracy in such.

5. VALIDITY

- 5.1. The Parties' confidentiality obligations shall continue to apply notwithstanding the termination of this Agreement for whatever reason.

6. UNAUTHORIZED DISCLOSURE

- 6.1. The standard of care for protecting Confidential Information imposed on the Recipient will be that degree of care the Recipient uses to prevent disclosure, publication, or dissemination of its own Confidential Information of a like or similar nature but not less than reasonable care.
- 6.2. If either Party loses or makes unauthorized disclosure of the other Party's Confidential Information, it shall notify such other Party promptly and take all steps reasonable and necessary to retrieve the lost or improperly disclosed information.
- 6.3. Notwithstanding any other provision herein, each Party acknowledges that any breach of these mutual confidentiality terms cannot be fully compensated by monetary damages and agrees that the Parties shall have the right to seek injunctive relief in the event of any breach hereof in addition to damages and any and all other remedies at law or equity.

7. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

- 7.1. Upon request at any time during or after the Term each Party shall subject to any legal or regulatory obligations imposed upon the Recipient requiring it to retain copies of specific Confidential Information return such Confidential Information of the other or delete, destroy, and make permanently unusable such Confidential Information and upon written request of the other Party certify destruction in writing within ten (10) days. Any request by Client for Forsta to return Confidential Information stored on the Service shall be subject to the fees for Additional Services, subject to Forsta having enabled Client throughout the Term to export such Confidential Information via the Service at Client's own initiative and at no additional cost to Client.
- 7.2. No later than sixty (60) business days after the termination or expiration of this Agreement, Forsta shall permanently delete all Client Materials stored on the Service and shall not continue to hold or process such deleted information.
- 7.3. Notwithstanding anything to the contrary herein, copies of the Confidential Information made incidental to normal backup of the Recipient's computer network, including the Service, are not required to be returned or destroyed; provided, however, that any such Confidential Information so retained shall remain subject to the confidentiality and data protection provisions contained herein for so long as it is retained by the Recipient.

SCHEDULE 7 DEFINITIONS

1. The following definitions shall be applicable to the terms used in the text of this Agreement unless expressly stated otherwise in the text.
 - 1.1. **Add-On:** A specialized module which may be offered to Client as an option during the Term upon terms and fees mutually agreed between the Parties.
 - 1.2. **Additional Services:** Professional services, such as any contracted implementation services, training (other than initial training and onboarding) and other consulting services in relation to the Service, project and authoring assistance, technical consultancy, systems development, error correction payable by Client, and onsite Support or user Support outside Standard Support Hours.
 - 1.3. **Administrator User:** a user, assigned Administrator User ID.
 - 1.4. **Administrator User ID:** a type of Dapresy User ID, allowing a user to perform the following processes: (i) create projects; (ii) import data; (iii) design dashboard; and (iv) distribute dashboards to persons having Report User IDs, to the extent supported by the features available in the version (Professional versus Enterprise) licenses by Client.
 - 1.5. **Affiliate:** With respect to any first entity, any second entity Controlling, Controlled by, or under common Control with that first entity now or in the future. As used in this definition, "Control" and its derivatives means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a corporation, person, or other entity whether through the ownership of voting securities, by contract, or otherwise.
 - 1.6. **Article:** A portion of this document identified by a number at the first (1st) level (e.g. "1", "2", "23", or similar). An Article will also comprise all subordinate levels of text within the bounds of that Article.
 - 1.7. **AUP:** Forsta's acceptable use policy that sets forth usage guidelines as well as the types of activities from which Client, Contractors, and their Designated Users must refrain as stated at https://docs.dapresy.com/documents/dapresy_user_agreement.pdf.
 - 1.8. **Client Materials:** In relation to Client's use of the Licensed Materials under this Agreement: (a) any surveys, questionnaires, reports, e-mail addresses, information, content, images, files, data including Personal Data, or other

materials created in, collected into, inputted to, or imported into the Service by or on behalf of Client; (b) any materials in any format or medium whatsoever furnished to Forsta by or on behalf of Client under this Agreement; or (c) any application Client builds to interact or interface with the Software, e.g. through the APIs. For the purpose of this definition, any reference to Client shall include any Contractor working on Client's behalf.

- 1.9. **Confidential Information:** Defined in Schedule 6, Section 1.2.
- 1.10. **Contractors:** Individuals not directly employed by Client or third-party organizations; any of the foregoing having been engaged by Client to access the Licensed Materials as permitted under this Agreement, and any of the foregoing being subject to substantially the same level of controls by Client as applied to its employed personnel, including non-disclosure agreements, and provided always such individuals or third-party organizations are not in the business of developing data collection or reporting software.
- 1.11. **Designated Users:** Defined in Section 4.1.
- 1.12. **Disclosing Party:** The party who discloses Confidential Information to a Recipient.
- 1.13. **Documentation:** Any manuals, instructions, or other documents or materials that Dapresy or Forsta provides or makes available to Client in any form or medium and which describe the functionality, components, features, or requirements of the Service, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof, available under Manuals at <https://portal.dapresy.com/>.
- 1.14. **GDPR:** Regulation (EU) 2016/679 of the European Parliament and of the Council, in effect as of May 25th 2018.
- 1.15. **Dapresy Unit:** The units utilized by Client in its use of the Service, as set forth in Schedule 2.
- 1.16. **Dapresy Unit Fee:** The monetary fee associated with the purchase of a specific number of Dapresy Units.
- 1.17. **IPR:** Intellectual property rights including patents, copyrights, design rights (both registered and unregistered), trade marks (both registered and unregistered), service marks, trade secrets, know-how, database rights, rights in domain names, and rights to all applications for any of the foregoing anywhere in the world.
- 1.18. **License Fees:** The fees set forth in Sales Order(s) and relating to licenses for Software components, including base licenses, user seats, Add-Ons, User IDs, Third Party Accesses, and storage levels.
- 1.19. **Licensed Materials:** Collectively, the Software, the Service, and the Documentation.
- 1.20. **Losses:** All losses, liabilities, demands, claims, judgments, awards, damages, amounts payable in settlement, costs, and expenses (including all reasonable legal and other professional fees, expenses, and disbursements).
- 1.21. **Malicious Code:** Any virus, worm, Trojan horse, time bomb, spyware, or other malicious code intended to interrupt, corrupt, disable, or damage computer programs, systems, environments, or data, or to permit unauthorized access thereto but not software keys or other code designed to ensure compliance with applicable time-limited licenses.
- 1.22. **Sales Order:** The Forsta issued form utilized for licensing and for renewals to be signed by both Parties or their respective Affiliates to be valid and which is incorporated into this Agreement by reference.
- 1.23. **Parties:** Jointly, Client and Forsta (and each, individually, a "Party").
- 1.24. **Personal Data:** For agreements governed by US law, personal data shall include any "non-public personal information" as that term is defined in the Gramm-Leach-Bliley Act found at 15 USC Subchapter 1 §6809(4), and "protected health information" as defined in the Health Insurance Portability and Accountability Act found at 45 CFR §160.103. For agreements governed by the laws of any country belonging to the European Economic Area, personal data shall have the meaning given to it in the GDPR. For agreements governed by Australian law, personal data shall include information or an opinion about an identified individual or an individual who is reasonably identifiable: (a) whether the information is true or not; and (b) whether the information or opinion is recorded in a material form or not.
- 1.25. **Personnel:** Each Party's employees and the employees of each Party's Affiliates. Further, any agents, contractors, and third-party suppliers permitted to act on behalf of each Party and its respective Affiliates under the terms of this Agreement.
- 1.26. **Recipient:** The party who receives Confidential Information from a Disclosing Party.
- 1.27. **Report User:** a user, assigned a Report User ID.
- 1.28. **Report User ID:** a type of Dapresy User ID, allowing a user to view online cross tables and dashboards with access to filtering, export options along with access to Open-End and StoryCreator tools depending upon the access rights granted by the Administrator User to the Report User.
- 1.29. **Reportal:** A set of features in the Software related to creation and deployment of reports via the Service.
- 1.30. **Respondent:** An individual who responds to survey(s) which Designated Users have made available via e-mail invitations, pop-ups, links on homepages, or similar means. Access can be either via a public link, a unique link, or password protected access. A "data subject", as defined in the GDPR, shall be deemed a Respondent in this Agreement.
- 1.31. **SaaS Hosting Environment:** The multitenant server environment, outsourced to a third-party as of the Effective Date, where Forsta hosts the Software made accessible via the internet on a subscription basis.
- 1.32. **Section:** A portion of this Agreement identified by a number at the second (2nd) level (e.g. "1.1", "2.2", "23.6", or similar). A Section will also comprise all subordinate levels of text within the bounds of that Section.
- 1.33. **Service:** Access to use the Software on the selected multitenant Forsta SaaS Hosting Environment.
- 1.34. **Service Enhancements:** Enhancements made to the Service by means of new or updated code deployed to the Service, including error correction, software modifications, and new versions to the extent and at a frequency Forsta at its reasonable discretion deems necessary.
- 1.35. **Software:** Forsta's proprietary Dapresy software, including software originally developed or owned by other companies, as specified in the applicable Sales Order(s) and being licensed to Client under this Agreement in object code form only as described in the Documentation for that specific Software but excluding source code material and all preparatory design material.

- 1.36. **Sub-Section:** A portion of this document identified by a number at the third (3rd) level (e.g. “1.1.1”, “2.2.2”, “23.6.3”, or similar). A Sub-Section will also comprise all subordinate levels of text within the bounds of that Sub-Section.
- 1.37. **Term:** The Initial Term and all subsequent Term Extensions shall collectively be known as the Term.
- 1.38. **Term Extension:** Immediately subsequent licensing periods after the Initial Term. Each Term Extension will commence on expiration of the previous Term Extension or in the case of the first Term Extension on expiration of the Initial Term and will have a duration of no less than twelve (12) months.
- 1.39. **Third Party Access:** The method made available by Designated Users to Respondents and to other parties by which individuals are permitted to access parts of the Service without using a User ID. Third Party Accesses are uniquely named access details used to access, look at, and use reports and dashboards deployed via the Service by Report Viewers (RVA), Report Designers (RDA), Report Analysts (RAA), Survey Dashboard Viewers (SDVA), and similar. Some features (including those in Active Dashboards and Action Management) may be offered as Add-Ons.
- 1.40. **Transient Data:** Data inadvertently or accidentally deleted from the Service for reasons related to SaaS Hosting Environment failures before the daily backup was scheduled to be completed as set forth in Sub-Section 1.1 of Schedule 5, limited to the last twenty-four (24) hours of data that has not yet been backed up by Forsta.
- 1.41. **Uncontested Invoice:** An invoice for which Client has not provided Forsta with any written notification contesting in good faith such invoice within thirty (30) days after receipt of said invoice. If Client fails to make such notification, Client will thereafter raise no objection to said invoice and will make full payment in accordance with it.
- 1.42. **User ID:** The unique access details issued to and used by each individually authorized Designated User for accessing and use of the Service. User IDs are offered with different permissions levels at different price levels as specified in the applicable Sales Order. User IDs include Administrator User ID and Report User ID.

**SCHEDULE 8
DAPRESY SERVICE**

1. INTRODUCTION

- 1.1. The Software as of the Effective Date provides features for production and reporting of market research and customer/employee experience studies with capabilities for cross tabulation, PowerPoint production, infographic online distributed dashboards and closed loop customer feedback via modules such as StoryTeller, StoryCreator, CrossTab and MyStories.
- 1.2. The terms and conditions herein are supplementary to the terms of the Agreement. Where the provisions of this Schedule, or the applicable Sales Order or SOW differ from or conflict with the provisions of the Agreement, the provisions of this Schedule, the applicable Sales Order and SOW shall control.
- 1.3. To the extent the documents available from URLs included in this Schedule include defined terms, such defined terms shall apply solely in relation to those specific documents. To the extent those same documents include capitalized terms that are not defined therein, or herein, the Parties agree that a reasonable interpretation shall be made thereof taking into account the nature of the Service and the context in which the Service is offered and used. To the extent that the definitions used therein conflict with the definitions set forth in this Schedule, the definitions set forth in this Schedule shall control.
- 1.4. The URLs included in this Schedule and pointing to dapresy.com domains may be substituted with other URLs upon Forsta providing written information thereof to Designated Users.
- 1.5. Any reference to the “Agreement” herein shall include Schedules, Addenda, Sales Orders, SOWs, and any other documents executed between the Parties and making reference to the Agreement.

2. THE DAPRESY SERVICE

- 2.1. Client is granted access to, and use of, the Service subject to the terms of the Agreement, this Schedule, and any related Sales Order.
- 2.2. Should Client require running the Software on models other than SaaS Hosting Environment, which, as described herein, is a standard multitenant SaaS model, the Parties shall mutually agree in writing to the applicable terms and costs thereof.
- 2.3. Forsta may at its reasonable discretion, upon informing the Designated Users, embed the Dapresy Software into Forsta’s Horizons SaaS platform, and change the access method to be via Forsta’s Horizons SaaS platform.

3. PERMITTED USE OF THE LICENSED MATERIALS

- 3.1. The provisions set forth in Article 5 of the Agreement titled “Permitted Use” shall fully apply to the Service, subject however to the adjustments for specific functionality of the Software, described in the Documentation.
- 3.2. Client shall, and shall ensure that all users, use the Service as described in the Documentation or in the applicable SOW.

4. DATA PROTECTION AND SECURITY STANDARDS

- 4.1. Client represents and warrants that at all times during the Term, Client has obtained and will continue to maintain all the necessary valid and binding right, license and consents to use, copy, modify, manipulate, distribute, share, process and analyze any Client Materials being provided by or on behalf of Client for processing via the Service, and for Forsta to process such data in accordance with the terms of the Agreement and this Schedule.
- 4.2. As it pertains to any terms and conditions relating to security and data protection agreed to between the Parties as part of the Agreement, Client acknowledges and agrees that, notwithstanding anything to the contrary in the Agreement or in any other signed writing between the Parties, as of the Effective Date (i) the Personal Data to be processed via the Service will

be processed and hosted on servers (including cloud servers) managed by or on behalf of Forsta; (ii) the location of the Service shall be agreed in writing between the Parties at Effective Date, and selected amongst those offered by Forsta at such; (iii) the terms of the Agreement applicable to the replacement of third-party suppliers managing the SaaS Hosting Environment, or change of the location of the SaaS Hosting Environment, shall also apply to the Service; (vi) Forsta's Personnel is hereby permitted by Client to process Client Personal Data provided that such processing shall be restricted to the purposes outlined in this Schedule and in the Agreement, and always subject to confidentiality, data protection and security standards comparable in scope with those set forth herein. Where processing of Personal Data by Forsta and Dapresy Affiliates takes place outside of the European Economic Area ("EEA"), such Affiliates shall have entered into between themselves the European Union Standard Contractual Clauses ("SCCs") in accordance with the EU General data Protection Regulation ("GDPR") article 46 (2) c. Upon Client's request, Forsta shall provide a copy of the signed agreements to Client; and (vii) to the extent Client's Personal Data originating from data subjects within the EEA is being processed by subprocessors of Forsta or Dapresy outside of the EEA, Forsta or Dapresy, as applicable, shall have (x) assessed that such international data transfers are permitted under the GDPR, such as in accordance with the EU Commission's adequacy decisions or other approved transfer models, or (y) have entered into SCCs with such subprocessors, in accordance with the GDPR.

- 4.3. The operational, security and data protection standards for the Service shall throughout the Term be substantially aligned with those available here: <https://dapresy.freshdesk.com/support/solutions/folders/7000040738>.

5. PRICING AND FEES

- 5.1. The pricing applicable to the use of the Service, as well as any implementation services, training and other consulting services, shall be set out in a Sales Order, SOW or other ordering document agreed to and signed by the Parties. For the avoidance of doubts, provisions of Articles 2 through 5 of Schedule 2 of the Agreement shall apply to the Service.
- 5.2. As and if additional modules of the Dapresy Software are developed and brought to market beyond those included in the Dapresy Software as of the Effective Date, such modules shall be considered as Add-Ons as defined in the Agreement.

6. SERVICE LEVEL AGREEMENT

- 6.1. The SLA applicable to the Service ("SLA") shall be the one available from https://docs.dapresy.com/documents/dapresy_user_agreement.pdf. To the extent such terms overlap or conflict with the terms in the Agreement, the Dapresy SLA terms shall prevail.
- 6.2. Forsta does not warrant nor guarantee the performance of API connections that use third-party components.

7. DAPRESY SERVICE

- 7.1. A description of the functionalities of the Service is detailed in the applicable Documentation. As of the Effective Date, the following applies:
- 7.2. The Service consists of the following:
- Administrator UserIDs
 - Report User IDs
 - Data points or bulk data
 - Online / Onsite training
 - Access to support and maintenance
 - Client service team will guide initial setup to ensure proper use
- 7.3. The number and type of User IDs, data points and the systems and the commercial terms of this Agreement shall be set forth in the applicable Sales Order.
- 7.4. To ensure optimum performance, Administrator Users should have a high-speed Internet connection.
- 7.5. **Hierarchies:** A hierarchy is determined by 1:1 relationships between variables in your survey. In Professional edition Client can have individual filters (Region, Product, Demo, etc.) but Client cannot have dynamic filtering based on relationships between variables. In Professional edition, for illustrative purposes, Client can filter by Region, but Client cannot link a Region variable and State variable to dynamically path the State variable to only show NH, MA, RI, CT, VT, NY, PA (subject to change) as state options when "Northeast" is selected as Region. That functionality requires Enterprise license. With Enterprise license, Client can link report users with correct hierarchal access rights. Additionally, extra functionality is unlocked in the charts and tables to dynamically compare or run analytics on different levels or groupings in the hierarchy that would otherwise not be possible in Profession Edition.

7.6. Initial training and onboarding

- 7.6.1. Client agrees to the following:
- 7.6.1.1. Administrator Users will take the online course(s) identified to them by Forsta, and finish this requirement prior to their on-site workshop. Forsta reserves the right to delay the on-site workshop if these courses are not completed.
 - 7.6.1.2. Client agrees to an initial "kick-off" meeting prior to the on-site workshop to review the scope of their needs, understand what is expected from Forsta to ensure success, discuss any specific project requirements (for example, a tracking study) and share with Forsta actual files that can be used in the workshop.
 - 7.6.1.3. Client agrees it is their responsibility to ensure that the Administrator Users take the workshop experience seriously to ensure their learning the Dapresy Software.
- 7.6.2. Client will provide a conference room (or equivalent) space to accommodate the number of trainees and

instructor. This space must have high speed Wi-Fi internet connections for all attendees. A monitor or projector needs to be available so the trainer can present his screen. Trainees will be expected to focus on the training to ensure proper learning; this means cell phones off and no emails. There will be adequate breaks provided to handle business.

- 7.6.3. Client agrees that post-training, all Administrator Users will agree to a 60-day plan (which may entail weekly meetings) to address usability questions, issues and concerns. Client further agrees that Administrative Users will make best efforts to read release notes and newsletters to stay updated on capabilities and attend the scheduled "Expert Series" 30-minute webinars for more in-depth advanced training. These webinars are recorded and available online. The knowledge base, currently available via the Software, contains a comprehensive explanation of most Software functions.
- 7.6.4. Client acknowledges that Administrator Users and Report Users can view and modify charts and change tables within a StoryTeller dashboard. StoryTeller can export data views to PDF as images, and to PowerPoint as layered images and editable text boxes (but not as native PowerPoint). For those users that require raw data access, the cross-table tool allows sophisticated data queries that can be exported to Excel.
- 7.6.5. Client acknowledges that the StoryCreator is designed for standard PowerPoint production and outputs native PPT editable charts & tables, subject to the product release schedule.
- 7.6.6. Client acknowledges that the Service is a SaaS platform used by multiple users. It is designed to be highly configurable but not fully customizable since custom changes affect all users. Project requirements must fall within existing Software functionality. Typically, the Service can handle most user configurations, requirements and functional needs, but Forsta does not commit to being able to achieve identical replication of the specifications.
- 7.7. **Data Files:** Client is fully responsible for supplying data files as set forth in this paragraph in a system compatible format that meets the requirements of Client projects. For survey data, the Service has API connections to some survey systems, and if Client or their supplier uses these survey systems the connection will ensure proper data format. If there is no API connection, Client will use SPSS, Triple-S or Excel/CSV raw data files in a format compatible with the Service, or other pre-approved formats. For non-survey data, Client will use appropriate Excel/CSV files in a format specified for the specific project needs. During the implementation phase, Client agrees to provide direct access to their data team or their data vendor to ensure these formats are clearly specified. If Client or their vendor requires Forsta to manipulate their data files, this service can be provided for an additional fee to those specified in this contract. However, it is the intent to have Client or their vendor to provide proper data file based upon Documentation.
- 7.8. **Data Quality Control:** Forsta is responsible for providing overall Service functionality and the ability to configure the Service to present data within the core capabilities of the Software. Client is responsible for checking the data and the "quality control" process needed to ensure data accuracy. Forsta is responsible for providing guidance (per Data Files section above) to ensure the structure of the data file will be compatible with the Software. Forsta is not responsible for data integrity due to inaccurate or incomplete data files and will not check nor is responsible for accuracy or complete data.
- 7.9. **Turnkey solutions**
 - 7.9.1. At times, the Client may require Forsta to build a functional dashboard. Except to the extent otherwise set forth in an applicable SOW or Sales Order, this type of consultation requires the Client to support the initiative from start to finish and this process includes 4 phases.
 1. Phase 1 includes debriefing Forsta on the project scope, confirming timeline, ensuring data is provided to Forsta in a Forsta friendly format and working closely with Forsta on wireframing the project. Wireframing includes detailing and agreeing on the number of dashboard slides, navigation/flow, filters, variables, calculations (and formulas) with to intent to deliver within the scheduled hours and timeline.
 2. Phase 2 includes designing the dashboard via an image editing software, providing the client a flat file where the client is to sign off on colors, logos, skin design, login design, etc.
 3. Phase 3 is the production of the Dashboard based on the wireframe scope and the designs.
 4. Lastly, phase 4 is distribution to the report users. It is understood that finalization might require cosmetic changes to positioning of objects, colors, etc. and these will not delay any payments.
 - 7.9.2. Forsta will provide a cost estimate and number of hours required +/-10% for each phase above. Depending upon Client changes to the scope, the price may increase/decrease.
 - 7.9.3. Client acknowledges that all timelines provided by Forsta are subject to Forsta having working data files (per Data Files section above), and the delay of these files will delay any agreed to delivery dates.
 - 7.9.4. Forsta will make reasonable efforts to work closely with Client to build a "functional" dashboard. Functionality is defined as the data and calculations being accurate and the agreed scope of the wire frame being met. It is understood that finalization might require cosmetic changes to positioning of objects, colors, etc., and these will not delay any payments.
- 7.10. **Client Service Hours:** Client service hours (post training) can be used for project consultation, design services and templates production and are valid for one (1) Contract Year in which they are purchased. For the purposes of this paragraph the term "Contract Year" means each twelve-month period within the term of the Sales Order. These hours may not be used for Client's requests to build a functional dashboard or for turnkey solutions, such initiatives shall be priced and agreed separately. If Client requires Forsta to provide Client consultation beyond those hours purchased in

the applicable SOW or Sales Order, they will be billed for an additional fee at the mutually agreed rates. Any unused Client service hours at the end of the applicable Contract Year will not be reimbursed nor transferred for use to subsequent periods unless agreed differently in the applicable SOW.

- 7.11. **Dapresy Professional Features:** To the extent Client is operating under the Dapresy Professional license, it may have been provided access to feature-sets that are only available to Clients operating under the Dapresy Enterprise license. Forsta retains the right to remove such features at any time.
-