

**SMARSH PROFESSIONAL SERVICES  
ASSISTED REVIEW PROGRAM AGREEMENT**

This Assisted Review Program agreement (this “**Agreement**”) is dated and effective (the “**Effective Date**”) as of the execution of the Assisted Review Statement of Work for assisted review services (“**Order Form**”) executed by the client identified on the Order Form (“**Client**”) and entered into by and between Client and Smarsh Inc. (“**Smarsh**”). This Agreement applies to the Services described in Section 1 only; Client’s access to and use of the Smarsh Archiving Platform is subject to the agreement between Smarsh and Client applicable to the Smarsh Archiving Platform (“**Archiving Agreement**”).

1. Assisted Review Services. Smarsh will provide the assisted review services specified in the Order Form (“**Services**”) which will consist of the following elements:
  - a. Implementation. Following the execution of the Agreement, the parties will schedule an implementation meeting, the date of which will be the onboard date (“**Onboard Date**”).
  - b. ARS. Smarsh will create the Assisted Review Specification document (“**ARS**”) which will set forth the written instructions pursuant to which Smarsh will conduct the Services. The ARS must be approved by Client prior to the commencement of the First Pass Review (as defined in 1(d) below), and again following any changes to the ARS. In the event of any conflict between the ARS and the Order Form, the ARS will control.
  - c. Supervision Policy Configuration. Supervision policies (each a “**Supervision Policy**”) are configurations of the Smarsh Archiving Platform which are designed to flag messages which may pose regulatory risk or other risk, as defined by the parameters of the Supervision Policy, for human review. Smarsh will provide the professional services necessary to implement the applicable Supervision Policies. Supervision Policies must be documented in the ARS and approved by Client prior to their implementation.
  - d. First Pass Review. Smarsh will conduct the initial human review of messages that are flagged by Supervision Policy based on the requirements specified in the ARS (“**First Pass Review**”). If the First Pass Review determines that a message requires further review, according to the requirements in the ARS, then the First Pass Review will escalate the message for further review by Client personnel. Client is solely responsible for monitoring the First Pass Review and ensuring that any additional review takes place. If the First Pass Review determines that a message does not need to be escalated according to the requirements in the ARS, then the First Pass Review will mark the message as reviewed and not take any further action with respect to the applicable message.
  - e. Logs. Smarsh will maintain logs of Supervision Policy and First Pass Review activity.
2. Client Obligations. Client will cooperate with Smarsh in all matters relating to the Services. Client will appoint a primary point of contact who will be responsible for managing Client obligations. Client is solely responsible for ensuring the Services meet any regulatory requirement or legal requirement applicable to Client. In addition, Client is responsible for the following:
  - a. ARS; Onboarding. Client must provide Client’s written supervision procedures, and all other applicable information on or prior to the Onboard Date. Client acknowledges that Smarsh’s ability to create an accurate ARS is dependent on Client’s provision of complete, accurate and up to date information regarding Client’s supervision policies and procedures. Client represents that the information Client provides to Smarsh is comprehensive, complete, accurate and up to date. Client is responsible for understanding and approving the ARS.
  - b. Review; Monitoring. Client is responsible for monitoring and regularly reviewing the reports provided by Smarsh. Client is responsible for reviewing any messages which are flagged during the First Pass Review.
  - c. Revisions and Updates to ARS. Client may update the ARS by providing Smarsh with revisions to the written

supervision procedures, or other procedures. Upon receiving the requested updates, Smarsh will review and update the ARS. Smarsh will provide the updated ARS to Client for approval, prior to implementing any revisions to the policy. Client is responsible for requesting updates to the ARS at least two weeks before such updates are to be approved and implemented.

3. Delays. Smarsh will not be liable for any costs, losses, fines or other damages arising from non-performance where the performance of any of Smarsh's obligations under this Agreement is prevented or delayed by any act or omission of Client or its agents, subcontractors, consultants or employees.
4. Fees.
  - a. Recurring Fees. Client will pay the monthly recurring fees for the Services indicated in the Order Form ("**Fees**"). Recurring Fees are payable on a monthly basis and invoiced in arrears.
  - b. Expense Reimbursement. If Client requires Smarsh to travel to the Client's location, Client will reimburse Smarsh for actual travel costs incurred (e.g., airfare, hotel, transportation, meals). Smarsh will estimate travel-related costs before incurring any out-of-pocket costs. Smarsh invoice for expense reimbursement will include receipts for any expense item of more than \$25.
  - c. Invoices. All invoices are due 30 days from date of invoice. Client must notify Smarsh within 120 days of the date of invoice in the event Client disputes any Fees. Invoices not disputed within 120 days from the date of invoice will be deemed accepted by Client. Smarsh may charge a late fee of 1.5% per month on any Fees not paid when due. Smarsh reserves the right to suspend Client's access to the Services in the event Client fails to pay the Fees when due. Smarsh reserves the right to increase the Fees following the Initial Term (as defined in Section 9).
  - d. Taxes. Client is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Client hereunder; *provided, that*, Client is not responsible for any taxes imposed on, or with respect to, Smarsh's income, revenues, gross receipts, personnel or real or personal property or other assets.
5. Intellectual Property. The Supervision Policies, the Services and any work product, writings, discoveries, concepts, ideas, suggestions, approaches, procedures, inventions or innovations resulting from the Services are, and will be deemed the intellectual property of Smarsh ("**Smarsh Property**"). The ARS will be created by Smarsh based the Client written supervisory procedure ("**Client Property**") and Smarsh Property. Client hereby grants to Smarsh the right to access, use, distribute, copy and display the Client Property in connection with the provision of the Services. Client acknowledges and agrees that Client will be the beneficiary of knowledge which has been learned by Smarsh over a period of years, and that Smarsh may use any information, know how, ideas, or suggestions developed or learned in connection with the provision of the Services, including know how learned or developed from Client Property, for any purpose, including without limitation, use in development, creation, improvement or maintenance of Smarsh products and services, and that the foregoing will be considered Smarsh Property. During the Term, Smarsh hereby grants to Client the right to access, use, distribute internally, copy and display for internal business purposes the ARS solely in connection with Client's use of the Smarsh Archiving Platform and the Services. Client may not use the ARS for any other purpose. Nothing in this Agreement will be construed to grant any other right, title or license in any intellectual property to Client and Smarsh retains all right, title and interest in and to the Services, the Smarsh Property and any intellectual property related to the foregoing or any other service offered by Smarsh.
6. Confidentiality. "Confidential Information" means (a) the non-public business or technical information of either party, including but not limited to information relating to either party's product plans, customers, designs, costs, prices, finances, marketing plans, business opportunities, personnel, research, development or know-how; (b) any information designated by either party as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential; or (c) the terms of this Agreement. "Confidential Information" will not include information that is in, or enters, the public domain without breach of this Agreement; the receiving party lawfully receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; the receiving party knew prior to receiving such information from the disclosing party; or the receiving party develops

independently without reference to the Confidential Information. Each party agrees (a) that it will not disclose to any third party, or use for its own benefit or the benefit of any third party, any Confidential Information disclosed to it by the other party except as expressly permitted in this Agreement; and (b) that it will take reasonable measures to maintain the confidentiality of Confidential Information of the other party in its possession or control. Either party may disclose Confidential Information of the other party: (i) pursuant to the order or requirement of a court, administrative or regulatory agency, or other governmental body, provided that the receiving party, if feasible and legally permitted to do so, gives reasonable notice to the disclosing party to contest such order or requirement; or (ii) to the parties agents, representatives, subcontractors or service providers who have a need to know such information provided that such party maintain the Confidential Information on a confidential basis. Each party acknowledges and agrees that a breach of the obligations of this Section 6 by the other party may result in irreparable injury to the disclosing party for which there will be no adequate remedy at law, and the disclosing party shall be entitled to seek equitable relief, including injunction and specific performance, in the event of any breach or threatened breach or intended breach by recipient.

7. Security. Smarsh will implement commercially reasonable security practices and procedures regarding the provision of the Services which are designed to protect the integrity and confidentiality of the contents of any message which are reviewed by the First Pass Review personnel (“**Client Data**”). Smarsh will prohibit First Pass Review personnel from using or disclosing Client Data for any purpose other than to provide the Services, or as expressly allowed hereunder or as authorized by Client. Smarsh will maintain systems and controls designed to monitor First Pass Review personnel’s access to Client Data. Smarsh will take reasonable measures to prevent, detect, and respond to unauthorized access to Client Data. All personnel who are engaged to provide the First Pass Review Services will undergo a criminal background check prior to their provision of the First Pass Review Services. All personnel who provide Services will undergo security awareness training on at least an annual basis.
8. Smarsh Representation & Warranties. Smarsh represents and warrants that Smarsh will perform the Services using personnel with the skill, experience and qualifications and in a professional and workmanlike manner in accordance with commercially reasonable industry standards for similar services.
9. Term and Termination. The Agreement will commence on the Effective Date and will continue for the period which syncs to the then current term of the Archiving Agreement (“**Initial Term**”) unless Client provides Smarsh with notice of Client’s intent to terminate the Agreement at least 90 days prior to the end of the Initial Term. Following the Initial Term, the Services will automatically renew for successive 12 month periods (each a “**Renewal Term**”) unless Client provides Smarsh with written notice of its intent to terminate the Agreement at least 90 days prior to the end of the then current Renewal Term. The Initial Term and each Renewal Term, collectively, the “**Term**.” Either party may terminate this Agreement upon the material breach of this Agreement by the other party and the breaching party’s failure to cure following thirty (30) days’ notice of such breach by the non-breaching party. The termination of this Agreement will not affect any other agreement entered into by and between the parties.
10. OTHER THAN AS EXPRESSLY STATED HEREIN, SMARSH MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND IN CONNECTION WITH THE SERVICES, INCLUDING, WITHOUT LIMITATION, ANY OTHER INFORMATION OR MATERIALS PROVIDED, OR MADE AVAILABLE, BY SMARSH. SMARSH HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. SMARSH MAKES NO REPRESENTATION OR WARRANTY THAT THE SERVICES OR THE ADVICE, CONSULTING OR OTHER INFORMATION PROVIDED TO CLIENT GUARANTEES LEGAL COMPLIANCE OR WILL RESULT IN LEGAL COMPLIANCE UNDER ANY FEDERAL, STATE OR INTERNATIONAL STATUTE, LAW, RULE, REGULATION, OR DIRECTIVE AND SMARSH EXPRESSLY DISCLAIMS ALL LIABILITY ARISING OR RELATED TO CLIENT’S COMPLIANCE WITH ANY FEDERAL, STATE OR INTERNATIONAL STATUTE, LAW, RULE, REGULATION, OR DIRECTIVE.
11. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER, OR TO ANY THIRD PARTY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS), ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS

FORESEEABLE OR WHETHER THE PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. SMARSH'S AGGREGATE LIABILITY HEREUNDER FOR ALL DAMAGES ARISING UNDER OR RELATING TO THIS AGREEMENT, NOTWITHSTANDING THE FORM IN WHICH ANY ACTION IS BROUGHT (E.G., CONTRACT, TORT, OR OTHERWISE), SHALL BE LIMITED TO THE TOTAL FEES ACTUALLY RECEIVED BY SMARSH FROM CLIENT FOR THE APPLICABLE SERVICES IN THE TWELVE (12) MONTH PERIOD PRECEDING THE MONTH IN WHICH THE INCIDENT CAUSING THE DAMAGES AROSE. THE LIMITATION ON LIABILITY SET FORTH ABOVE IS CUMULATIVE; ALL PAYMENTS MADE FOR ALL CLAIMS AND DAMAGES SHALL BE AGGREGATED, TO DETERMINE IF THE LIMIT HAS BEEN REACHED.

12. Insurance. At all times during the Term of this Agreement Smarsh will procure and maintain, at its sole cost and expense, at least the following types and amounts of insurance coverage: (a) Commercial General Liability with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (b) Worker's Compensation with limits no less than the greater of (i) \$500,000, or (ii) the minimum amount required by applicable law; and (c) Errors and Omissions/Professional Liability with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
13. General Terms.
  - a. Assignment. Neither party may assign this Agreement, in whole or in part, without the other party's prior written consent, except that either party may assign this Agreement without the other's consent in the case of a merger, reorganization, acquisition, consolidation, or sale of all, or substantially all, of its assets. Any attempt to assign this Agreement other than as permitted herein will be null and void. Without limiting the foregoing, this Agreement will inure to the benefit of and bind the parties' respective successors and permitted assigns.
  - b. Non-solicitation. During the Term of this Agreement and for a period of twelve (12) months thereafter, Client will not directly or indirectly, in any manner solicit or induce for employment any person who performed any work under this Agreement. A general advertisement or notice of a job listing or opening or other similar general publication of a job search or availability to fill employment positions, including on the internet, will not be construed as a solicitation or inducement for the purposes of this Section 13(b) and the hiring of any such employees or independent contractor who freely responds thereto will not be a breach of this Section 13(b).
  - c. Force Majeure. No failure or omission by the parties hereto in the performance of any obligation of this Agreement shall be deemed a breach of this Agreement, nor shall it create any liability, provided the party uses reasonable efforts to resume performance hereunder, if the same shall arise from any cause or causes beyond the reasonable control of the parties, including, but not limited to the following, which, for the purpose of this Agreement, shall be regarded as beyond the control of the parties in question: (i) acts of God; (ii) acts or omissions of any governmental entity; (iii) any rules, regulations or orders issued by any governmental authority or any officer, department, agency or instrumentality thereof; (iv) fire, storm, flood, earthquake, accident, war, rebellion, insurrection, riot, strikes and lockouts; or (v) utility or telecommunication failures.
  - d. Governing Law & Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict/choice of law principles. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in Multnomah County, in the State of Oregon, and the parties hereby irrevocably consent to the personal jurisdiction and venue therein.
  - e. Notices. Any notice under Section 9 of this Agreement must be provided in writing and delivered by personal delivery, express courier, or certified or registered mail, postage prepaid and return receipt requested. Such notices will be deemed to be effective upon personal delivery, one (1) day after deposit with express courier, five (5) days after deposit in the mail. Notices will be sent to Client at the address set forth on the Order Form or such other address as Client may specify. Notices will be sent to Smarsh at the following address: Smarsh, Inc., Attention: Legal, 851 SW 6th Ave, Suite 800, Portland, OR 97204.

- f. Modifications. Smarsh may make modifications to this Agreement by posting the modifications to the weblink this Agreement is located at or at the Service login page. Client unequivocally indicates acceptance of any such modifications by (a) accepting the version of the Agreement with the modified terms at the product log in page; (b) executing an Order Form including the modified terms; or (c) continued use of the Services for 30 days following the earliest notice provided to an authorized administrative user of the modification.
- g. Relationship of the Parties. The parties are independent contractors and will have no power or authority to assume or create any obligation or responsibility on behalf of each other. The parties agree that electronic signatures, whether digital or encrypted, or click through acceptance, by a party's authorized signatory are intended to authenticate such signatures and give rise to a valid, enforceable, and fully effective agreement.
- h. Entire Agreement. This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes any prior or contemporaneous agreements, negotiations and communications (both written and oral) regarding such subject matter. If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this Agreement will continue in full force and effect. Failure of either party to insist on strict performance of any provision herein shall not be deemed a waiver of any rights or remedies that either party shall have and shall not be deemed a waiver of any subsequent default of the terms and conditions thereof.