

Service Specific Terms – Next Request

1. **NextRequest.** If Client purchases the NextRequest Service from Smarsh, these terms apply. The NextRequest portal is a software as a service product that allows the public to submit record requests to public entities and allows the public entity to manage the request via the portal. The NextRequest portal is not hosted, maintained or supported by Smarsh. The NextRequest portal is hosted and maintained by NextRequest Inc. Client may not use the NextRequest portal or submit to the NextRequest portal Protected Health Information as defined by the Health Insurance Portability and Accountability Act of 1996 as amended. In addition, the NextRequest acceptable use policy and privacy policy will apply to Client's use of the NextRequest Service. With respect to the acceptable use policy and privacy policy, those agreements are entered into directly between NextRequest and Client. Smarsh expressly disclaims all liability from the manner in which NextRequest handles or manages client's data. In addition, the following pass through terms apply and are made by and between Client and NextRequest Inc.:
 - 1.1. **Service and Support.** Subject to the terms and conditions hereof, NextRequest shall provide Client access to its web-based portal for the management of public records (the "NextRequest Services"). NextRequest reserves the right to suspend Client's access to the NextRequest Services: (i) for scheduled or emergency maintenance, or (ii) in the event Client is in breach of these terms applicable to the NextRequest Services. Before exercising its suspension right pursuant to clause (ii), NextRequest shall provide Client written notice and opportunity to cure such breach.
 - 1.2. **Restrictions and Responsibilities.** Client will not, and will not permit any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services, or any software, documentation or data related to the NextRequest Services (provided that reverse engineering is prohibited only to the extent such prohibition is not contrary to applicable law); (ii) rent, lease, copy, modify, superset, subset translate, create derivative works based on, or otherwise provide temporary access to, the NextRequest Services or software; (iii) use the NextRequest Services or software for timesharing or service bureau purposes or for any purpose other than specified in this Addendum ; (iv) remove any names, designations or notices from the NextRequest Services or software; (iv) use the NextRequest Services in a manner which would cause NextRequest Services to be subject to employment, health, or children privacy laws or similar to which it otherwise would not be subject (); or (v) use the NextRequest Services or software other than in accordance with these terms and in compliance with all applicable laws and regulations, including but not limited to any privacy laws, public records laws, laws and regulations concerning intellectual property, consumer and child protection, obscenity or defamation.
 - 1.3. **AUP.** Client acknowledges and agrees that the NextRequest Services operate on or with or using application programming interfaces (APIs) and/or other services operated or provided by third parties ("Third Party Services"). NextRequest is not responsible for the operation of any Third-Party Services nor the availability or operation of the NextRequest Services to the extent such availability and operation is dependent upon Third Party Services. Client is solely responsible for complying with any applicable terms or conditions thereof. Client may be required to comply with terms of Third Party Services used by NextRequest, which are available at nextrequest.com/legal. NextRequest does not make any representations or warranties with respect to Third Party Services or any third-party providers. Any exchange of data or other interaction between Client and a third-party provider is solely between Client and such third-party provider and is governed by such third party's terms and conditions.
 - 1.4. **Client Indemnification.** Client hereby agrees to indemnify and hold harmless NextRequest and its affiliates and respective directors, officers, employees, and agents from and any and all damages against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any third party claim or action that arises from Client's breach of these terms or that arises in connection

with content provided by Client to NextRequest through the NextRequest Services or otherwise ("Client Data"). Although NextRequest has no obligation to monitor the content provided by Client or Client's use of the NextRequest Services, NextRequest may do so and may remove any such content or prohibit any use of the NextRequest Services it reasonably believes may be (or alleged to be) in violation of the Agreement, agreements with NextRequest's Third Party Services providers, or any law or regulation or right of any third party.

- 1.5. **Intellectual Property Rights.** Nothing in this Agreement conveys to Client any rights of ownership in or related to the NextRequest Services, or any intellectual property rights contained therein. Except as expressly set forth herein, NextRequest alone (and its licensors, where applicable) will retain all intellectual property rights relating to the NextRequest Services or the software or any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Client or any third party relating to the Service, which are hereby assigned to NextRequest.
- 1.6. **Indemnification.** If NextRequest receives any notice or claim that any Client Data, or activities hereunder with respect to any Client Data, may infringe or violate rights of a third party or any laws (a "**Claim**"), NextRequest may (but is not required to) suspend activity hereunder with respect to that content and Client will defend, indemnify and hold NextRequest harmless from all liability, damages, settlements, attorney fees and other costs and expenses in connection with any such Claim, as incurred.
- 1.7. Client will have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of any and all data, information or other material provided, uploaded, or submitted by Client to the NextRequest Services in the course of using the NextRequest Services ("**Client Data**"). NextRequest will receive and process Client Data to perform NextRequest's obligations under this Agreement. Notwithstanding anything to the contrary, NextRequest is hereby granted (i) a non-exclusive, royalty-free, worldwide, transferable license and right to internally use, copy, modify, create derivative works of, and disclose Client Data solely for the purposes of providing the NextRequest Services to Client, and (ii) a non-exclusive, irrevocable, perpetual, royalty-free, fully paid-up, worldwide, transferable license and right to Aggregated Anonymous Data (as defined below) to use and exploit Aggregated Anonymous Data for any business purposes (including without limitation, for purposes of improving, testing, operating, promoting and marketing products and services). "Aggregated Anonymous Data" means data submitted to, collected by, or generated by NextRequest in connection with Client's use of the Services, but only in aggregate, anonymized form which doesn't specifically identify Client.
- 1.8. **Termination.** This Addendum and the rights and obligations therein which by their nature should survive shall survive termination of the agreement between Smarsh and Client.
- 1.9. **Warranty Disclaimer.** ANYTHING PROVIDED BY NEXTREQUEST IN CONNECTION WITH THE SERVICES IS PROVIDED "AS-IS," WITHOUT ANY WARRANTIES OF ANY KIND, AND NEXTREQUEST HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.
- 1.10. **LIMITATION OF LIABILITY.** IN NO EVENT WILL NEXTREQUEST BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE SUBJECT MATTER OF THE NEXTREQUEST SERVICES, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS OR LOST SALES, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF THE BREACHING PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. NEXTREQUEST'S TOTAL LIABILITY, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, WILL NOT EXCEED, IN THE AGGREGATE THE FEES PAID AND PAYABLE TO NEXTREQUEST FOR PROVIDING THE SERVICES TO CLIENT IN THE TWELVE (12) MONTH PERIOD ENDING ON



THE DATE THAT A CLAIM OR DEMAND IS FIRST ASSERTED. THE FOREGOING LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THIS SECTION SHALL NOT APPLY TO ANY LIABILITY ARISING UNDER CLIENT'S INDEMNIFICATION OBLIGATIONS TO NEXTREQUEST.

- 1.11. **Miscellaneous.** Client agrees that NextRequest is the intended third-party beneficiary to these terms and relevant provisions of agreement between Smarsh, Inc. and Client which references these terms ("Agreement"), and NextRequest has the right to enforce these terms or the Agreement directly against the Client. If any provision of these terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these terms will otherwise remain in full force and effect and enforceable. This Addendum is not assignable, transferable or sublicensable by Client except with NextRequest's prior written consent. NextRequest may transfer and assign any of its rights and obligations under this Addendum. The parties agree that these terms are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Addendum, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of these terms and neither party has any authority of any kind to bind the other party in any respect whatsoever. In any action or proceeding to enforce rights under these terms, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under these terms will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by e-mail; and upon receipt, if sent by certified or registered mail (return receipt requested), postage prepaid. Neither party hereto shall be responsible for any failure to perform its obligations under this Addendum (other than obligations to pay money) if such failure is caused by acts of God, war, strikes, revolutions, lack or failure of transportation facilities or utility or telecommunication, laws or governmental regulations or other causes that are beyond the reasonable control of such party.
- 1.12. **U.S. GOVERNMENT MATTERS.** Notwithstanding anything else, Customer may not provide to any person or export or re-export or allow the export or re-export of the Services or any direct product thereof, in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority.