



(#Q-44801)

Order Form - Mendocino Coast Health Care District

| | | | |
|-------------------|-----------------------------|-------------------|---|
| Account Rep | Carrie Breedlove | Customer | Mendocino Coast Health Care District |
| Email | carrie.breedlove@smarsh.com | Service Address | 775 River Dr Fort Bragg, California 95437-5496 |
| Quote prepared on | 6-Jul-2023 | Billing Contact | Lee Finney |
| Quote valid until | 6-Aug-2023 | Contact Phone | 443-569-9756 |
| Subscription Term | 12 Months | Contact Email | lfinney@mcdh.org |
| Billing Frequency | Annual | Technical Contact | Lee Finney |

| Services | Unit Price | Quantity | Contract Commitment |
|--|------------|----------|---------------------|
| Cloud Capture | | | |
| Platform Fee - Cloud Capture - AWS | | 1 | |
| SharePoint Online - Cloud Capture - AWS | \$ 24.00 | 5 | \$ 120.00 |
| Onboarding - Cloud Capture - Standard | | 1 | \$ 4,000.00 |
| Smarsh Support | | | |
| Professional Support - Basic | | 1 | |
| Unified | | | |
| Platform - Professional Archive - SMG | \$ 850.00 | 1 | \$ 850.00 |
| Email - Professional Archive Capture | \$ 85.00 | 5 | \$ 425.00 |
| Onboarding - Professional Archive - QuickStart | | 1 | \$ 700.00 |
| Annual Subtotal | | | \$ 1,395.00 |
| One-Time Subtotal | | | \$ 4,700.00 |

Notes



Terms & Conditions

On a date following the execution of this Order Form, Smarsh will provide Client with a license key for the Software or with login credentials to the applicable Service (“**Activation Date**”). Service Descriptions are available at www.smarsh.com/legal. The Services are subject to Smarsh Service Agreement-General Terms available at www.smarsh.com/legal/ServiceAgreement. The Services purchased by Client are also subject to the Information Security Addendum available at <https://www.smarsh.com/legal/InfoSec> and the following Service Specific Terms:

Connected Capture Service Specific Terms available at <https://www.smarsh.com/legal/SSTConnectedCapture>;
the Professional Archive Service Specific Terms available at <https://www.smarsh.com/legal/SSTProfessionalCloud>;
the applicable Professional Archive Onboarding package features described in more detail at <https://www.smarsh.com/legal/OnboardingServices-ProArchive>;

The Smarsh Service Agreement – General Terms, the Information Security Addendum, the Service Specific Terms, and this Order Form are, collectively, the “**Agreement**.” The Initial Term of the Services shall begin on the date this Order Form is executed and continue for the Subscription Term specified above, unless Client is adding the above Services to an existing Service account, in which case, the above Services will sync to and co-terminate with Client’s existing subscription Term. The Services will be subject to renewals as specified in the Agreement.

For AT&T Mobility subscribers, your signature below represents your acceptance of the AT&T Wireless Terms and Conditions available at www.smarsh.com/legal/ATT as they apply to AT&T messages that are archived by Smarsh.

“**Archive Fees**” are the Fees charged for access to the Connected Archive (i.e., Professional Archive or Enterprise Archive). “**Capture & Archive Fees**” are the Fees that are charged for capture and archive of a bundle of Connections within the Professional Archive. “**Capture Fees**” are the per-Connection Fees that are charged for the capture of Connections by Connected Capture (i.e., Cloud Capture or Capture Server). “**Premium Adj. Fees**” are the additional Fees that are charged for capture of Connections from premium Channels. “**Set-up Fees**” are the one-time Fees that are charged to implement a Service. “**Professional Services Fees**” are the Fees charged for hourly, monthly, or flat rate professional services.

The Platform Fees, the Capture & Archive Fees, the Capture Fees, and the Premium Adj. Fees, as applicable, are invoiced on an annual, up-front basis or a monthly basis in arrears, as specified on page 1 of this Order Form. Client agrees that the Recurring Subtotal above is Client’s minimum commitment during each year or month, as applicable, of the Term. Smarsh will invoice Client for any usage over the minimum quantities at the applicable rate indicated in this Order Form.

Third Party API Usage : In the event that any Third-Party Service charges any API usage fees, service fees, or pass through costs to Smarsh that are (i) in connection with the Client’s use of the Services set forth in this Order Form and such Third Party Service, and (ii) Smarsh can reasonably demonstrate that such costs are directly allocated to the Client, Smarsh reserves the right to pass those costs along to the Client (“Third Party Fees”). Client agrees to pay all such Third-Party Fees when Smarsh invoices the Client for such fees, which will include a breakdown and description of each such cost.

If not priced above, data import, conversion (if applicable), and storage Fees for Client's historical data and storage Fees for data from Connected Capture or other external capture mechanisms ingested into the Professional Archive are as follows:

| | |
|-----------------------------|-----------|
| Data Imports - One-time | \$10/GB |
| Import Data Conversion fees | \$3/GB |
| Data Storage – Annual | \$2.50/GB |

Information about Smarsh data privacy compliance is available at www.smarsh.com/legal.

The following entities are fully owned subsidiaries of Smarsh: Digital Reasoning, Entreda, Privva, Actiance, MobileGuard

EXHIBIT A

Amendment to the Smarsh Service Agreement – General Terms

This first amendment (“**Amendment**”) to the Smarsh Service Agreement - General Terms amends the Agreement between Smarsh Inc. and Mendocino Coast Health Care District. This Amendment is effective on the date the Client signs the Order Form, to which this Amendment is attached as Exhibit A.

The parties agree:

1) **Replace Section 4.3 in its entirety, as follows:**

As between Client and Smarsh, Client is solely responsible for the content of Client Data. Client represents and warrants that (a) Client Data will not (i) infringe any third party right, including third party rights in patent, trademark, copyright, or trade secret, or (ii) constitute a breach of any other right of a third party, including any right that may exist under contract or tort theories; (b) Client will comply with all applicable local, state, national, or foreign laws, rules, regulations, or treaties in connection with Client’s use of the Services, including those related to data privacy, data protection, communications, SPAM, or the transmission, recording, or storage of technical data, personal data, or sensitive information; and (c) Client will comply with the Acceptable Use Policy available at www.smarsh.com/legal/AUP. Smarsh may update the Acceptable Use Policy from time to time.

2) **Replace Section 6.1 in its entirety, as follows:**

Term. The Agreement will begin on the Effective Date and will remain in effect for the term specified in the Order Form or, if no term is specified, 12 months (“**Initial Term**”). The Initial Term may be renewed by Client for additional, successive 12-month terms (each a “**Renewal Term**”) upon the execution of a Renewal Order Form. The Initial Term plus any Renewal Term are, collectively, the “**Term**.” Any Order Form executed after the Effective Date will co-terminate with Client’s then-current Term.

3) **Replace Section 6.2 in its entirety, as follows:**

Termination for Breach. Either party may terminate this Agreement if the other party materially breaches its obligations under this Agreement and such breach remains uncured for a period of 30 days following the non-breaching party’s written notice thereof. Smarsh may suspend Client’s access to the Services in the event Client fails to pay undisputed Fees within 60 days after the due date, and Smarsh will not be liable for any damages resulting from such suspension.

4) **Replace Section 9 in its entirety, as follows:**

Taxes. All Fees payable by Client under this Agreement are exclusive of taxes and similar assessments. Smarsh acknowledges that Client is tax-exempt.

5) **Replace Section 10.2 in its entirety, as follows:**

Obligations with Respect to Confidential Information. Each party agrees: (a) that it will not disclose to any third party, or use for the benefit of any third party, any Confidential Information disclosed to it by the other party except as expressly permitted by this Agreement; and (b) that it will use at least reasonable measures to maintain the confidentiality of Confidential Information of the other party in its possession or control but no less than the measures it uses to protect its own confidential information. 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/or legally permitted to do so, gives reasonable notice to the disclosing party to allow the disclosing party to contest such order or requirement; (ii) to the parties’ agents, representatives, subcontractors or service providers who have a need to know such information provided that such party shall be under obligations of confidentiality at least as restrictive as those contained in



this Agreement; or (iii) pursuant to a California public records request, provided that the Client gives notice to Smarsh in a reasonable amount of time to allow Smarsh the opportunity to seek a protective order preventing such disclosure. Each party will promptly notify the other party in writing upon becoming aware of any unauthorized use or disclosure of the other party's Confidential Information.

6) **Replace Section 13.1 in its entirety, as follows:**

Client Indemnification. To the extent permitted by California law, and without in any manner waiving its rights to sovereign immunity or increasing the limits of liability thereunder, Client will defend, indemnify and hold harmless Smarsh, its officers, directors, employees and agents, from and against all claims, losses, damages, liabilities and expenses (including fines, penalties, and reasonable attorneys' fees), arising from or related to the content of Client Data and Client's breach of the Service Specific Terms or Sections 4.2, 4.3, 4.4, 4.5, or 15.1 of this Agreement. Smarsh will (a) provide Client with prompt written notice upon becoming aware of any such claim; except that Client will not be relieved of its obligation for indemnification if Smarsh fails to provide such notice unless Client is actually prejudiced in defending a claim due to Smarsh's failure to provide notice in accordance with this Section 13.1(a); (b) allow Client sole and exclusive control over the defense and settlement of any such claim; and (c) if requested by Client, and at Client's expense, reasonably cooperate with the defense of such claim

7) **Replace Section 15.4 in its entirety, as follows:**

Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California, 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 SBQQ__QUOTE_COUNTY_GOVERNING_LAW, in the State of California, and the parties hereby irrevocably consent to the personal jurisdiction and venue therein.

8) **Replace Section 15.9 in its entirety, as follows:**

Entire Agreement; Electronic Signatures. This Agreement is the entire agreement between the parties with respect to its subject matter, and supersedes any prior or contemporaneous agreements, negotiations, and communications, whether written or oral, regarding such subject matter. Smarsh expressly rejects all terms contained in Client's purchase order documents, or in electronic communications between the parties, and such terms form no part of this Agreement. The parties agree that electronic signatures, whether digital or encrypted, give rise to a valid and enforceable agreement. This Agreement may only be modified, or any rights under it waived, by a written document executed by both parties.

9) **Delete Section 16, concerning alternative jurisdiction, in its entirety.**



Purchase Order Information

Client to Complete:

Is a Purchase Order (PO) required for the purchase of the Services on this Order Form?

No

Yes – Please complete below

PO Number:

PO Amount:

Upon signature by Client and submission to Smarsh, this Order Form shall become legally binding unless Smarsh rejects this Order Form for any of the following reasons: (i) changes have been made to this Order Form (other than completion of the purchase order information and the signature block); or (ii) the requested purchase order information or signature is incomplete; or (iii) the signatory does not have authority to bind Client to this Order Form.

Client authorized signature

By: _____ Name: _____

Title: _____ Date: _____