

HIPAA Business Associate Addendum

This HIPAA Business Associate Addendum ("**BAA**") is entered into between Google LLC ("**Google**") and the party agreeing to the terms below ("**Partner**") and supplements, amends and is incorporated into the Partner Agreement (defined below) solely with respect to Covered Services (defined below). This BAA will be effective as of the last signature date below (the "**BAA Effective Date**").

Partner must have an existing Partner Agreement in place for this BAA to be valid and effective. Together with the Partner Agreement, this BAA will govern each party's respective obligations regarding Protected Health Information (defined below).

You represent and warrant that (i) you have the full legal authority to bind Partner to this BAA, (ii) you have read and understand this BAA, and (iii) you agree, on behalf of Partner, to the terms of this BAA. If you do not have legal authority to bind Partner, or do not agree to these terms, please do not sign or click to accept the terms of this BAA.

1. **Definitions.** Any capitalized terms used but not otherwise defined in this BAA will have the meaning given to them in HIPAA and the HITECH Act.

"**Business Associate**" has the definition given to it under HIPAA.

"**Breach**" has the definition given to it under HIPAA. A Breach will not include an acquisition, access, use, or disclosure of PHI with respect to which Google has determined in accordance with 45 C.F.R. § 164.402 that there is a low probability that the PHI has been compromised.

"**Covered Entity**" has the definition given to it under HIPAA.

"**Covered Services**" means the Google products and services specifically identified at <https://cloud.google.com/security/compliance/hipaa> as being covered by the Google Cloud Platform BAA.

"**End User**" means the individual or entity that is Partner's customer.

"**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996 and the rules and the regulations thereunder, as amended.

"**HIPAA Implementation Guide**" means the informational guide that Google makes available describing how the Covered Services may be configured by Partner in connection with Partner's HIPAA compliance efforts. The HIPAA Implementation Guide for the Covered Services is available for review at the following URL: <https://cloud.google.com/security/compliance/hipaa/>. For the purposes of this BAA, all references in the HIPAA Implementation Guide to "Customer" mean Partner.

"**HITECH Act**" means the Health Information Technology for Economic and Clinical Health Act enacted in the United States Congress, which is Title XIII of the American Recovery & Reinvestment Act, and the regulations thereunder, as amended.

“Protected Health Information” or **“PHI”** has the definition given to it under HIPAA and for purposes of this BAA is limited to PHI within Partner End User’s data to which Google has access through the Covered Services in connection with Partner’s permitted use of Covered Services.

“Partner Agreement” means the mutually agreed upon written agreement(s) between Google and Partner that allows Partner to resell the Services, including the Google Cloud & Google for Education Commercial Partner Program Agreement and the Google Cloud Platform Product Schedule.

“Security Breach” means any Breach of Unsecured PHI or Security Incident of which Google becomes aware.

“Security Incident” has the definition given to it under HIPAA.

2. **Applicability.** This BAA applies to the extent Partner is acting as a Covered Entity or a Business Associate to create, receive, maintain, or transmit PHI via a Covered Service and to the extent Google, as a result, is deemed under HIPAA to be acting as a Business Associate or Subcontractor of a Business Associate. Partner acknowledges that this BAA does not apply to, or govern, any other Google product, service, or feature that is not a Covered Service.

3. Use and Disclosure of PHI.

(a) Except as otherwise stated in this BAA, Google may use and disclose PHI only as permitted or required by the Partner Agreement and/or this BAA or as Required by Law.

(b) Google may use and disclose PHI for the proper management and administration of Google’s business and to carry out the legal responsibilities of Google, provided that any disclosure of PHI for such purposes may only occur if: (1) required by applicable law; or (2) Google obtains written reasonable assurances from the person to whom PHI will be disclosed that it will be held in confidence, used only for the purpose for which it was disclosed, and that Google will be notified of any Security Breach.

(c) Google has no obligations under this BAA with respect to any PHI that Partner creates, receives, maintains, or transmits outside of the Covered Services (including Partner’s use of its offline or on-premise storage tools or third-party applications) and this BAA will not apply to any PHI created, received, maintained or transmitted outside of the Covered Services.

4. Partner Obligations.

(a) Partner may only use the Covered Services to create, receive, maintain, or transmit PHI. Partner is solely responsible for managing whether End Users are authorized to share, disclose, create, and/or use PHI within the Covered Services.

(b) Partner will not request that Google or the Covered Services use or disclose PHI in any manner that would not be permissible under HIPAA if done by Partner (if

Partner is a Covered Entity) or by the Covered Entity to which Partner is a Business Associate (unless expressly permitted under HIPAA for a Business Associate).

- (c) For End Users that use the Covered Services in connection with PHI, Partner will use controls available within the Services, including those detailed in the HIPAA Implementation Guide, to ensure its use of PHI is limited to the Covered Services. Partner acknowledges and agrees that the HIPAA Implementation Guide is provided by Google solely as an informational guide with respect to Partner's configuration options, and that Partner is solely responsible for ensuring that its and its end users' use of the Covered Services complies with HIPAA and HITECH.
 - (d) Partner will take appropriate measures to limit its use of PHI to the Covered Services and will limit its use within the Covered Services to the minimum extent necessary for Partner to carry out its authorized use of such PHI.
 - (e) Partner warrants that it has obtained and will obtain any consents, authorizations and/or other legal permissions required under HIPAA and/or other applicable law for the disclosure of PHI to Google. If there are any changes in, or revocation of, the permission given by an individual for use or disclosure of PHI, Partner is responsible for managing its use of the Covered Services accordingly to update and/or delete such PHI in the Covered Services.
5. **Appropriate Safeguards.** Google and Partner will each use appropriate safeguards designed to prevent against unauthorized use or disclosure of PHI, and as otherwise required under HIPAA, with respect to the Covered Services.
6. **Reporting.**
- (a) Subject to Section 6(e), Google will promptly notify Partner following Google's Discovery of a Security Breach in accordance with HIPAA and in the most expedient time possible under the circumstances, consistent with the legitimate needs of applicable law enforcement and applicable laws, and after taking any measures Google deems necessary to determine the scope of the Security Breach and to restore the reasonable integrity of Google's systems.
 - (b) To the extent practicable, Google will use commercially reasonable efforts to mitigate any further harmful effects of a Security Breach caused by Google.
 - (c) Google will send any applicable Security Breach notifications to the notification email address provided by Partner in the Partner Agreement or via direct communication with the Partner.
 - (d) Partner is solely responsible for managing whether Partner's end users are authorized to share, disclose, create, and/or use PHI with Covered Services and Google will have no obligations relating to such end user authorizations.
 - (e) Notwithstanding Section 6(a), this Section 6(e) will be deemed as notice to Partner that Google periodically receives unsuccessful attempts for unauthorized access, use, disclosure, modification or destruction of information, or interference

with the general operation of Google's information systems and the Covered Services. Partner acknowledges and agrees that even if such events constitute a Security Incident as that term is defined under HIPAA, Google will not be required to provide any notice under this BAA regarding such unsuccessful attempts other than this Section 6(e).

7. **Subcontractors.** Google will take appropriate measures to ensure that any Subcontractors used by Google to perform its obligations under the Partner Agreement that require access to PHI on behalf of Google are bound by written obligations that provide the same material level of protection for PHI as this BAA. To the extent Google uses Subcontractors in its performance of obligations hereunder, Google will remain responsible for their performance as if performed by Google.
8. **Access and Amendment.** Partner acknowledges and agrees that Partner is solely responsible for the form and content of PHI maintained by Partner within the Covered Services, including whether Partner maintains such PHI in a Designated Record Set within the Covered Services. Google will provide Partner with access to PHI received from Partner via the Covered Services so Partner may fulfill its obligations under HIPAA with respect to Individuals' rights of access and amendment, but will have no other obligations to Partner or any Individual with respect to the rights afforded to Individuals by HIPAA with respect to Designated Record Sets, including rights of access or amendment of PHI. Partner is responsible for managing its use of the Covered Services to appropriately respond to such Individual requests.
9. **Accounting of Disclosures.** Google will document disclosures of PHI by Google and provide an accounting of such disclosures to Partner as and to the extent required of a Business Associate under HIPAA and in accordance with the requirements applicable to a Business Associate under HIPAA.
10. **Access to Records.** To the extent required by law, and subject to applicable attorney client privileges, Google will make its internal practices, books, and records concerning the use and disclosure of PHI received from Partner, or created or received by Google on behalf of Partner, available to the Secretary of the U.S. Department of Health and Human Services (the "**Secretary**") for the purpose of the Secretary determining compliance with this BAA.
11. **Expiration and Termination.**
 - (a) This BAA will terminate on the earlier of (i) a permitted termination in accordance with Section 11(b) below, or (ii) the expiration or termination of the Partner Agreement.
 - (b) If either party materially breaches this BAA, the non-breaching party may terminate this BAA on 10 days' written notice to the breaching party unless the breach is cured within the 10-day period. If a cure under this Section 11(b) is not reasonably possible, the non-breaching party may immediately terminate this BAA, or if neither termination nor cure is reasonably possible under this Section 11(b), the non-breaching party may report the violation to the Secretary, subject to all applicable legal privileges.

- (c) If this BAA is terminated earlier than the Partner Agreement, Partner may continue to use the Services in accordance with the Partner Agreement, but must delete any PHI it maintains in the Covered Services and cease to further create, receive, maintain, or transmit such PHI to Google.

12. Return/Destruction of Information. On termination of the Partner Agreement, Google will return or destroy all PHI received from Partner, or created or received by Google on behalf of Partner; provided, however, that if such return or destruction is not feasible, Google will extend the protections of this BAA to the PHI not returned or destroyed and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible.

13. Miscellaneous.

- (a) Survival. Sections 12 (Return/Destruction of Information) will survive termination or expiration of this BAA.
- (b) Counterparts. The parties may execute this BAA in counterparts, including facsimile, PDF or other electronic copies, which taken together will constitute one instrument.
- (c) Effects of Addendum. To the extent this BAA conflicts with the remainder of the Partner Agreement, this BAA will govern. This BAA is subject to the “Governing Law” section in the Partner Agreement. Except as expressly modified or amended under this BAA, the terms of the Partner Agreement remain in full force and effect.