

Business Associate Addendum

You must notify Jungle Disk at hipaanotice@jungledisk.com prior to using the Jungle Disk Service for Protected Health Information under HIPAA. See Section 5 (Notice Requirements) below.

This Business Associate Addendum (this “BAA”) is an addendum to the Agreement between you and Jungle Disk.

1. **Defined Terms.** Certain words used in this BAA have specific definitions as follows:

“HIPAA” means the Administrative Simplification Subtitle of the Health Insurance Portability and Accountability Act of 1996, as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act, and the Privacy, Security, Breach Notification and Enforcement Rules found at 45 C.F.R. Part 160 and 164.

“HIPAA Data” means protected health information that Jungle Disk receives, maintains or transmits as part of providing Services to you under the Services Agreement.

Any words used in this BAA that are defined in HIPAA have the meaning given to them in HIPAA, regardless of whether those words are capitalized below. Capitalized words used below that are not defined in HIPAA have the meanings given to them in the Agreement.

2. **Applicability of this Addendum.**

2.1 **Covered Entity or Business Associate.** This Addendum applies only if and to the extent:

(i) you are a covered entity and you use the Jungle Disk Service for a function or activity regulated under the HIPAA Rules; or

(ii) you are a business associate of a covered entity and use the Jungle Disk Service to perform your contractual obligations to the covered entity under a business associate agreement for the covered entity’s function or activity regulated under HIPAA.

2.2 **Identified Accounts.** This Addendum applies only to those Services accounts that you have identified to Jungle Disk in a notice that meets all of the requirements of Section 5 (Notice Requirements) below.

3. **Jungle Disk’s Use of HIPAA Data to Provide the Service.**

Jungle Disk may use and disclose HIPAA Data to provide the Services described in the Agreement, and as reasonable necessary for the management and administration of its business and to fulfill its legal responsibilities.

4. **Jungle Disk’s Obligations.**

4.1 Restrictions on Use, Disclosure. Jungle Disk may not use or disclose HIPAA Data except: (i) as expressly permitted by this BAA, and (ii) as required by law. Applicable notice requirements in Section 17 (Confidential Information) of the Agreement apply to our use and disclosure of HIPAA Data under this Subsection.

4.2 Safeguards. Jungle Disk will use reasonable and appropriate safeguards to prevent the use or disclosure of your HIPAA Data other than as expressly permitted by this BAA or as required by law. Jungle Disk's safeguards will comply with Subpart C of 45 C.F.R. 164.

4.3 Reports. Jungle Disk will report to you any use or disclosure of HIPAA Data other than as permitted by this BAA within 30 days of becoming aware of the use or disclosure, and will report any security breach involving your HIPAA Data within 10 days of the day it becomes aware of the security breach. If Jungle Disk becomes aware of any security incidents involving your HIPAA Data, Jungle Disk will report them to you at least once per quarter.

4.4 Availability of HIPAA Data to Enable Your Compliance with 45 C.F.R. Section 164.524 and 164.526.

Jungle Disk will notify you promptly if it receives a request from an individual for access to or a modification of the individuals' protected health information, and will make your HIPAA Data available to you as necessary for you to comply with your obligations under 45 C.F.R. Section 164.524 and 164.526.

4.5 Availability of HIPAA Data to Provide an Accounting of Disclosures. Jungle Disk will make available to you your HIPAA Data as required to provide an accounting of disclosures as necessary to satisfy your obligations under 45 C.F.R. 164.528, provided that such disclosures were made by or known to Jungle Disk.

4.6 Access by Secretary of HHS. Jungle Disk will make its internal practices, books and records available to the Secretary for purposes of determining compliance with HIPAA.

4.7 Subcontractors. If Jungle Disk uses a subcontractor to receive, maintain or transmit HIPAA Data, it will ensure that the subcontractor agrees to the obligations, restrictions and conditions that apply to Jungle Disk under this BAA.

5. Notice Requirements. You must give Jungle Disk notice of your intent to use the Services for HIPAA Data at hipaanotice@jungledisk.com least 10 days in advance. Your notice must identify the Services accounts you will use for HIPAA Data, and any alternative or additional notice contact for notices under this BAA. Unless you have provided Jungle Disk with a different contact for notices under this BAA, Jungle Disk will transmit any required or permitted notices or reports to the primary account contact on your account.

6. Additional Obligations. In addition to your obligations in Section 6 (Your Obligations) of the Agreement, you make the following representations, warranties and covenants:

6.1 Encryption. You will use the encryption features of the Service, or a stronger encryption method that we approve in advance in writing. You will not permit access to your account or encryption key by any person other than members of your workforce who needs access to perform their job functions. Specifically, but without limitation, you will not disclose your encryption key to any Jungle Disk personnel as part of a request for support or otherwise.

6.2 Safeguards. You will use reasonable and appropriate precautions to protect the security of your account, your encryption key, and the HIPAA Data. For example:

- (i) you will require each individual who uses the Services under your account to have a unique log in and passcode, and will require the use of complex passwords.
- (ii) you will log user access to your account and retain the logs for a period of at least six years; and
- (iii) you will not disclose any HIPAA Data to Jungle Disk outside of the use of the Services.

- 6.3 Compliance with Law.** You will comply with HIPAA and other applicable law. You will not ask Jungle Disk to do anything that violates HIPAA, or that would violate HIPAA if you did it yourself, such as asking Jungle Disk to use or disclose HIPAA Data in a way that would be a HIPAA violation by you
- 6.4 Consents.** You will obtain any authorizations, consents or other permissions necessary to use the Service without violating applicable law or the rights of individuals under applicable privacy regulations and HIPAA.
- 6.5 Identified Accounts Only.** You may not use the Jungle Disk Service for protected health information other than by means of an account you have identified in your notice required under Section 5 (*Notice Requirement*).
- 6.6 Your Privacy Policy.** You will not agree to any restrictions or publish any restrictions in your privacy policy that would cause Jungle Disk to violate this BAA or HIPAA.
- 6.7 Notice to Jungle Disk.** You will notify Jungle Disk promptly if you become aware of a security breach or any other unauthorized access to, use or disclosure of your HIPAA Data, and of any security incident of which you become aware.
- 7. Disclaimer.** Use of the Jungle Disk Service does not, by itself, constitute compliance with HIPAA requirements, such as those related to emergency planning, disaster recovery planning, and creation and maintenance of retrievable exact copies of electronic protected health information.
- 8. Release and Indemnification.** Jungle Disk has entered into this BAA and accepted the risk inherent in providing the Services for HIPAA Data in reliance on your representations, warranties and covenants stated in the Agreement and the section above in this BAA captioned “Additional Obligations.” You agree that Jungle Disk is not responsible to you for any unauthorized access to, or use or disclosure of, you HIPAA Data (including, without limitation a security incident or security breach) if the event would not have occurred but for your violation of your obligations stated in Section 6 of the Agreement or your additional obligations stated in Section 6 of this BAA. You agree that your violation of these obligations is an additional grounds for indemnification under Section 19 of the Agreement.
- 9. Nature of the Service.** You acknowledge that your use of the Services as intended does not require Jungle Disk to use or have access to any HIPAA Data, and that nothing in the Agreement or this BAA requires Jungle Disk to carry out any obligations of yours under the HIPAA Privacy Rule. You acknowledge that if you have encrypted your HIPAA Data as required by this BAA, there is no feasible way for Jungle Disk to identify individuals impacted by any security incident or security breach.
- 10. No Agency.** Jungle Disk is not your agent. You do not have the right to control the manner in which Jungle Disk performs its obligations under this BAA or the Agreement.
- 11. Term and Termination.** This BAA is effective for account identified in your notice as of ten (10) days following the date you provide a notice to Jungle Disk that meets all of the notice requirements stated in Section 5. This BAA continues until your Services are terminated as to those accounts, or you stop using those accounts or the Services for HIPAA Data. Notwithstanding anything to the contrary in the Agreement: (i) Jungle Disk may terminate your Services as to any HIPAA covered accounts on 30 days advance written notice if it determines, in its reasonable commercial discretion, that the accounts present a commercially unreasonable risk to Jungle Disk or require a material cost increase to manage risk; and (ii) you may terminate the Agreement on written notice for breach of this BAA without a notice period or right of cure.

On termination of this BAA, Jungle Disk shall destroy, if feasible, your HIPAA Data or where destruction is not feasible, shall extend the protections of this BAA for so long as it maintains your HIPAA Data.

12. Limitations of Liability. Jungle Disk's and its licensor's and supplier's liability for acts or omissions that violate this BAA are subject to the limitations of liability stated in the Agreement except to the extent such acts or omissions constitute a violation of HIPAA that the maximum aggregate liability of any of them shall not exceed an amount reasonably required to reasonably mitigate any security breach via the purchase of identity repair, identity protection or like services for the affected individuals.

13. Amendments. Jungle Disk may modify this BAA as necessary to comply with changes to HIPAA. Any amendment made under this Section is effective as to you 30 days following notice of the amendment, provided, however, that you may terminate this BAA and your Agreement if the amendment is materially adverse to you, and you give written notice of termination no later than 25 days following your receipt of the notice of the amendment.

14. Other. If there is a conflict between this BAA and the other documents that comprise the Agreement, this BAA shall control. The Terms and Conditions that are part of the Agreement are applicable as written to accounts covered by this Addendum as written unless expressly modified by this BAA.

This Business Associate Addendum is the complete and exclusive agreement between the parties regarding its subject matter and supersedes and replaces in its entirety any prior or contemporaneous agreement or understanding, written or oral.

JUNGLE DISK, LLC

By: _____

By: _____

Print Name: Bret Piatt

Print Name: _____

Print Title: President, CEO

Print Title: _____

Address:

Address:

110 E Houston Street, Suite 209

San Antonio, TX, 78205
