

This Business Associate Agreement (this “**BAA**”) represents an addendum to Your existing commercial agreement with GoodData Corporation (“GoodData”) governing Your use of GoodData products or services (“**Agreement**”)(each, a “**Party**” and together, the “**Parties**”) and is hereby incorporated into the Agreement either by reference or by Your acceptance during the registration process. In the event of any conflict between this BAA and any HIPAA data processing terms contained in the Agreement between the Parties, the terms of this BAA regarding the transfer of HIPAA data shall control and supersede the terms set forth in the original Agreement.

1. **Definitions.** Terms used in this BAA that are specifically defined in HIPAA shall have the same meaning as set forth in HIPAA. A change to HIPAA which modifies any defined HIPAA term, or which alters the regulatory citation for the definition shall be deemed incorporated into this BAA. As used herein:
 - a. “Electronic Protected Health Information” and/or “ePHI” has the meaning given to the term under the Privacy Rule at 45 CFR § 160.103, and includes, without limitation, any ePHI provided by You or created or received by GoodData on Your behalf.
 - b. “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-91, as amended, and related HIPAA regulations (45 CFR Parts 160, 162 and 164).
 - c. “Individual” has the meaning given to the term under the Privacy Rule at 45 CFR § 160.103. It also includes a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
 - d. “Service Agreement” means the underlying agreement(s) that outline the terms of the services that GoodData agrees to provide to You and that fall within the functions, activities or services described in the definition of “Business Associate” at 45 CFR § 160.103.
 - e. “Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information, codified at 45 CFR Parts 160 and Subparts A and E of Part 164, and any other applicable provision of HIPAA and any amendments to HIPAA.
 - f. “Protected Health Information” and/or “PHI” has the meaning given to the term under the Privacy Rule at 45 CFR § 164.103, and includes, without limitation, any PHI provided by You or received by GoodData on Your behalf. Unless otherwise stated in this BAA, any provision, restriction, or obligation in this BAA related to the use of PHI shall apply equally to ePHI.
 - g. “Secretary” means the Secretary of the Department of Health and Human Services or his or her designee.
 - h. “Security Rule” means the Security Standards for the Protection of Electronic Protected Health Information, codified at 45 CFR Part 160 and Subparts A and C of Part 164, and any other applicable provision of HIPAA.
 - i. “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary from time to time.
2. **Applicability.** This BAA shall be applicable only in the event and to the extent that GoodData is a Business Associate with respect to You.
3. **GoodData Obligations and Permitted Uses and Disclosures.**
 - a. GoodData will only use or disclose PHI for the purpose of performing GoodData’s obligations to You as permitted under this BAA or as Required by Law.
 - b. Except as otherwise limited in the Service Agreement or this BAA, GoodData may use or disclose PHI to perform functions, activities, or services for, or on Your behalf, provided that such use or disclosure would not violate the Privacy Rule if done by You.
 - c. To the extent that GoodData is carrying out an obligation of Yours under the Privacy Rule, GoodData will

comply with the requirements of the Privacy Rule that apply to You in the performance of such obligation.

- d. So long as such use or disclosure does not violate the Privacy Rule or this BAA, GoodData may:
 - i. Use PHI as is necessary for the proper management and administration of GoodData's organization, or to carry out the legal responsibilities of GoodData, as provided in 45 CFR § 164.504(e)(4); and
 - ii. Disclose PHI for these purposes, in accordance with the provisions of 45 CFR § 164.504(e)(4) (ii), if either (i) the disclosure is Required by Law or (ii) GoodData obtains reasonable assurances from the person to whom GoodData discloses the PHI that the PHI will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and that the person will notify GoodData of any instances of which it is aware in which the confidentiality of the information has been breached.
- e. GoodData will develop, implement, maintain, and use appropriate safeguards to prevent any use or disclosure of the PHI other than as provided by this BAA. GoodData will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of ePHI.
- f. GoodData will report to You any use or disclosure of PHI not authorized by this BAA of which it becomes aware, including any Breach of Unsecured PHI. In addition, GoodData will report to You any Security Incident of which it becomes aware involving or potentially involving Your ePHI. Notice shall be provided to You within fifteen (15) business days of becoming aware of the non-authorized use or disclosure or Security Incident.
- g. The parties acknowledge and agree that this section constitutes notice by GoodData to You of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined herein) for which no additional notice to You shall be required. For purposes of this paragraph, "Unsuccessful Security Incidents" shall include, but shall not be limited to, pings and other broadcast attacks on GoodData's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access to, use of, or disclosure of, PHI.
- h. GoodData agrees to mitigate, to the extent reasonably practicable, any harmful effect that is known to GoodData of any (A) use or disclosure of PHI or ePHI by GoodData in violation of the requirements of this BAA, (B) Breach of Unsecured PHI or (C) Security Incident related to ePHI in violation of the requirements of this BAA.
- i. All PHI maintained by GoodData for You will be available to You in a time and manner that reasonably allows You to comply with the requirements under 45 CFR § 164.524. GoodData shall not be obligated to provide any such information directly to any individual or person other than You.
- j. All PHI maintained by GoodData for You will be available to You in a time and manner that reasonably allows You to comply with the requirements under 45 CFR § 164.526.
- k. You acknowledge that GoodData is not required under this BAA to make disclosures of PHI to individuals or any person other than You, and that GoodData does not, therefore, expect to maintain documentation of such disclosure as described in 45 CFR § 164.528. In the event that GoodData does make such disclosure, it shall document the disclosure as would be required for You to respond to a request by an individual for an accounting of disclosures in accordance with 45 CFR § 164.504(e)(2)(ii)(G) and § 164.528, and shall provide such documentation to You promptly on Your request. In the event that a request for an accounting is made directly to GoodData, GoodData shall, within fifteen (15) Business Days, forward such request to You.
- l. To the extent required by applicable law, GoodData shall make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary for purposes of determining Your compliance with the Privacy Rule.

- m. GoodData will ensure that any agents, including subcontractors, to whom it provides PHI or ePHI agree in writing to the same restrictions and conditions, including but not limited to those relating to termination of the contract for improper disclosure, that apply to GoodData with respect to such information. Further, GoodData shall take reasonable steps to cure a material breach of an agent or subcontractor or terminate its association and/or agreement with the agent or subcontractor. GoodData shall not provide any PHI or ePHI to any third party other than GoodData's agents and subcontractors as necessary for performance under the Service Agreement without Your express written permission or as otherwise required by law.
- n. GoodData agrees that GoodData does not and will not have any ownership rights in any of the PHI.

4. Customer Obligations. You shall notify GoodData of:

- a. Any change in its notice of privacy practices, to the extent that such change may affect GoodData's use or disclosure of PHI;
- b. Any change in, or revocation of, permission by individual to use or disclose PHI, to the extent that such change may affect GoodData's use or disclosure of PHI; and
- c. Any restriction to the use or disclosure of PHI agreed by You, including, but not limited to, any restriction agreed by You under 45 CFR § 164.522, to the extent that such restriction may affect GoodData's use or disclosure of PHI.
- d. You shall not instruct or request that GoodData use or disclose any PHI in any manner not permitted by this BAA.

5. Term; Termination.

- a. This BAA shall be effective as of the date on which the Service Agreement becomes effective and shall continue until terminated by You or until any underlying Service Agreement expires or is terminated; provided however, that the requirements of this BAA shall continue to apply to GoodData to the extent that it maintains Your PHI or ePHI after such termination as provided in Section 5.3.
- b. If GoodData violates a material term of this BAA, as determined by You, You may terminate this BAA, provided that You have provided written notice of the violation to GoodData and GoodData has not cured the violation within thirty (30) days of receiving written notice of the violation from You.
- c. Upon termination of this BAA for any reason, GoodData shall, if feasible, return or destroy all PHI received from You or created or received by GoodData on behalf of You that GoodData still maintains in any form. If return or destruction of PHI is not feasible, GoodData will retain the PHI, subject to all of the protections of this BAA, and limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the PHI infeasible for so long as GoodData maintains the PHI.

6. Miscellaneous

- a. This BAA may be also executed in counterparts, and, if so executed, each counterpart shall be considered part of the entire, original document and shall have the same force and effect as if executed in one original document. Facsimile, PDF (Portable Document Format) signatures, and/or electronic mail signatures or online acceptance will be deemed original signatures under the terms of this BAA.
- b. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than You, GoodData, or their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- c. The parties are independent contractors and nothing in this BAA shall be deemed to make them partners or joint venturers.
- d. GoodData will comply with all appropriate federal and state security and privacy laws, to the extent that such

laws apply to GoodData.

- e. All notices which are required or permitted to be given pursuant to this BAA shall be in writing and shall be sufficient in all respects if delivered personally, by electronic mail, by facsimile (with a confirmation by registered or certified mail placed in the mail no later than the following day), or by registered or certified mail, postage prepaid, addressed to a party as indicated below:

<u>If to GoodData:</u>	<u>If to You:</u>
GoodData Corporation ATTENTION: Legal Department 135 Main Street, Suite 550 San Francisco, CA 94105 With a copy to legal@gooddata.com	to the email address provided during Your registration

- f. Notice shall be deemed to have been given upon transmittal thereof as to communications which are personally delivered or transmitted by electronic mail or facsimile and, as to communications made by United States mail, on the third day after mailing. The above addresses may be changed by giving notice of such change in the manner provided above for giving notice.
- g. Any ambiguity in this BAA shall be resolved to permit the parties to comply with HIPAA.
- h. If any provision of this BAA is determined by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions hereof shall continue in full force and effect.
- i. Unless otherwise specified in the Service Agreement and except to the extent preempted by federal law, this BAA shall be governed by the law of the State of California, without regard to applicable conflict of law principles.