HIPAA Business Associate Addendum

This HIPAA Business Association Addendum (this "**HIPAA Addendum**") is an addendum to the ObjectRocket Product Terms (the "**Product Terms**"), and is otherwise subject to and governed by the Agreement. This HIPAA Addendum defines the rights and responsibilities of each of us with respect to Protected Health Information as defined in the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, including the HITECH Act and Omnibus Rule, as each may be amended from time to time (collectively, "**HIPAA**"). This HIPAA Addendum shall be applicable only in the event and to the extent that Rackspace US, Inc. meets, with respect to you and as to your use of the ObjectRocket Services, the definition of a Business Associate set forth at 45 C.F.R. §160.103, or applicable successor provisions.

1. Defined Terms. For the purposes of this HIPAA Addendum, capitalized terms shall have the following meanings:

"**Business Associate**" shall mean Rackspace US, Inc.

"**CFR**" shall mean the Code of Federal Regulations.

"**Individual**" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

"**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

"**Protected Health Information**" or "**PHI**" shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information received by Business Associate from or on behalf of Customer.

"**Required By Law**" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.

"**Security Rule**" shall mean the Security Standards for the Protection of Electronic Protected Health Information, located at 45 CFR Part 160 and Subparts A and C of Part 164.

"**Secretary**" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

2. Obligations and Activities of Business Associate.

(a) Business Associate shall not use or disclose PHI other than as permitted or required by this HIPAA Addendum or as permitted or Required by Law.

(b) Business Associate agrees to provide those physical, technical, and administrative safeguards described in the Product Terms, Service Order(s) and other parts of the Agreement including any safeguards selected by you as part of the Services. If Business Associate agrees as part of this HIPAA Addendum to carry out an obligation of yours under the Privacy Rule, then Business Associate will comply with the requirements of the Privacy Rule applicable to such obligation.

(c) Business Associate agrees to mitigate, to the extent commercially reasonable and reasonably practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its agents or subcontractors in violation of the requirements of this HIPAA Addendum.

(d) Within five Business Days of becoming aware, Business Associate agrees to report to you (i) Security Incidents (as defined in 45 C.F.R. §164.304 and as further described below), (ii) the Breach of unsecured PHI (as defined in 45 CFR §164.402), or (iii) an access, acquisition, use or disclosure of PHI in violation of this HIPAA Addendum.

(1) Both parties acknowledge that there are likely to be a significant number of meaningless or unsuccessful attempts to access the Services, which make a real-time reporting requirement impractical for both parties. In particular, while Business Associate will log access attempts to the Services, Business Associate will not retain logs of all connection attempts that are rejected by ACLs. The parties acknowledge that Business Associate's ability to report on system activity, including Security Incidents, is limited by, and to, the Services which Customer has purchased. Customer may link the Services to additional network security appliances which may provide enhanced monitoring capabilities.

(2) Other than as included with the Services Customer purchases Business Associate undertakes no obligation to report unsuccessful security incidents or to monitor the Services. Business Associate undertakes no obligation to report network security related incidents which occur on the Rackspace managed network but do not directly involve the Customer Data. The parties agree that the following are illustrative examples of unsuccessful security incidents which, when they do not result in the unauthorized access, use, disclosure, modification or destruction of PHI need not be reported by Business Associate: pings against network devices, port scans, attempts to log on to a system or database with an invalid password or username, detection of malware.

(3) The ObjectRocket Services are provisioned without access permissions, meaning you must select those hosts and networks which access the Services. Customer is responsible for purchasing, implementing, and monitoring the Services for potential Security Incidents as appropriate based on Customer's use of the Services, which may include restricting access to the Services to traffic routed through appropriate security appliances. Certain ObjectRocket and ObjectRocket affiliate Services can provide such additional reporting of potential Security Incidents, and Business Associate will discuss potential configurations for your Services at your request.

(e) Business Associate agrees to obtain from any agent, including a subcontractor to whom it provides PHI, reasonable assurances that it will adhere to the same restrictions and conditions that apply to Business Associate under this HIPAA Addendum with respect to such information.

(f) All PHI maintained by Business Associate 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.

Business Associate shall not be obligated to provide any such information directly to any Individual or person other than you.

(g) All PHI and other information maintained by Business Associate 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.

(h) Business Associate agrees to make internal practices, books, and records available to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary's determining your compliance with the Privacy Rule; provided, however, that time incurred by Business Associate in complying with any such request that exceeds its normal customer service parameters shall be charged to you at Business Associate's then current standard hourly rate for Supplemental Services.

(i) You acknowledge that Business Associate is not required by this HIPAA Addendum to make disclosures of PHI to Individuals or any person other than you, and that Business Associate does not, therefore, expect to maintain documentation of such disclosure as described in 45 CFR § 164.528. In the event that Business Associate 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 Business Associate, Business Associate shall, within 2 Business Days, forward such request to Customer.

3. Permitted Uses and Disclosures by Business Associate. Except as otherwise limited in this HIPAA Addendum or other portion of the Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, you as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by you.

4. Specific Use and Disclosure Provisions. Except as otherwise limited in this HIPAA Addendum or other portion of the Agreement, Business Associate may:

(a) use PHI for the proper management and administration of Business Associate or to carry out its legal responsibilities;

(b) disclose PHI for the proper management and administration of Business Associate, provided that disclosures are (i) Required By Law, or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person will notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and

(c) use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR §164.502(j)(1).

5. Your Obligations.

5.1 You shall notify Business Associate of:

(a) any limitations(s) in your notice of privacy practices in accordance with 45 CFR § 164.520 to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(b) any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(c) any restriction to the use or disclosure of PHI that you have agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5.2 You agree that you will not request Business Associate to use, transmit or disclose PHI in any manner that would not be permissible under the Privacy or Security Rules if done by you.

5.3 You agree as part of your security obligations to implement, purchase or maintain appropriate safeguards (including security appliances, services, and practices) as required for you to comply with the Security and Privacy rules as applicable to you and your use of the Services. Including without limitation: (i) encrypting PHI that you store in the Services and architecting your applications appropriately to do so, (ii) using SSL/TLS and certificate validation where available as part of the Services, (iii) configuring ACL management to restrict access to those hosts and networks which appropriately require access to PHI stored on the Services and which are monitored and secured consistent with the Privacy and Security Rules as applicable to your use of the Services, and (iv) appropriately maintaining user and identify management through the provided service management tools in order to limit access to the Services.

5.4 Business Associate offers data at rest encryptions services which you may purchase and implement, but otherwise Customer Data you upload to the ObjectRocket Services is not encrypted by Business Associate and is stored (and transmitted) in similar fashion as you provide it. You are responsible for encrypting any sensitive data you use in conjunction with the ObjectRocket Services.

6. Term and Termination

(a) The term of this HIPAA Addendum shall continue for the term of your use of the ObjectRocket Services subject to the Agreement, and following termination of the Agreement until all PHI is destroyed or returned to you or your designee.

(b) If Business Associate materially breaches the terms of this HIPAA Addendum, then you may terminate any related ObjectRocket Services with no early termination fee or other penalty.

(c) Upon your request (for any reason), Business Associate shall destroy all PHI which remains on the Services or is otherwise in Business Associates possession. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate as well as Business Associate itself. Business Associate shall retain no copies of the PHI. In the event that Business Associate determines that destroying the PHI is infeasible, Business Associate shall promptly provide you notification of the conditions that make destruction infeasible. Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the destruction infeasible, for so long as Business Associate maintains such PHI. This Section does not require Business Associate to segregate any PHI from other information

maintained on Business Associate's servers or Services and Business Associate may comply with this requirement by returning or destroying all of the information maintained on its servers by you. By default, ObjectRocket will zero-fill (meaning to format a hard disk by filling available sectors with zeroes) any hard disk drive dedicated to your use and solely used to store your Customer Data upon termination of the Service(s). Upon your written request ObjectRocket shall either physically destroy or multi-pass wipe any hard drive dedicated to your use and solely used to store your Customer Data, provided that ObjectRocket may charge you an additional fee at its then current rates for such additional services.

7. Miscellaneous.

(a) Amendment. Each of us agrees to take such action as is reasonably necessary to amend this HIPAA Addendum from time to time as is necessary for you to comply with the requirements of HIPAA as they may be amended from time to time; provided, however, that if such an amendment would materially increase the cost of Business Associate providing service under the Agreement, Business Associate shall have the option to terminate the Agreement on thirty (30) days advance notice.

(b) Survival. Our respective rights and obligations under this HIPAA Addendum shall survive the termination of the Agreement.

(c) Interpretation. Any ambiguity in this Business Associate Addendum shall be resolved to permit you to comply with HIPAA and the Privacy Rule.