WhisperAI Business Associate Agreement

Version 1. Effective October 26, 2026.

This Business Associate Agreement ("BAA") is between WhisperAI Technology Inc., a Delaware corporation ("WhisperAI"), and the customer that accepts it ("Customer"). It forms part of the WhisperAI Terms of Service, or any written master agreement between the parties (the "Agreement"), and the WhisperAI Data Processing Agreement ("DPA"). Where this BAA conflicts with the Agreement or the DPA for Protected Health Information, this BAA controls.

1. Acceptance and eligibility

1.1 **Who may accept.** This BAA is available to customers on the Business Pro, Enterprise and Developer API plans. It applies only to the workspace or Developer API account for which it is accepted (the "HIPAA Account").

1.2 **How it is accepted.** An administrator accepts this BAA in the account settings of an eligible account by entering their name, title and organization and confirming acceptance. Acceptance has the same effect as a signature.

1.3 **When it takes effect.** This BAA takes effect for a HIPAA Account when WhisperAI confirms in the Services that HIPAA mode is enabled for that account (the "BAA Effective Date").

1.4 **Authority and status.** The person accepting confirms they have authority to bind Customer, and that Customer is a Covered Entity or a Business Associate under HIPAA. If Customer is a Business Associate, WhisperAI is its Subcontractor, and references to Customer's obligations as a Covered Entity apply to the extent of Customer's own business associate agreements.

1.5 **Custom terms.** WhisperAI offers this BAA as a standard form. Enterprise customers may ask for changes by writing to support@whisperai.com. A change binds WhisperAI only if both parties sign it.

1.6 **No PHI before the BAA Effective Date.** Customer must not submit PHI to WhisperAI before the BAA Effective Date, or to any account other than a HIPAA Account.

1.7 **HIPAA mode is permanent.** Once HIPAA mode is enabled for an account, it cannot be turned off. The account and its content stay protected under this BAA until the account is closed and its PHI is destroyed under section 6.3.

2. Definitions

2.1 **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), and their regulations at 45 C.F.R. Parts 160 and 164. That includes the Privacy Rule (Subpart E), the Security Rule (Subpart C) and the Breach Notification Rule (Subpart D), as amended.

2.2 Capitalized terms not defined in this BAA have the meanings given in HIPAA. They include Breach, Business Associate, Covered Entity, Data Aggregation, Designated Record Set, Disclosure, Electronic Protected Health Information, Health Care Operations, Individual, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information and Use.

2.3 **"PHI"** means Protected Health Information, including Electronic Protected Health Information, that WhisperAI creates, receives, maintains or transmits for or on behalf of Customer through a HIPAA Account.

2.4 **"HIPAA-Eligible Services"** means the features listed in Exhibit A. **"Excluded Services"** means every other feature, app, integration or channel, including those listed as excluded in Exhibit A.

2.5 **"Services"** means the WhisperAI services Customer uses under the Agreement.

3. Obligations of WhisperAI

3.1 **Permitted uses and disclosures.** WhisperAI will Use or Disclose PHI only:

- (a) to provide the HIPAA-Eligible Services to Customer under the Agreement and Customer's instructions
- (b) as Required by Law
- (c) for WhisperAI's proper management and administration, or to carry out its legal responsibilities, as allowed by 45 C.F.R. § 164.504(e)(4)

A Disclosure under (c) is allowed only if it is Required by Law, or if WhisperAI first gets reasonable written assurances from the recipient. The recipient must keep the PHI confidential, Use or further Disclose it only as Required by Law or for the purpose for which it was Disclosed, and tell WhisperAI of any breach of its confidentiality.

3.2 **Prohibited uses.** WhisperAI will not, and will not allow any Subcontractor to:

- (a) use PHI to train, fine-tune or improve any machine-learning or artificial-intelligence model

- (b) Use or Disclose PHI in a way that would violate Subpart E of 45 C.F.R. Part 164 if Customer did it, except as allowed by section 3.1(c)

3.3 **Safeguards.** WhisperAI will comply with the Security Rule (Subpart C of 45 C.F.R. Part 164) for Electronic PHI, and will use appropriate safeguards to prevent any Use or Disclosure of PHI not allowed by this BAA.

3.4 **Subcontractors.** Under 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2), WhisperAI will make sure every Subcontractor that creates, receives, maintains or transmits PHI on its behalf agrees in writing to restrictions, conditions and requirements at least as protective as those in this BAA. WhisperAI's current sub-processors are listed in the DPA.

3.5 **Access.** To the extent WhisperAI holds PHI in a Designated Record Set, it will make that PHI available to Customer within 14 days of Customer's written request, so Customer can meet 45 C.F.R. § 164.524. Customer can usually do this itself by exporting from the Services.

3.6 **Amendment.** To the extent WhisperAI holds PHI in a Designated Record Set, within 14 days of Customer's written request it will make that PHI available for amendment, or make amendments Customer directs under 45 C.F.R. § 164.526. Customer can usually do this itself by editing the transcript.

3.7 **Accounting of Disclosures.** WhisperAI will document Disclosures of PHI that Customer would need to account for under 45 C.F.R. § 164.528. It will record the date, the recipient and their address if known, a brief description of the PHI, and the purpose. It will keep these records for 6 years and give them to Customer within 14 days of a written request.

3.8 **Customer obligations WhisperAI carries out.** Where WhisperAI carries out one of Customer's obligations under the Privacy Rule, it will comply with the requirements of the Privacy Rule that apply to Customer in performing that obligation.

3.9 **Books and records.** WhisperAI will make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary to determine compliance with HIPAA.

4. Obligations of Customer

4.1 **HIPAA-Eligible Services only.** Customer will submit PHI only through the HIPAA-Eligible Services in a HIPAA Account. This BAA does not cover PHI that Customer or its users put anywhere else, and WhisperAI has no obligation under it for that PHI. That includes:

- any other account or workspace
- the Excluded Services
- support requests
- email to WhisperAI
- account, billing or payment details, such as names of organizations, invoices or payment notes

Customer will not work around controls that WhisperAI turns off for a HIPAA Account.

4.2 **Data leaving WhisperAI.** This BAA does not cover a third party that receives PHI because Customer or its users sent it out of the Services, and WhisperAI is not responsible for that third party. Examples are downloading or exporting files, sending PHI to Customer's webhook or other systems through the Developer API, inserting dictated text into another website, or using an Excluded Service such as an AI-assistant connector, mobile app or cloud-drive integration.

4.3 **Users and access.** Customer is responsible for:

- deciding who can access its HIPAA Account and with what role
- removing users promptly when they leave
- keeping Developer API keys secret and rotating them if exposed

4.4 **Lawful basis and notices.** Customer is responsible for any consent, authorization or notice HIPAA or other law requires for Customer to share PHI with WhisperAI, and for complying with recording-consent laws. Customer will notify WhisperAI in writing of any of the following that affect WhisperAI's Use or Disclosure of PHI:

- any limitation in its notice of privacy practices under 45 C.F.R. § 164.520
- any change to or revocation of an Individual's permission
- any restriction it has agreed to under 45 C.F.R. § 164.522

4.5 **Permissible requests.** Customer will not ask WhisperAI to Use or Disclose PHI in a way that the Privacy Rule would not allow if Customer did it, except as allowed by section 3.1(c).

4.6 **AI output.** Transcripts, summaries and translations are produced by automated systems and may contain errors. Customer is responsible for reviewing them before relying on them for treatment, payment or records. Customer will not represent them as produced by a human.

5. Reporting

5.1 **Breaches of Unsecured PHI.** WhisperAI will report to Customer in writing any Breach of Unsecured PHI without unreasonable delay, and no later than 30 business days after Discovery. In no case will the report come later than 60 calendar days after Discovery. Discovery is defined in 45 C.F.R. § 164.410(a)(2). Subcontractors are independent contractors and not WhisperAI's agents. For a Breach at a Subcontractor, Discovery occurs when the Subcontractor notifies WhisperAI, unless WhisperAI learned of it earlier.

5.2 **Content of the report.** The report will include, to the extent known at the time:

- the identity of each Individual whose PHI was, or is reasonably believed to have been, involved
- a description of what happened, with the date of the Breach and the date of Discovery
- the types of PHI involved
- what WhisperAI has done to investigate, limit harm and prevent it happening again
- a contact person
- any other information Customer reasonably needs to meet 45 C.F.R. § 164.404

WhisperAI will add information as it becomes available.

5.3 **Other improper Use or Disclosure.** WhisperAI will report to Customer in writing any Use or Disclosure of PHI not allowed by this BAA within 30 business days after learning of it.

5.4 **Security Incidents.** WhisperAI will report to Customer in writing any successful Security Incident involving PHI within 30 business days after learning of it.

5.5 **Unsuccessful attempts.** This section is notice of the ongoing occurrence of unsuccessful Security Incidents, and no further report is required for them. Examples are pings and other broadcast attacks on firewalls, port scans, unsuccessful log-in attempts and denial-of-service attacks that do not result in unauthorized access, Use or Disclosure of PHI.

5.6 **How reports are sent.** Reports go to the security contact Customer names in its account settings, or else to the account owner.

5.7 **Notification to Individuals and regulators.** Customer is responsible for notifying Individuals, the Secretary and the media where 45 C.F.R. §§ 164.404-408 require it, unless the parties agree in writing that WhisperAI will do so.

6. Term, termination and return of PHI

6.1 **Term.** This BAA starts on the BAA Effective Date. It continues until the earliest of these events:

- the Agreement ends
- Customer closes the HIPAA Account
- either party terminates this BAA under section 6.2

6.2 **Termination for breach.** If either party learns that the other has materially breached this BAA, it will give written notice. The other party then has 30 days to cure. If the breach is not cured, or cannot be cured, the notifying party may terminate this BAA and the parts of the Agreement that involve PHI.

6.3 **Return or destruction.** WhisperAI does not delete Customer's content automatically. Customer may export or delete its content at any time, and may ask WhisperAI in writing to delete it. WhisperAI will then destroy that PHI, including copies held by Subcontractors. Backup copies are destroyed as backups expire. If WhisperAI determines that return or destruction is not feasible for some PHI, it will extend this BAA's protections to that PHI and limit further Use and Disclosure to the purposes that make return or destruction infeasible, for as long as it keeps the PHI.

6.4 **Survival.** Sections 3.2, 3.7, 3.9, 5, 6.3 and 7 survive the end of this BAA. If WhisperAI still holds PHI after this BAA ends, this BAA continues to apply to that PHI until it is destroyed.

7. Liability

7.1 **Exclusions.** Neither party is liable under this BAA for indirect, incidental, special, consequential or punitive damages, or for lost profits, revenue or goodwill.

7.2 **General cap.** Except as set out in section 7.3, each party's total liability arising out of this BAA is limited to the fees Customer paid WhisperAI for the HIPAA Account in the 12 months before the event giving rise to the claim.

7.3 **Breach cap.** WhisperAI's total liability for claims arising out of a Breach of Unsecured PHI caused by its failure to comply with this BAA is limited, in total for all such claims in any 12-month period, to **US$100,000**.

7.4 **What is not limited.** These limits do not apply to liability that cannot be limited by law, to a party's fraud or willful misconduct, or to Customer's payment obligations.

7.5 **Regulatory penalties.** Each party is responsible for civil money penalties imposed on it by a regulator for its own violations of HIPAA.

8. General

8.1 **Amendment for changes in law.** WhisperAI may update this BAA as needed to comply with changes in HIPAA by publishing an updated version.

8.2 **Interpretation.** Any ambiguity in this BAA will be resolved to permit compliance with HIPAA. A reference to a section of HIPAA means that section as in effect or amended.

8.3 **Precedence.** For PHI, this BAA controls over any conflicting term of the Agreement or the DPA. All other terms of the Agreement remain in effect.

8.4 **No third-party beneficiaries.** Nothing in this BAA gives any right or remedy to anyone other than the parties and their permitted successors.

8.5 **Independent contractors.** WhisperAI is an independent contractor and not Customer's agent.

8.6 **Notices.** Notices to WhisperAI go to support@whisperai.com. Notices to Customer go to the security contact or account owner named in its account settings.

8.7 **Governing law and venue.** This BAA is governed by federal law, including HIPAA, and otherwise by the laws of the State of Delaware, without regard to conflict-of-law rules. The state and federal courts located in Delaware have exclusive jurisdiction, as in the Terms of Service.

8.8 **Assignment.** Neither party may assign this BAA except together with the Agreement.

8.9 **Electronic acceptance.** Acceptance in the Services, electronic signatures and counterparts are as valid as original signatures.

8.10 **Entire agreement.** This BAA, with the Agreement and the DPA, is the parties' entire agreement on PHI. It replaces any earlier understanding on that subject.

Exhibit A: HIPAA-Eligible Services

HIPAA-Eligible Services. In a HIPAA Account, this BAA covers the following services:

- upload and storage of audio and video, in the web application and through the Developer API
- the Chrome extension, including recording, live transcription and dictation

- transcription of files, real-time transcription and dictation, with speaker labels and language detection
- transcript viewing, editing, search, folders, tags and version history
- AI summaries, AI chat and translation
- export and download (TXT, DOCX, PDF, SRT, VTT, JSON)
- sharing with named members of the same HIPAA Account
- deletion

Excluded Services. These are not covered by this BAA. Some are operated by third parties or run on devices WhisperAI does not control. Customer must not use them with PHI. WhisperAI may restrict them for HIPAA Accounts but is not required to, and Customer remains responsible for any PHI its users put into them:

- the WhisperAI MCP connector and any AI assistant connected through it
- the iPhone and other mobile apps
- Google Drive (Cloud Sync) and other cloud-storage integrations
- YouTube import
- public share links
- email notifications
- support chat and email to WhisperAI
- the public landing-page demo
- free and trial plans
- any feature labeled beta

WhisperAI may update this list from time to time.

IN WITNESS WHEREOF, the parties have executed this BAA as of the dates below. WhisperAI signs in advance, and Customer signs by accepting this BAA under section 1.2.

WhisperAI Technology Inc.

By: Digitally signed by: Eman Khoubian
Eman Khoubian, CEO | WhisperAI Technology Inc. | Oct 26, 2026

Name: Eman Khoubian

Title: Chief Executive Officer

Organization: WhisperAI Technology Inc.

Date: October 26, 2026

Customer

By: _____

Name: _____

Title: _____

Organization: _____

Date: _____