

Complete Computer Solutions, Inc.

RPM Cloud Services – Business Associate Agreement

Updated: August 5, 2022

<https://rpmccs.com/business-associate-agreement>

THIS BUSINESS ASSOCIATE AGREEMENT is made and entered into as of [July 30, 2022] ("Effective Date"), by and between, **Complete Computer Solutions, Inc.** ("Business Associate"), and [RPM Client Name] and its affiliates (collectively "Covered Entity").

WHEREAS, Business Associate and the Covered Entity have entered into this legal agreement for Representative Payee Manager ("RPM") Cloud Services described in the RPM Subscription Plan Proposal dated [July 30, 2022] (the "Plan") wherein the Business Associate provides the RPM platform as a cloud service.

WHEREAS, Business Associate and Covered Entity acknowledge and agree to accept and abide by the RPM Cloud Services Terms of Service Agreement ("TOS") describing additional privacy, service definitions and obligations. Acceptance of this agreement confirms acceptance of both TOS and corresponding privacy policy located at: <https://rpmccs.com/terms-of-service> and <https://rpmccs.com/privacy>, respectively.

WHEREAS, Business Associate and Covered Entity acknowledge and agree that capitalized terms used, but not otherwise defined, herein are as defined in the HIPAA Standards or the TOS.

WHEREAS, HIPAA Standards require that the Covered Entity obtain satisfactory assurances that the Business Associate will appropriately safeguard the PHI used or disclosed by the Business Associate in the course of performing services pursuant to the Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants herein contained, the parties agree as follows:

1. Definitions

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

(a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Complete Computer Solutions, Inc.

(b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [RPM Client Name].

(c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

(d) TOS. "Service Level Agreement" shall mean the legal agreement between Covered Entity and Business Associate describing additional privacy, service terms and responsibilities. Acceptance of this Agreement confirms the acceptance of both the TOS and privacy policy located at: <https://rpmccs.com/terms-of-service> and <https://rpmccs.com/privacy>, respectively.

2. **Obligations and Activities of Business Associate**

Business Associate agrees to:

(a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;

(c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware. The Business Associate shall identify each individual whose PHI or PI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during a Breach. Notice shall be made to the Covered Entity no later than two (2) calendar days after discovery of the Incident.

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available protected health information in a designated record set to the Covered Entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;

(f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;

(g) Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;

(h) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the US Secretary of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

3. **Permitted Uses and Disclosures by Business Associate**

(a) Business associate may NOT disclose protected health information.

(b) Business associate may use (not disclose) protected health information as required by law or as necessary to perform the services set forth in the TOS agreement.

(c) Business associate agrees to make requests to view protected health information consistent with covered entity's minimum necessary policies and procedures and the TOS agreement.

(d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity.

4. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) Covered entity shall notify business associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect business associate's use or disclosure of protected health information.

(b) Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information that covered entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect business associate's use or disclosure of protected health information.

5. Permissible Requests by Covered Entity

Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity.

6. Term and Termination

(a) Term. The Term of this Agreement shall be effective immediately upon Covered Entity subscription to any cloud services (whether through purchase of a subscription or on a trial basis), and, subject to, and shall terminate on the termination date as defined in the Plan, or any reason defined in the TOS, or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) Termination for Cause. Business Associate authorizes termination of this Agreement by covered entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

(c) Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, business associate shall return to covered entity or, if agreed to by covered entity, destroy all protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, that the business associate still maintains in any form. Business associate shall retain no copies of the protected health information.

Upon termination of these Terms of Service, CCS will immediately stop providing all Cloud Services to the Subscriber. Data stored in the RPM database will be exported to csv files and stored along with all files in the shared folder in a password protected zip file. The zip file will be stored on our secure ftp site and made available to Subscriber for download for thirty (30) days following termination.

7. Miscellaneous

(a) Remedies. The parties hereto understand and agree that the terms of this Business Associate Agreement are reasonable and necessary to protect the interests of the Covered Entity and the Business Associate. The parties further agree that the Covered Entity would suffer irreparable harm if the Business Associate breached this Business Associate Agreement. Thus, in addition to any other rights or remedies, all of which shall be deemed cumulative, the Covered Entity shall be entitled to obtain injunctive relief to enforce the terms of this Business Associate Agreement.

(b) Survival. The respective rights and obligations of Business Associate under this Agreement shall survive the termination of this Business Associate Agreement.

(c) Indemnification. Business Associate agrees to indemnify, defend and hold harmless the other Covered Entity, its affiliates and its directors, officers, employees, agents or assigns from and against any and all actions, causes of action, claims, suits and demands whatsoever, and from all damages, liabilities, costs, charges, debts, and expenses (including costs associated with providing required notifications in the event of Business Associate's breach of Unsecured PHI) and reasonable attorneys' fees and expenses related to any litigation or other defense of any claims, which may be asserted or for which they may now or hereafter become subject arising in connection with any misrepresentation, breach of warranty or non-fulfillment of any undertaking on the part of the Business Associate under this Agreement.

(d) Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Standards.

(e) No Private Cause of Action. This Business Associate Agreement is not intended to and does not create a private cause of action by any individual, other than the parties to this Business Associate Agreement, as a result of any claim arising out of the breach of this Business Associate Agreement, the HIPAA Standards, or other state or federal law or regulation relating to privacy or security.

(f) Amendment. In the event that any law or regulation is enacted or promulgated regarding the protection of health or personal information that is in any way inconsistent with the terms of this Business Associate Agreement or that interferes with Covered Entity's obligations with respect to the protection of health information so as to warrant a modification to this Business Associate Agreement or in the event any HIPAA Standard or MA Security Law standard is amended or modified, the Covered Entity shall have the right to amend this Business Associate Agreement to effectuate such change by providing notice thereof to Business Associate but without having to obtain Business Associate's consent thereto. Except as set forth above in this Section 5(g), this Business Associate Agreement shall only be amended or modified upon written consent of the parties.

(g) Application of State Law. Where any applicable provision of State law relates to the privacy or security of health information and is not preempted by HIPAA, as determined by application of the HIPAA Standards, the parties shall comply with the applicable provisions of State law.

(h) Severability. If any provision of this Business Associate Agreement shall be declared invalid or illegal for any reason whatsoever, then notwithstanding such invalidity or illegality, the remaining terms and provisions of this Business Associate Agreement shall remain in full force and effect.

(i) Governing Law. This Business Associate Agreement shall be interpreted, construed, and governed according to the laws of Indiana. The parties agree that venue shall lie in Indiana, without regard to its conflicts of law principles, regarding any and all disputes arising from this Business Associate Agreement.

(j) Notices. Any notice or other communication given pursuant to this Business Associate Agreement must be in writing and (a) delivered personally, (b) delivered by overnight express, or (c) sent by registered or certified mail, postage prepaid, to the address set forth opposite each party's signature and shall be considered given upon delivery.

IN WITNESS WHEREOF, the parties hereto have executed this Business Associate Agreement as of the Effective Date.

BUSINESS ASSOCIATE

Notice Address for Business Associate:

By: _____
Printed Name: Shonna Deen
Title: Vice President

Complete Computer Solutions, Inc.
P.O. Box 875
Floyds Knobs, IN 47119

COVERED ENTITY
[RPM Client Name]

Notice Address for Covered Entity:

By: _____
Printed Name: _____
Title: _____

