

**MONTEREY COUNTY SERVICE AGREEMENT**

**Between**

**County of Monterey Health Department/  
Behavioral Health Bureau**

**and**

**Rancho Cielo, Inc.**

**July 1, 2014 thru June 30, 2015**

## **SERVICE AGREEMENT**

### **I. DECLARATION**

This Service Agreement is entered into by and between MONTEREY COUNTY DEPARTMENT OF HEALTH, BEHAVIORAL HEALTH BUREAU, hereinafter referred to as "Behavioral Health," a political subdivision of the State of California and RANCHO CIELO, INC. dba Rancho Cielo Youth Campus, hereinafter referred to as "Rancho Cielo," describing the nature of the working relationship between Rancho Cielo and Behavioral Health.

### **II. RECITALS**

Monterey County Behavioral Health implements evident-based practices of therapeutic mental health and substance abuse services that help youth participate in the shared mission and goals with Rancho Cielo Inc. Behavioral Health and Rancho Cielo have an established collaborative relationship of providing support and recovery to participating youth. Rancho Cielo, Inc. is a youth campus site that provides youth programs in Monterey County and is seen as an integral part of the overall community initiative to help youth overcome juvenile violence and drugs, and help youth become educated and skilled leading to a successful quality of life.

In 2011, Rancho Cielo, Inc. was awarded grant funds under the Rancho Cielo Youth Campus, Inc. Grant for the YouthBuild project that included a portion of the funds towards a 1.0 FTE Psychiatric Social Worker, hereinafter referred to as "Behavioral Health Therapist". The grant funds expired June 30, 2013. Therefore, Behavioral Health shall provide Mental Health Services Act (MHSA) funds to continue the full-time Behavioral Health Therapist services at the Drummond Culinary Academy and the Youth Corps programs at the Rancho Cielo site.

### **III. BACKGROUND**

#### **A. Primary Target Population**

The Program's primary population of focus is:

- Clients between the ages of 16 through 24; and,
- Clients from urban City of Salinas and surrounding rural cities within Monterey County

Clients must be willing to accept the following:

- Behavioral Health assessment, sessions, and treatment as provided in Exhibit A – Scope of Services;
- Terms and Conditions as directed by Rancho Cielo and Behavioral Health, which will address expectations and requirements of the services.

**B. Participant Access to Program**

- Participants will access the Program through the Rancho Cielo recruitment process.
- All referrals for therapeutic counseling services to Behavioral Health will be screened by the Behavioral Health case manager to ensure they meet criteria for services and are willing to participate.

**IV. PRINCIPLES OF AGREEMENT**

The general areas of responsibility between the parties of this Agreement and a description of services provided are detailed in Exhibit A – Scope of Services.

**V. INDEMNIFICATION**

- A. County agrees to indemnify, defend and save harmless Rancho Cielo, Inc. and its officers, agents, and employees, to the extent permitted by applicable law, from and against all claims and/or losses whatsoever accruing or resulting to any person, firm or corporation for damages, injury or death incurred by reason of any act or failure to act by County, County's officers, agents, and employees in connection with the performance of this Agreement.
- B. Rancho Cielo, Inc. agrees to indemnify, defend and save harmless County and its officers, agents, and employees, to the extent permitted by applicable law, from and against all claims and/or losses whatsoever accruing or resulting to any person, firm or corporation for damages, injury or death incurred by reason of any act or failure to act by Rancho Cielo, Inc., officers, agents, and employees in connection with the performance of this Agreement.

**VI. INSURANCE**

- A. County, at its sole cost and expense, shall maintain insurance or self-insure its activities in connection with this Agreement.
- B. Rancho Cielo, Inc., at its sole cost and expense, shall maintain insurance or self-insure its activities in connection with this Agreement.

**VII. GENERAL PROVISIONS**

**A. Period of Performance**

Subject to other Agreement provisions, the period of performance under this Agreement is effective July 1, 2014 through June 30, 2015. This Agreement is contingent upon available funding, and may be renewed or renegotiated upon mutual written consent of all parties.

**B. Fiscal**

Behavioral Health shall fund the 1.0 FTE Behavioral Health Therapist position with Mental Health Services Act (MHSA) funds and Medi-Cal revenues.

**VIII. EXHIBITS**

The following Exhibits are attached and incorporated herein by reference:

Exhibit A – Scope of Services

Exhibit B – Confidentiality of Patient Information

Exhibit C – Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973,  
As Amended

Exhibit D – Assurance of Compliance with Monterey County’s Cultural Competency  
Policy

Exhibit E – Business Associate Agreement

**IX. NOTICE**

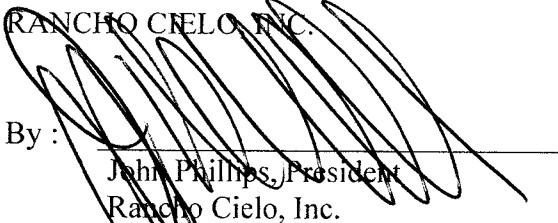
Notice to the parties in connection with this Agreement shall be given personally or by electronic or regular mail addressed as follows:

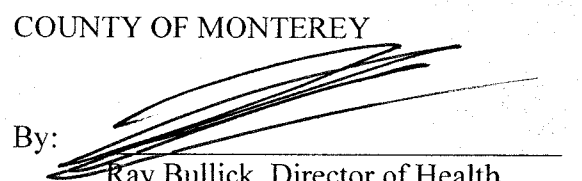
John Phillips  
President  
Rancho Cielo, Inc.  
710 Old Stage Road  
Salinas, CA 93907


Wayne W. Clark  
Behavioral Health Director  
Monterey County Health Department  
1270 Natividad Road  
Salinas, CA 93906

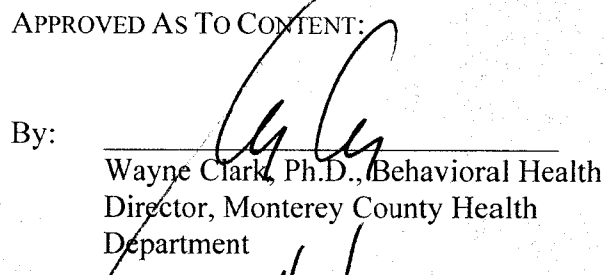
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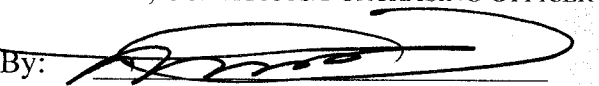
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

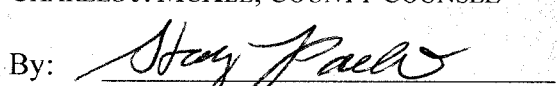
RANCHO CIELO, INC.  
By:   
John Phillips, President  
Rancho Cielo, Inc.  
Date: 4/17/14

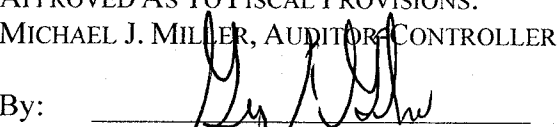
COUNTY OF MONTEREY  
By:   
Ray Bullick, Director of Health  
Monterey County Health Department  
Date: 6/25/14

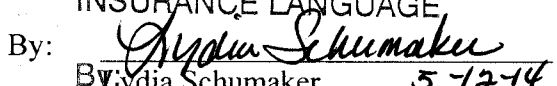
APPROVED AS TO FISCAL:  
By:   
Julie Howe, Finance Director  
Rancho Cielo, Inc.  
Date: 4/17/14

APPROVED AS TO CONTENT:  
By:   
Wayne Clark, Ph.D., Behavioral Health  
Director, Monterey County Health  
Department  
Date: 4/24/14

COUNTY OF MONTEREY  
CONTRACTS/PURCHASING:  
MIKE DERR, CONTRACTS/PURCHASING OFFICER  
By:   
Mike Derr  
Contracts/Purchasing Officer  
Date: 6.26.14

APPROVED AS TO LEGAL FORM:  
CHARLES J. MCKEE, COUNTY COUNSEL  
By:   
Stacy L. Sacita  
Deputy County Counsel  
Date: 5/12/14

APPROVED AS TO FISCAL PROVISIONS:  
MICHAEL J. MILLER, AUDITOR-CONTROLLER  
By:   
Gary Giboney  
Chief Deputy Auditor-Controller  
Date: 5/12/14

RISK MANAGEMENT  
APPROVED AS TO RISK LIABILITY:  
COUNTY OF MONTEREY  
APPROVED AS TO INDEMNITY/  
STEVEN I. MADOCK, RISK MANAGER  
INSURANCE LANGUAGE  
By:   
Lydia Schumaker 5-12-14  
Risk & Benefit Analyst  
Date: \_\_\_\_\_

**EXHIBIT A:  
SCOPE OF SERVICES**

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**I. IDENTIFICATION OF CONTRACTOR**

Rancho Cielo, Inc.  
dba Rancho Cielo Youth Campus  
710 Old Stage Road  
Salinas, CA 93907  
831-444-3533  
Fax: 831-444-3550

**II. DESCRIPTION OF SERVICES**

**Behavioral Health agrees to:**

1. Provide a 1.0 FTE Behavioral Health Therapist (clinical licensed Psychiatric Social Worker) at the Rancho Cielo site: .60 FTE assigned to the Drummond Culinary Academy, serving ages 16 – 24; and .40 FTE assigned to the Youth Corps program, serving ages 18 – 24.
2. Provide the Behavioral Health Therapist to coordinate case management efforts to youth in the Drummond Culinary Academy and Youth Corps programs. Services will include, but not be limited to, mental health and/or psychiatric screening, assessment and evaluation of youth for the presence of co-occurring substance use (abuse and dependence) and mental health disorders, intensive case and medication management services, and other support services as necessary.
3. Perform program evaluation and outcome measures using Aggression Replacement Therapy, Seeking Safety and Motivational Interviewing Techniques.
4. Provide evidence-based psychotherapy groups.
5. Collaborate with the respective Rancho Cielo case program coordinators to develop a system of tracking and follow-up on changes in the co-occurring substance use (abuse and dependence) and mental health status of the client, service needs, effectiveness of services provided, and other service needs as necessary.
6. Provide on-site consultation to youth and on-going monitoring and evaluation of youths' status and stability.
7. Collaborate in presenting reports to the respective designated Rancho Cielo case program coordinators.
8. Communicate regularly, and as necessary, with designated Rancho Cielo staff regarding implementation of the mental health, substance abuse, and case management services provided to the Drummond Culinary Academy and Youth Corps programs.
9. Participate in the program meetings with Rancho Cielo, collaborative agencies, and staff members and other meetings, as necessary.

**Rancho Cielo agrees to:**

1. Provide office space to the 1.0 FTE Behavioral Health Therapist to perform mental health and substance abuse services in a private office setting, as necessary.
2. Identify a Rancho Cielo staff member to be the primary contact for Behavioral Health for the implementation of the mental health and substance abuse services in the Drummond Culinary Academy and Youth Corps programs.
3. Communicate regularly, and as necessary, with designated Behavioral Health staff regarding implementation of the Drummond Culinary Academy and Youth Corps programs, and provide case management.
4. Provide Behavioral Health staff with the specific information necessary for adequate record keeping under the Mental Health Services Act (MHSA) criteria.
5. Participate in the program meetings with Behavioral Health, collaborative agencies, and staff members and other meetings, as necessary.

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**EXHIBIT B:  
CONFIDENTIALITY OF PATIENT INFORMATION**

Confidentiality of Patient Information and Records. All patient information and records are confidential. CONTRACTOR shall maintain the confidentiality of all patient records, including billings and computerized records, in accordance with all state and federal law relating to confidentiality of patient records and patient information, including but not limited to: Welfare and Institutions Code sections 5328, *et seq.*, 14100.2, and 10850, *et seq.*; Title 45 Code of Federal Regulations section 205.50, and Title 42, CFR, section 431.300 *et seq.*

“Patient information” or “confidential information” includes any patient/recipient of services identifying information including, but not limited to: name, identifying numbers, symbol, fingerprint, photograph or voice print. In addition, “patient information” or “confidential information” includes all information CONTRACTOR has obtained about a patient/recipient of services whether or not a documentary record of such information exists.

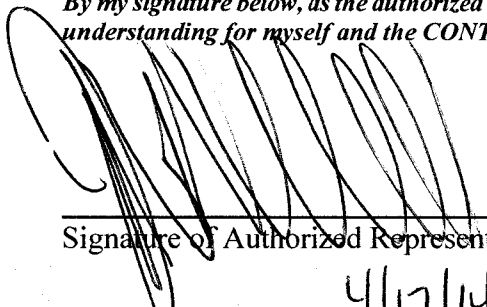
Use and Disclosure of Patient Information. Confidential information gained by CONTRACTOR from access to records and from contact with patients/recipients of service and complainants shall be used by CONTRACTOR only in connection with its performance under this Agreement. CONTRACTOR shall not disclose patient records or information, including the identities of patients/recipients of service, without proper consent to such disclosure or a court order requiring disclosure. In addition, CONTRACTOR shall obtain COUNTY's authorization to such disclosure prior to any release of confidential information. The COUNTY, through the Behavioral Health Director, shall have access to such confidential information.

Penalty for Unauthorized Disclosure. CONTRACTOR understands that disclosure of patient information in violation of law may subject the party releasing the information to a minimum of \$10,000 in civil damages, as set forth in Welfare and Institutions Code Section 5330.

Duty to Warn. CONTRACTOR understands that persons providing services under this Agreement may, in certain situations involving a patient or recipient of services who is a danger to himself or others, have a duty to warn third parties of such danger and should consult supervisory staff and/or legal counsel about such duty to warn as appropriate.

Dissemination of these Confidentiality Provisions. CONTRACTOR shall inform all its officers, employees, agents, and subcontractors providing services hereunder of these provisions.

*By my signature below, as the authorized representative of the CONTRACTOR named below, I certify acceptance and understanding for myself and the CONTRACTOR of the above confidentiality provisions.*

  
\_\_\_\_\_  
Signature of Authorized Representative  
  
4/17/14  
\_\_\_\_\_  
Date

**RANCHO CIELO, INC.**  
\_\_\_\_\_  
Business Name of Contractor  
**John Phillips**  
\_\_\_\_\_  
Name of Authorized Representative  
**President**  
\_\_\_\_\_  
Title of Authorized Representative



**EXHIBIT C:  
ASSURANCE OF COMPLIANCE WITH SECTION 504 OF THE REHABILITATION  
ACT OF 1973, AS AMENDED**

CONTRACTOR hereby agrees that it will comply with: (1) Section 504 of the Rehabilitation Act of 1973, as amended (29. U.S.C. 794), (2) all requirements imposed by the applicable HHS Regulations (45 C.F.R. Part 84) and, (3) all guidelines and interpretations issued pursuant thereto.

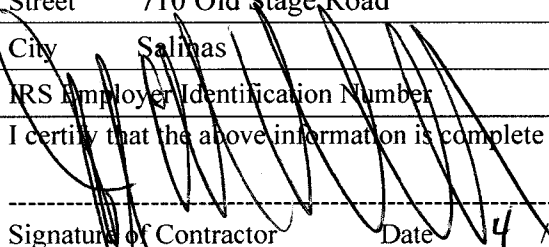
Pursuant to Section 84.5(a) of the Regulation (45 C.F.R. 84.5a) CONTRACTOR gives this Assurance in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts (except procurement contracts and contracts of insurance or guaranty), property, discounts or other federal financial assistance extended after the date of this Assurance, including payments or other assistance made after such date on applications for federal financial assistance which will be extended in reliance on the representations and agreements made in this Assurance. The United States will have the right to enforce this Assurance through lawful means. This Assurance is binding on CONTRACTOR, its successors, transferees and assignees. The person or persons whose signatures appear below are authorized to sign this Assurance on behalf of CONTRACTOR.

This Assurance obligates CONTRACTOR for the period during which federal financial assistance is extended or, where the assistance is in the form of real or personal property, for the period provided for in section 84.5(b) of the Regulations (45 C.F.R. 84.5b).

In addition, CONTRACTOR gives this assurance for the purpose of obtaining payment from the COUNTY under this Agreement, regardless of the funding source. This assurance obligates the CONTRACTOR during the entire term of this Agreement.

CONTRACTOR: (Please check A or B)

- A.  Employs fewer than fifteen persons;
- B.  Employs fifteen or more persons, and pursuant to Section 84.7(a) of the Regulations (45 C.F.R. 84.7a), has designated the following person(s) to coordinate its efforts to comply with the HHS regulations.

Contractor's Business Name		<b>RANCHO CIELO, INC.</b>	
Name of Contractor's Designee		John Phillips	
Title of Designee		President	
Street	710 Old Stage Road		
City	Salinas	State	CA
		Zip	93907
IRS Employer Identification Number			
I certify that the above information is complete and correct to the best of my knowledge and belief.			
Signature of Contractor		Date	
		4 / 17 / 14	

**EXHIBIT D:  
ASSURANCE OF COMPLIANCE WITH MONTEREY COUNTY'S CULTURAL  
COMPETENCY POLICY**

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In a culturally competent system, each provider organization shows respect for and responds to individual differences and special needs. Services are provided in the appropriate cultural context and without discrimination related to race, national origin, income level, religion, gender, sexual orientation, age, or physical disability, to name a few. Culturally competent caregivers are aware of the impact of their own culture on their relationships with consumers/families and know about and respect cultural and ethnic differences. They adapt their skills to meet each individual's/family's values and customs. Cultural competence is a developmental and dynamic process – one that occurs over time.

**Organizations in a Culturally Competent Service System Promote:**

**Quality Improvement**

- Continuous evaluation and quality improvement
- Supporting evidence-based, promising, community defined, and emerging practices that are congruent with ethnic/racial/linguistic group belief systems, cultural values and help-seeking behaviors.

**Collaboration**

- Collaborating with Behavioral Health and other community programs
- Resolving barriers to partnerships with other service providers

**Access**

- Providing new services to unserved and underserved children, youth, adults and/or older adults
- Reducing disparities in access to, and retention in, care as identified in the Mental Health Services Act Plan
- Ensuring representation of mental health services consumers, family members of a mental health services consumer, and/or representatives from unserved communities on their advisory/governance body or committee for development of service delivery and evaluation (with a minimum target of 40%).
- Developing recruitment, hiring, and retention plans that are reflective of the population focus, communities' ethnic, racial, and linguistic populations.

**Cultural Competent Services:**

- Are available, accessible and welcoming to all clients regardless of race, ethnicity, language, age, and sexual orientation.
- Provide a physical environment that is friendly, respectful and inclusive of all cultures.
- Provide information, resources and reading materials in multilingual formats.
- Promote and foment culturally accepted social interactions, respect and healthy behaviors within the family constellation and service delivery system.
- Provide options for services, which are consistent with the client's beliefs, values, healing traditions, including individual preferences for alternative, spiritual and/or holistic approaches to health.

- Offer services in unserved and underserved communities.
- Have services available in the evening and on weekends to ensure maximum accessibility.
- Offer services in Spanish and other necessary languages (such as Tagalog, Vietnamese, Oaxacan, Triqui and other languages spoken of Monterey County residents).

### **Definitions for Cultural Competency**

*“Cultural Competence” is defined as a set of congruent practice skills, knowledge, behaviors, attitudes, and policies that come together in a system, agency, or among consumer providers, family members, and professionals that enables that system, agency, or those professionals and consumers, and family member providers to work effectively in cross-cultural situations.*

(Adapted from Cross, et al., 1989; cited in DMH Information Notice No.02-03).

*“Cultural Competence” is a means to eliminating cultural, racial and ethnic disparities. Cultural Competence enhances the ability of the whole system to incorporate the languages, cultures, beliefs and practices of its clients into the service. In this way all clients benefit from services that address their needs from the foundation of their own culture. Strategies for elimination of these disparities must be developed and implemented. Cultural Competence must be supported at all levels of the system.*

(CMHDA Framework for Eliminating Cultural, Linguistic, Racial and Ethnic Behavioral Health Disparities)

*[Cultural Competency] A set of congruent behaviors, attitudes, and policies that come together in a system, agency or amongst professionals and consumers and enables that system, agency or those professionals and consumers to work effectively in cross-cultural situations.*

(Cross, Bazron, Dennis & Issacs, 1989)

*The ability to work effectively with culturally diverse clients and communities.*

(Randall David, 1994)

CONTRACTOR hereby agrees that it will comply with the principles and guidelines set forth in Monterey County’s Health Department – Behavioral Health’s Cultural Competency Policy (as outlined above), and will:

1. Develop organizational capacity to provide services in a culturally and linguistically competent manner. This may include: hiring staff with the linguistic capabilities needed to meet the diverse language needs in Monterey County (for example, Spanish, Tagalog, Vietnamese, Oaxacan, Triqui, American Sign Language (ASL), Middle Eastern languages); providing staff with training in cultural competency; making services accessible at locations and times that minimize access barriers, and ensuring that staff have an open, welcoming and positive attitude and feel comfortable working with diverse cultures.
2. Create a physical environment that ensures people of all cultures, ages and sexual orientation feel welcome and cared for. This may include: decorating waiting and treatment areas with pictures that reflect the diverse cultures of Monterey County; providing reading materials, resources and magazines in varied languages, at appropriate reading levels and suitable for

different age groups, including children and youth; consideration of cultural differences and preferences when offering refreshments; ensuring that any pictures, symbols or materials on display are not unintentionally disrespectful to another culture.

3. Provide a services delivery environment that ensures people of all cultures, ages and sexual orientation feel welcome and cared for. This may include: respect for individual preferences for alternative, spiritual and/or holistic approaches to health; a reception staff that is competent in the different languages spoken by consumers/families; staff that is knowledgeable of cultural and ethnic differences and needs, and is able and willing to respond in an appropriate and respectful manner.
4. Support the county's goal to reduce disparities to care by increasing access and retention while decreasing barriers to services by unserved and underserved communities.
5. Include the voice of multi-cultural youth, client and family members, including: monolingual and bilingual clients and family members and representatives from unserved and underserved communities, in the advisory/governance body or committee for development of service delivery, planning and evaluation (County Goal: 40%).
6. Participate in outcome evaluation activities aimed at assessing individual organizations as well as countywide cultural competency in providing mental health services.
7. As requested, meet with the Monterey County Health Department - Behavioral Health Director or designee to monitor progress and outcomes of the project.
8. Ensure that 100% of staff, over a 3 year period, participate in cultural competency training including, but not limited to, those offered by Monterey County Behavioral Health.

Dissemination of these Provisions. CONTRACTOR shall inform all its officers, employees, agents, and subcontractors providing services hereunder of these provisions.

*By my signature below, as the authorized representative of the CONTRACTOR named below, I certify acceptance and understanding for myself and the CONTRACTOR of the above provisions.*

Susie Brusa  
Signature of Authorized Representative

4-16-14  
Date

RANCHO CIELO, INC.

Contractor (Organization Name)

Susie Brusa

Name of Authorized Representative (printed)

Executive Director

Title of Authorized Representative

**EXHIBIT E:**  
**BUSINESS ASSOCIATE AGREEMENT**

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This Business Associate Agreement (“Agreement”), effective **July 1, 2014** (“Effective Date”), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of the **Health Department** (“Covered Entity”) and **Rancho Cielo, Inc.** (“Business Associate”) (each a “Party” and collectively the “Parties”).

Business Associate provides certain services for Covered Entity (“Services”) that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity (“PHI”). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the “Privacy Rule”), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the “Security Rule”), under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (“HITECH”). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 *et. seq.* apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 *et seq.* (“CMIA”), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. The Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“E PHI”), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

**1. DEFINITIONS**

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

**2. PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the

additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); provided that disclosures are Required by Law , or Business Associate obtains reasonable assurances from the persons 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 notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1).

### **3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

3.1 Responsibilities of Business Associate. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within five (5) business days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of

each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) upon twenty (20) business days' prior written request, make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity's compliance with the Privacy Rule;

(f) document disclosures of PHI and information related to such disclosure and, within twenty (20) business days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within two (2) business days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) business days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(h) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) if all or any portion of the PHI is maintained in a Designated Record Set:

(i) upon twenty (20) business days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her

authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(ii) upon twenty (20) business days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(j) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(k) notify the Covered Entity within five (5) business days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge; and

(l) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security.

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within five (5) business days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.



3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

#### **4. TERMS AND TERMINATION**

4.1 Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

4.2 Termination. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) business days after the breaching Party's receipt of written notice of such breach.

4.3 Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business

Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

**5. MISCELLANEOUS**

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

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If to Business Associate, to:  
Rancho Cielo, Inc.  
P.O. Box 6948, Salinas, CA 93912  
Attn: John Phillips, President  
Tel: (831) 444-3503  
Fax: (831) 444-3550

If to Covered Entity, to:  
Monterey County Health Department/Behavioral Health Bureau  
1270 Natividad Road, Salinas, CA 93906  
Attn: Wayne W. Clark, Ph.D., Behavioral Health Director  
Tel: (831) 755-4509  
Fax: (831) 755-4980

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Indemnification. The parties agree that Section V. of the Agreement between the Parties shall control in the event of a claim, loss, or material breach of this Agreement by either Party.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

~~[/BUSINESS ASSOCIATE/]~~  
RANCHO CIELO, INC.

~~[/COVERED ENTITY/]~~  
MONTEREY COUNTY

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: John Phillips

Print Name: Ray Bullick

Print Title: President

Print Title: Director of Health

Date: \_\_\_\_\_

4/17/14

Date: \_\_\_\_\_

6/25/14