

INTERGOVERNMENTAL AGREEMENT
YH22-0007-04

This Intergovernmental Agreement (“Agreement”) is entered into by and between **The Navajo Nation (“Nation”)**, and the **Arizona Health Care Cost Containment System (“AHCCCS”)**.

Project Title: Navajo Nation Care Coordination

Term of Agreement: The term of the Agreement is from **July 1, 2021** through **June 30, 2026** unless otherwise terminated or extended by mutual agreement of the parties in a duly authorized and executed amendment.

RECITALS

WHEREAS, AHCCCS has authority to contract for services specified herein in accordance with Titles XIX and XXI of the Social Security Act, A.R.S. Title 36, Chapters 29 and 34, and A.R.S. §§ 11-951 and 11-952. The Nation has the authority to contract for the performance of the services provided herein pursuant to 2 N.N.C §§ 164,222 and 223, and the laws, rules and sovereign authority of the Nation;

NOW, THEREFORE, the Nation and AHCCCS (collectively, the “Parties”, or individually, a “Party”), pursuant to the above and in consideration of the matters set forth herein, do mutually agree as follows:

IN WITNESS THEREOF, the parties have executed this Agreement:

The Navajo Nation

AHCCCS:

Signature: 

Signature: 
Meggan LaPorte (Jul 6, 2021 11:49 PDT)

Printed Name: Jonathan Nez

Printed Name: Meggan LaPorte, CPPO, MSW

Title: Navajo Nation President

Title: Chief Procurement Officer

Date: 07.01.2021

Date: Jul 6, 2021

Contact Person: Dr. Michelle Brandser

Contact Person: Leslie Short

Title: Delegated Health Services Administrator

Title: Integrated Services Administrator

Address: P.O. Box 709 Window Rock, AZ 86515

Address: 801 E. Jefferson, Phoenix, AZ 85034

In accordance with A.R.S. § 11-952, this Agreement has been reviewed by the undersigned Tribal Contractor's Attorney who has determined that this Agreement is in the appropriate form and is within the power and authority granted to under the laws of Arizona and the laws of the Native American Nation.

Doreen N. McPaul 07/30/2021
Legal Counsel date

Doreen N. McPaul
Printed Name

Attorney General
Title

In accordance with A.R.S. § 11-952, this Agreement has been reviewed by the undersigned General Counsel of the agency, who has determined that the Agreement is in the proper form and is within the powers granted under the laws of the State of Arizona to AHCCCS.

Nicole Fries Jul 6, 2021
Nicole Fries (Jul 6, 2021 10:23 PDT) AHCCCS General Counsel date

Nicole Fries
Printed Name

AHCCCS General Counsel
Title

I. SCOPE OF WORK

A. Purpose and Eligibility for Services Under this Agreement

AHCCCS and the Nation endeavor to provide accessible, timely behavioral health services tailored to the person and family in accordance with best practices, provided in the most appropriate setting, designed in collaboration with the person, family and others to achieve functional outcomes.

AHCCCS has contracted with the Nation to provide care coordination services. The Nation agrees to use the funding provided through this Agreement to administer the programs described in this Agreement solely for the benefit of individuals and families who:

1. Are members of a federally-recognized Native American Tribe and/or individuals who reside within the Navajo Nation; and
2. Meet the qualifications for one of the following eligibility groups:
 - 2.1. Individuals eligible for services under Titles XIX and XXI of the Social Security Act;
 - 2.2. Regardless of Titles XIX or XXI eligibility, persons who, in accordance with state law and SMI Eligibility Determination policies, have been determined to be “Seriously Mentally Ill” as defined by A.R.S. § 36-550(4) (2016);
3. Enrollment and Disenrollment
 - 3.1 Persons who are affiliated with the Navajo Nation by virtue of being Federally-recognized Tribal members, who live on or near the Navajo Nation, who receive their primary health care at facilities on or near the Navajo Nation, and who are assessed as needing covered behavioral health services shall have their AHCCCS behavioral health services coordinated by the Navajo Nation.
 - 3.2 Persons affiliated with the Navajo Nation by virtue of marriage to a Federally-recognized Tribal member, or employment or residence on or near the exterior boundaries of the Navajo Nation, and who are assessed as needing covered behavioral health services, may voluntarily choose to have their AHCCCS behavioral health services coordinated by the Navajo Nation, and shall sign appropriate consent to treatment forms.
 - 3.3 The Navajo Nation shall, in accordance with the Navajo Nation Division of Behavioral and Mental Health Services Policy and Procedures Manual and the AHCCCS Medical Assistance Eligibility Policy Manual, enroll with AHCCCS all eligible persons who receive covered behavioral health services.
 - 3.4 The Navajo Nation shall dis-enroll Members in accordance with the Navajo Nation Division of Behavioral and Mental Health Services Policy and Procedures Manual, and when a Member no longer qualifies for AHCCCS-funded behavioral health services.
 - 3.5 Throughout this Agreement, the individuals and families who are eligible for the Nation’s services shall be referred to as “Members.”

B. Service Delivery

1. **Case Management:** The Navajo Nation shall provide administrative case management services consisting of the following:
 - 1.1 Arranging for and ensuring an initial assessment of the referred person within seven (7) days of the date the person was referred.
 - 1.2 Arranging for and ensuring ongoing covered behavioral health services to be provided within twenty-three (23) calendar days of the initial assessment date.
 - 1.3 At the discretion of the Member or the Health Care Decision Maker, as defined in AHCCCS Medical Policy Manual 320-Q, working in collaboration with the Member and his/her family or significant others to develop, implement, review and revise an effective service plan.
 - 1.4 Overseeing the provision of covered behavioral health services as identified on the service plan including continuous evaluation of the effectiveness of the services and suitability of any placement through ongoing assessment of the Member, input from the Member and other persons involved in the Member's care, and direct observation and analysis of the services rendered by any provider to which the Member is receiving services from.
 - 1.5 Serving as the point of contact for coordination and communication with other systems including where clinical knowledge of the case is important.
 - 1.6 Referring the Member to resources including traditional or faith-based services, and medical services as clinically indicated, including emergency medical services.
 - 1.7 Arranging for covered behavioral health crisis services.
 - 1.8 Developing service plans that maximize personal and family voice and choice, as determined by the Member.
 - 1.9 Applying the same standard of care for all Members, regardless of the person's eligibility category.
 - 1.10 Facilitating decision making regarding the Members' behavioral health care including:
 - 1.10.1 Arranging for assessments and treatment recommendations to be completed in collaboration with the Member, his/her family and with clinical input from a clinician who is either a behavioral health professional or a behavioral health technician (case management specialists) working under the supervision of a behavioral health professional.
 - 1.10.2 Continuously engaging the Member, family and significant others in meeting the behavioral health needs of the Member, including active participation in decision-making as appropriate in meeting the behavioral health needs.

1.10.3 Developing and implementing transition, discharge or aftercare plans prior to discontinuation of case management services.

1.11 AHCCCS, or its designee, will provide notification to the Behavioral Health Director (Clinical Director) of the Navajo Nation Division of Behavioral and Mental Health Services, or his or her designee, of when Members are received at Emergency Departments and/or inpatient for behavioral health services, so that the Navajo Nation can take appropriate action.

1.12 Ensuring complete, accurate and timely documentation of case management notes provided by the Navajo Nation in accordance with AHCCCS policy including those functions listed above.

1.13 The Navajo Nation key personnel and staff, as specified in this agreement, shall be available by phone, email or other electronic means during the Navajo Nation's business hours. Navajo Nation shall provide AHCCCS-DFSM with a copy of the Navajo Nation Holiday Calendar that will be in effect for that calendar year.

2. Care Coordination and Collaboration

Care coordination encompasses a variety of activities for coordinating services and providers to assist a member in achieving his or her recovery goals. These activities can occur both at a clinical and system level, and are performed by treatment team members depending on a member's needs, goals, and functional status. The Navajo Nation agrees to engage in activities that support member advocacy, help navigate complex systems and communicate with a wide spectrum of professionals (physicians, specialists and other health care professionals) and non-professionals including family members.

The Navajo Nation shall conduct care coordination activities, and establish and follow care coordination policies and procedures, which at a minimum shall include, as appropriate, the following activities:

2.1 To the extent possible, know where assigned Members are receiving treatment and coordinate with all providers that the Member selects to receive services from, including providers that are not selected or preferred by Navajo Nation. AHCCCS will provide Navajo Nation monthly 834 files for identifying members assigned to the Navajo Nation.

2.2 Coordinate care and services to assure continuity of care:

2.2.1 Between inpatient and outpatient settings;

2.2.2 Between physical and behavioral health services;

2.2.3 In accordance with the AHCCCS AMPM Policy 450, for children under the age of 21 who are enrolled in Medicaid, who are placed out-of-area or out-of-state; and

2.2.4 Among other individuals or entities involved in the delivery of services for members.

- 2.3 Communicate with the Member’s assigned care manager, treatment team or other service providers to ensure management of care and services including addressing and resolving complex, difficult care situations.
- 2.4 When transitioning a Member to an AHCCCS Complete Care (ACC) health plan, provide to the receiving health plan any information related to any special needs of transitioning members in accordance with AHCCCS AMPM Policy 520.
- 2.5 Coordinate referrals and outreach to members who would benefit from, but have not been actively engaged in, behavioral health services.
- 2.6 Collaboration with Other Entities
 - 2.6.1 In performing care coordination services, the Nation shall work collaboratively with any entity necessary to the effective treatment of Members, including:
 - 2.6.1.1 Agencies of the State of Arizona, including AHCCCS, the Arizona Department of Economic Security (“ADES”), the Arizona Department of Public Safety, the Administrative Office of the Courts, and the Arizona Department of Corrections.
 - 2.6.1.2 AHCCCS Complete Care (ACC) health plans, Regional Behavioral Health Authorities - affiliated ACC health plans, and other Tribal Regional Behavioral Health.
 - 2.6.1.3 Tribal governmental entities, including Tribal Social Services.
 - 2.6.1.4 County and local governmental agencies, including the courts, the probation departments and jails.
- 2.7 Collaboration activities shall include:
 - 2.7.1 Coordinating the delivery of behavioral health services to Members served by more than one entity, including:
 - 2.7.1.1 Sharing information among the entities, any sharing of information shall be governed by applicable federal and state laws and Navajo Nation Privacy Act, 2 N.N.C. §§ 81 et seq.
 - 2.7.1.2 Resolving problems;
 - 2.7.1.3 Identifying resources that each entity will contribute to the care and support of Members; and
 - 2.7.1.4 Arranging for co-location as applicable
 - 2.7.2 Coordinating the care of Members co-enrolled with the ADES, Division of Developmental Disabilities (“DDD”), including:

- 2.7.2.1 Working directly with DDD staff and service providers involved with the Member;
- 2.7.2.2 Providing assistance in managing difficult behaviors;
- 2.7.2.3 Inviting DDD staff to participate in the development of the behavioral health services plan and all subsequent planning meetings as part of the clinical team; and
- 2.7.2.4 Exchanging information regarding the initial assessment, and Individual or Family Support Plan (ISP).

2.8 The Nation agrees to meet periodically with AHCCCS outside of clinical staffing.

- 2.8.1 These meetings shall be held to address coordination of care issues, compliance coordination, and collaboration issues and to solve any other identified problems.
- 2.8.2 The frequency of these meetings shall be often enough to identify and resolve issues in a timely manner but held at least semi-annually.
- 2.8.3 The meetings shall be attended by Nation staff that have sufficient program and administrative knowledge and authority to resolve issues.

2.9 The Nation agrees to address and attempt to resolve coordination of care issues at the lowest possible level and within the community. In the event that the Nation is unable to resolve an identified issue or has identified it as a systemic issue, the Nation shall forward the following in writing to AHCCCS:

- 2.9.1 The issue that the Nation is unable to resolve;
- 2.9.2 The actions already taken that have not resulted in resolution of the issue; and
- 2.9.3 Recommendations for resolution of the problem.

2.10 The Navajo Nation shall participate in care coordination meetings on a monthly basis with the AIHP, RBHA- affiliated ACC health plans, IHS facilities, tribally owned and/or operated 638 facilities, and other providers that serve members assigned to the Navajo Nation in order to address issues related to clinically complex, (high needs/high cost) Members, crisis and other service delivery issues. The Navajo Nation may also identify high need/high cost members for inclusion.

2.10.1 The Navajo Nation shall implement the following in collaboration with AHCCCS-DFSM:

- 2.10.1.1 Identification of High Need/High Cost members
- 2.10.1.2 Plan interventions for addressing appropriate and timely care for identified High Need/High Cost members; and

2.10.1.3 Report outcomes summaries to AHCCCS as specified in the Navajo Nation Chart of Deliverables

2.10.2 The Parties shall meet at a high level as often as necessary, but at least every other month, to discuss barriers and outcomes.

2.10.3 Care coordination meetings and staffing meetings shall occur at least monthly, or more often as necessary, to affect change.

2.11 Implement health information exchange strategies to actively engage in secure data sharing efforts with both physical and behavioral health providers for the purposes of care coordination for shared members.

3. Referral Network

3.1 The Navajo Nation shall refer Members to AHCCCS-registered providers, including Indian Health Services and Tribally-owned/operated 638 system providers, in the Fee-for-Service Network.

3.2 The Nation shall track gaps in accessibility of services needed by Members, including identifying barriers to accessing care.

3.2.1 The Nation will notify AHCCCS-DFSM on an ongoing basis of any identified gaps in AHCCCS-DFSM's provider network and/or any identified barriers to accessing care including gaps in services, as described in the Chart of Deliverables.

3.2.2 The Nation will assist AHCCCS-DFSM in identifying any gaps in AHCCCS-DFSM's provider network involving providers with specialized behavioral health competencies for children/adolescents and adults including developmental disability, sexual offender treatment, sexual abuse trauma, adolescent substance abuse services, and bilingual and sign language capabilities.

3.3 Nothing in this section shall be construed to require the Nation to provide AHCCCS with an "inventory" of providers serving Members.

3.4 AHCCCS will notify the Nation of changes to the Fee-for-Service network due to provider termination or suspension. If AHCCCS makes such a change to the provider network, the Nation will collaborate with AHCCCS-DFSM to identify Members who need to transition to a different provider and will work on ensuring continuity of care for members.

4. Services for Members Determined to have a Serious Mental Illness ("SMI")

4.1 Persons who have been determined to have a serious mental illness have distinct behavioral health care needs. AHCCCS is committed to meeting the behavioral health care needs of persons who have been determined to have a serious mental illness. Towards that end, NN shall fulfill the additional requirements set forth in this section to meet the needs of persons with a serious mental illness.

4.2 SMI Determinations

- 4.2.1 A critical component of the service delivery system is the effective and efficient identification of persons who have special behavioral health needs due to the severity of their behavioral health disorder(s). One such group is persons determined to have a SMI. Without receipt of appropriate care, these persons are at high risk for further deterioration of their physical and mental condition, increased hospitalizations and potential homelessness and incarceration.
- 4.2.2 The AHCCCS Designated Contractor will perform the SMI eligibility determination process for all persons assigned to the Navajo Nation in accordance with A.R.S 36-550(4), The Arizona Administrative Code Title 9, Chapter 21, Article 3, and the AHCCCS Medical Policy Manual (AMPM) Policy 320-P. These reviews shall be conducted for all persons who request a determination or those who meet criteria during an assessment. The Contractor will outreach to Indian Health Services and tribally owned and/or operated facilities to provide technical assistance on the assessment and determination process.
- 4.2.3 AHCCCS will ensure that the Navajo Nation receives clinical information for any Member who goes through the SMI determination process outside of the Navajo Nation.

4.3 Special Assistance for Members Determined to have a SMI

- 4.3.1 Special Assistance is the support provided to a person determined to have a Serious Mental Illness who is also unable to articulate treatment preferences and/or participate effectively in the development of the Individual Service Plan ("ISP"), Inpatient Treatment and Discharge Plan ("ITDP"), grievance investigation and/or appeal processes due to cognitive/intellectual impairment and/or a medical condition.
- 4.3.2 The Navajo Nation shall require its staff to identify and refer all persons in need of Special Assistance to the Office of Human Rights (OHR) under the AHCCCS Division of Community Advocacy and Intergovernmental Relations (DCAIR) and ensure those persons are provided the Special Assistance required by and consistent with the requirements in the AHCCCS Medical Policy Manual, Policy 320-R on *Special Assistance for Persons Determined to have a Serious Mental Illness*.
- 4.3.3 The Navajo Nation shall ensure that its staff has the necessary skill and knowledge to identify and refer all persons in need of Special Assistance to the AHCCCS Office of Human Rights, as described in 4.3.2 above.
- 4.3.4 The Navajo Nation shall submit to the AHCCCS-DFSM any reports and other deliverables related to Special Assistance as detailed in the AHCCCS Medical Policy Manual, Policy 320-R.

4.4 The Navajo Nation shall coordinate care for members determined to have a SMI as

described in Section B.2 of this Agreement, and shall make referrals to appropriate community and social support services.

4.5 Housing Program

- 4.5.1 At AHCCCS' discretion and in collaboration with the Navajo Nation, the Navajo Nation may develop housing services for members determined to have a SMI based upon availability of funding, approval of the spending plan and the identified need of the members.
- 4.5.2 If funding is allocated to the Navajo Nation, the Navajo Nation shall not utilize state funding sources in any capacity at unlicensed boarding homes, or other similar unlicensed facilities.
- 4.5.3 The Navajo Nation shall assess the living situation for all persons with a serious mental illness to ensure that the person's basic needs are met in an environment that is safe, secure and consistent with their behavioral needs.
- 4.5.4 The Navajo Nation shall ensure that any situations observed that pose a threat to the health or safety of a person is promptly resolved.
- 4.5.5 The Navajo Nation shall use its best efforts to assist individuals interested in moving to locate alternative settings with appropriate supports, consistent with their individual needs and preferences.

4.6 Services for Incarcerated Individuals Determined to have a Serious Mental Illness

- 4.6.1 The Nation shall work with jails and prisons to coordinate the discharge and transition of incarcerated individuals to ensure the continuation of prescribed medication and other behavioral health services.
- 4.6.2 The Navajo Nation shall collaborate with the appropriate County and Navajo Nation Indian jail diversion programs for persons with a serious mental illness.

5. Arizona State Hospital

- 5.1 The Navajo Nation will collaborate with the Arizona State Hospital administration and agree upon, protocols for referral, bed utilization and census management, coordination of care, discharge planning and dispute resolution.
- 5.2 The Navajo Nation will ensure coordination and continuity of care for Members admitted to the Arizona State Hospital, including:
 - 5.2.1 Diversion of potential admission from the Arizona State Hospital, as appropriate;
 - 5.2.2 Coordination of the admission process with the Arizona State Hospital Admissions Office;

- 5.2.3 Participation in the Arizona State Hospital treatment and discharge planning;
 - 5.2.4 Forwarding of available clinical and medical record information upon or shortly after admission; and
 - 5.2.5 Responding promptly to any other requested communication and/or collaboration with the Arizona State Hospital.
- 5.3 The Navajo Nation will make available and maintain community living arrangements, provide appropriate supports necessary to meet the individual needs, and ensure the appropriate discharge of persons with a serious mental illness from the Arizona State Hospital.
- 5.4 When necessary, AHCCCS will assist the Navajo Nation in working with the Arizona State Hospital in streamlining any processes or providing education as it relates to the TRBHAs and the tribal healthcare delivery system.

6. Member Complaints, Grievances, and Appeals

- 6.1 The Navajo Nation will ensure that Members are aware of their rights and how to file a complaint, grievance and/or appeal.
- 6.2 The Navajo Nation will work with each Member to attempt resolution of the matter at the lowest level possible.
- 6.3 Complaints: the Navajo Nation will develop and implement written internal procedures that guide the informal dispute resolution process including timeframes for resolution.
- 6.4 Grievances and appeals for Members who have not been determined to have a SMI
- 6.4.1 For any adverse action taken by AHCCCS (e.g., denial of prior authorization for an AHCCCS-covered service), the Navajo Nation will assist the Member in filing and pursuing any applicable grievance and/or appeal.
 - 6.4.2 For any adverse action taken by the Navajo Nation (e.g., denial of a block grant service), the Nation will follow their internal process that provides an equivalent right of appeal as the procedures described in Arizona Administrative Code Title 9, Chapter 34, Article 2.
- 6.5 Grievances and appeals for Members who have been determined to have a SMI
- 6.5.1 For any adverse action taken by AHCCCS (e.g., denial of prior authorization for an AHCCCS-covered service), the Navajo Nation will assist the Member in filing and pursuing any applicable grievance and/or appeal.
 - 6.5.2 For any adverse action taken by the Navajo Nation (e.g., denial of SMI eligibility):
 - 6.5.2.1 The Navajo Nation will follow their internal process that provides an equivalent to the appeals, grievances and requests for investigation

processes described in Arizona Administrative Code Title 9, Chapter 21, Article 4 and that will allow for member appeals, grievances or investigations to be smoothly elevated to AHCCCS when necessary.

6.5.2.2 The Navajo Nation will assist AHCCCS in processing SMI grievances and appeals by ensuring its staff comply with procedural requirements including, but not limited to, the provision of required notices to persons with a serious mental illness, participating in an investigation, providing requested documents, participating in informal conferences or administrative hearings, as necessary.

6.5.3 AHCCCS will work collaboratively with the Navajo Nation in identifying any actions to be taken resulting from an SMI grievance or appeal.

7. Quality Management and Improvement Program

7.1 The Navajo Nation shall institute processes to assess, plan, implement and evaluate the quality of care and quality of service provided to their assigned Members. The Navajo Nation must identify quality of care concerns and accept quality of care referrals from any sources.

7.2 The Navajo Nation shall work with AHCCCS Division of Fee-for-Service Management (DFMS) Quality Management (QM) on reporting and performance improvement activities in accordance with AHCCCS Medical Policy Manual (AMPM) Policy 830.

7.2.1 The Navajo Nation shall work with DFMS QM on reporting of Incident/Accident/Death (IAD) and Quality of Care (QOC) activities which require elevation to the DFMS QM's attention and in accordance with the AHCCCS Medical Policy Manual (AMPM) Policy 961. The Navajo Nation shall provide all pertinent information and clinical documentation regarding such incidents. In accordance with the Navajo Nation Privacy Act.

7.2.2 The Navajo Nation shall inform AHCCCS within one (1) calendar day of its knowledge of high profile incidents/accidents involving Member(s). These high-profile incidents/accidents include any situation or occurrence that involves a Member, behavioral health provider, and/or the Navajo Nation that has resulted or has potential to result in media attention/involvement.

7.2.3 All reports of incident/accident/death, including incidents of abuse, neglect, exploitation, healthcare-acquired conditions and unexpected deaths for all Members must be forwarded to AHCCCS-DFMS QM and include all pertinent information and clinical documentation related to the incident.

7.2.4 The Navajo Nation shall work to disposition unreviewed cases in the Quality Management Portal and make the determination to close or elevate the cases to AHCCCS-DFMS QM.

7.2.5 The Navajo Nation shall assist AHCCCS in tracking and trending quality of care of quality of service concerns, including access to care and/or gaps in services

related to member issues or due to rates.

7.2.6 The Navajo Nation shall collect data and analyze in partnership with AHCCCS. Information may be shared among AHCCCS and the TRBHAs to improve coordination of care throughout AHCCCS.

7.2.7 The Navajo Nation shall assist AHCCCS-DFSM QM, as needed, in the process to provide resolution of any quality of care issues. Member and system resolutions may occur independently from one another.

7.3 The Navajo Nation shall perform necessary wellness checks on their Members at the request of AHCCCS-DFSM QM following an incident that may or may not involve their Member, but involves an AHCCCS registered provider.

7.4 The Navajo Nation shall coordinate with AHCCCS-DFSM QM when Members placed in facilities must be relocated due to quality of care or quality of service concerns.

7.5 The Navajo Nation shall provide AHCCCS with a Quality Management/Serious Incident contact person.

7.6 The Navajo Nation shall provide clinical supervision; training and technical assistance to its personnel based, in part, on AHCCCS' or the Navajo Nation's monitoring findings and corrective actions.

7.7 Behavioral Health Recipient Satisfaction Survey: The Navajo Nation shall actively participate in the development and implementation of an annual satisfaction survey. The Navajo Nation shall use findings from this Satisfaction Survey to improve care for Members.

7.7.1 The Navajo Nation will implement (1) an Adult Member Survey and (2) a Youth Services Survey for Families.

7.7.2 The Navajo Nation shall send analyzed survey results to AHCCCS for analysis and reporting of the results.

8. Crisis Services

8.1 The Navajo Nation shall:

8.1.1 Provide solution-focused and recovery-oriented interventions designed to avoid unnecessary hospitalization, incarceration, or placement in a more segregated setting.

8.1.2 Coordinate with all clinics on or near the Navajo Nation and case management agencies to resolve crisis situations for members.

8.1.3 Develop a process where appropriate clinical staff coordinates crisis services on or near the Navajo Nation with the local crisis providers and/or law enforcement.

- 8.1.4 Participate in a data and information sharing system, connecting through a health information exchange.
- 8.1.5 Analyze, track, and trend crisis service utilization data provided by AHCCCS in order to improve crisis services.
- 8.1.6 In conformance with the Scope of Work, Care Coordination and Collaboration Section, provide information about crisis services and develop and/or maintain collaborative relationships with community partners including fire and police departments, emergency medical services, hospital emergency departments, AHCCCS DFSM, and other providers of public health and safety services.
- 8.1.7 Have active involvement with local police and fire departments, and first responders in the development of strategies for crisis service care coordination and strategies to assess and improve crisis response services.
- 8.1.8 Develop a collaborative process to ensure information sharing for timely access to Court Ordered Evaluation (COE) services.
- 8.1.9 In compliance with any relevant laws, rules or regulations of the Navajo Nation, develop and/or maintain policies that outline the Navajo Nation's role and responsibility related to the treatment of individuals who are unable or unwilling to consent to treatment. The policy must be submitted for review and approval by AHCCCS-DFSM. The policy must address:
 - 8.1.9.1 Involuntary evaluation/petitioning;
 - 8.1.9.2 Court ordered process, including tracking the status of court orders;
 - 8.1.9.3 Execution of court order; and
 - 8.1.9.4 Judicial review.
- 8.1.10 Develop and maintain a collaborative process with the counties to ensure coordination of care and information sharing for timely access to Court Ordered Evaluation services and treatment. Reimbursement for court ordered screening and evaluation services (Court Ordered Treatment) are the responsibility of the county pursuant to A.R.S. § 36-545.
- 8.1.11 Update the information management system to reflect all transfers between the Navajo Nation and AHCCCS health plans or TRBHAs.

9. General Provisions

- 9.1 The Navajo Nation must, to the extent possible and appropriate, allow Members to choose their behavioral health provider(s).
- 9.2 Eligible members of federally-recognized Native American Tribes may choose to be assigned to the Navajo Nation for the coordination of behavioral health services or enroll in an

AHCCCS Complete Care health plan, based on the members' geographic location.

9.3 The Navajo Nation shall be accessible by toll free phone number for general information requests from Members during Navajo Nation business hours.

9.4 Members Communications

9.4.1 The Navajo Nation shall provide interpreters of any language, free of charge, to a member, to ensure appropriate delivery of services. The Navajo Nation shall provide Members with information instructing them how to access interpreter services and shall arrange for interpreter services.

9.4.2 AHCCCS shall provide a Member Handbook template to the Navajo Nation. The Navajo Nation shall insert information into the Member Handbook template that details information specific to the Navajo Nation's operations. The Member Handbook shall be reviewed and updated by the Navajo Nation on an annual basis.

9.4.3 The Navajo Nation shall distribute the Member Handbook to each Member within twelve (12) business days of the Member receiving a first service.

9.4.4 AHCCCS Member Handbook must be made available to all Members on an annual basis. Notification on the availability of the updated Member Handbook must be provided to Members.

C. Office Operations

1. Key Personnel and Staff Requirements

1.1. The Navajo Nation shall have a sufficient number of personnel, capable of and devoted to the successful accomplishment of work to be performed under this Agreement. The Nation will ensure that all staff have appropriate training, education, experience, orientation, credentialing and the appropriate licenses, as applicable, to fulfill the requirements for their positions.

1.2. Key Personnel: the Navajo Nation shall assign a specific individuals to each of the following key positions:

1.2.1 *Health Services Administrator*, Navajo Division of Behavioral and Mental Health Services, has ultimate responsibility to oversee the management of, and adherence to, requirements set forth in this Agreement.

1.2.2 *Behavioral Health Director, or Clinical Director*, is responsible for clinical program development and oversight of personnel and services to Members.

1.2.3 *Clinical Specialist* must meet the qualifications of a Behavioral Health Professional as defined in the Arizona Administrative Code and is responsible for overseeing case management and care coordination functions.

- 1.2.4 *Information Systems Administrator* is responsible for oversight of the management information systems required by this Agreement.
- 1.2.5 The Navajo Nation shall maintain a *Quality Management (QM) Contact*
 - 1.2.5.1 The QM Contact shall be responsible for communicating with AHCCCS to coordinate the care of Members during periods when continuation of operation is needed, such as fires or other public emergency situations.
 - 1.2.5.2 The QM Contact person(s) shall be accessible 24 hours a day, seven days a week to work with AHCCCS and/or other State agencies on urgent issue resolutions.
 - 1.2.5.3 The QM Contact shall have access to information necessary to identify members who may be at risk, their current health/service status, ability to initiate new placements/services, and to be available to perform status checks at affected facilities and potentially ongoing monitoring, if necessary.
 - 1.2.5.4 The Navajo Nation shall supply AHCCCS with the contact information for the QM Contact, such as a telephone number, to call in these urgent situations.

1.3. The Navajo Nation may change the titles noted above so long as the functions of each key position are performed by a separate individual.

1.4. The Navajo Nation agrees that, once assigned to work under this Agreement, Key Personnel listed in 1.2 above shall not be removed or replaced without notice to AHCCCS-DFSM within seven (7) calendar days.

1.5. If Key Personnel are not available for work under this Agreement for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work under this Agreement than initially anticipated, the Navajo Nation shall notify AHCCCS within seven (7) calendar days, and shall, subject to the concurrence of AHCCCS, replace the personnel with other personnel of substantially equal ability and qualifications.

2. Staff Requirements

2.1 The Navajo Nation shall maintain organizational, managerial and administrative systems and staff capable of fulfilling all Agreement requirements, including the professional clinical requirements for the supervision of the case management and care coordination services.

2.2 The Navajo Nation shall have processes to identify the training needs and enhance the knowledge and skills of its qualified personnel, behavioral health recipients, and family members.

- 2.2.1 The Navajo Nation shall provide trainings such as behavioral health system orientation, ongoing education, and technical assistance (e.g. HIPAA, Program Integrity, Grievance and Appeal Standards, Customer Service, Member's Rights,

etc.) to support personnel in successfully fulfilling the requirements of their position and the Arizona System Principles, Arizona Children's Vision and Principles, and Guiding Principles for Recovery-Oriented Adult Behavioral Health Services and Systems.

- 2.2.2 The Navajo Nation shall provide to AHCCCS-DFSM a list of trainings provided to staff, behavioral health recipients, and family members. The list of trainings shall be supported by documentation of the content of the trainings, the names of educators and the names of attendees.

2.3 Required Staff

- 2.3.1 *Care Coordinators (Case Management Specialists)*, shall be located throughout the Navajo Nation.
- 2.3.2 *Care Coordinator (Case Management Specialist)*, shall be located in the Flagstaff area, and be responsible for coordinating care for members that reside in or receive services at facilities in or around Flagstaff.
- 2.3.3 *Care Coordinator (Case Management Specialist)*, shall be responsible for coordinating care for Members who receive services outside of the Navajo Nation at acute facilities other than Flagstaff Medical Center.

3. Data Submission

- 3.1 The Navajo Nation shall be responsible for computer terminal hardware and data communication equipment that enable the Navajo Nation to access and submit relevant AHCCCS data in a lawful manner.
- 3.2 At the Navajo Nation's request, AHCCCS will provide technical assistance with regard to the data communication equipment.
- 3.3 The Navajo Nation shall comply with the provisions of AHCCCS DUGless Portal Guide, and the Navajo Nation Division of Behavioral and Mental Health Services Policies and Procedures Manual, and the AHCCCS Technical Interface Guidelines, including provisions for enrollment, disenrollment and demographic data submission.

II. FINANCIAL PROVISIONS

A. PAYMENTS TO THE NAVAJO NATION

1. To determine the annual budget for the Navajo Nation, AHCCCS will take into account the number of staff performing work under the Agreement, their salaries, the time spent performing duties, caseload ratios, vehicle costs, Employee Related Expenses (“ERE”), and other indirect costs. The model may be updated yearly as new information becomes available. Based on the annual budget, AHCCCS shall make monthly payments to the Navajo Nation in compliance with A.R.S. Titles 35, 36 and 41. “State Fiscal Year” means the period beginning July 1 and ending June 30.
2. AHCCCS will provide to the Navajo Nation a document detailing the amounts to be paid to the Navajo Nation by funding source (the “Allocation Schedule” or “Payment Report”). Any deviation from the Allocation Schedule must be approved by AHCCCS in writing.
3. Payments are conditioned upon the rights and obligations of this Agreement and the amount of AHCCCS funds that are authorized and appropriated by the State Legislature for expenditure in the manner and for the purposes stated in this Agreement. Neither AHCCCS nor the State shall be liable for any purchase(s) entered into by the Navajo Nation in anticipation of such funding beyond what has been authorized and appropriated.
4. Payments made by AHCCCS to the Navajo Nation are conditioned upon receipt by AHCCCS of applicable timely, accurate and complete reports, documentation and any other information due from the Navajo Nation, unless prior written approval waiving such requirement(s) is obtained from the AHCCCS Director or designee. If the Navajo Nation is in any matter in default in the performance of any material obligation under the Agreement, including in the process of administrative appeal, arbitration, or if financial, compliance or performance audit exceptions are identified, AHCCCS may, at its sole option and in addition to other available remedies, either adjust the amount of payment or withhold payment until satisfactory resolution of the default or exception. The Navajo Nation shall have the right to 30 days written notice of AHCCCS’ action in adjusting the amount of payment or withholding payment. Under no circumstances shall AHCCCS authorize payments that exceed an amount specified in this Agreement without an approved written amendment to the Agreement. AHCCCS may, at its option, withhold final payment to the Navajo Nation until all final reports and deliverables are received.
5. The Navajo Nation has an accounting manual that governs the Nation’s financial reporting practices. The Navajo Nation will utilize this to meet the practices, procedures and standards specified in and required by the State of Arizona Accounting Manual (<http://www.gao.az.gov/publications/SAAM>) and any Uniform Financial Reporting Requirements in the management, recording and reporting of Agreement funds received from AHCCCS and in producing audited financial statements.
6. Funding received through this agreement shall be retained by the Navajo Nation to be used for the sole purpose of providing services required by this Agreement. All funding received under this Agreement must be maintained in a separate fund (account). The Navajo Nation shall provide AHCCCS with a monthly report detailing all activities in this fund (account). AHCCCS reserves the right to require this report quarterly. Any funds remaining subsequent to the state’s fiscal year end may impact the following year’s revenue provided by AHCCCS. The Navajo Nation will return unexpended State General Funds to AHCCCS within thirty (30) days of AHCCCS’ request regardless of whether the Navajo Nation or a subcontractor holds those funds.

7. The Navajo Nation will notify its subcontractors of the requirements under this section.
8. The Navajo Nation shall reimburse AHCCCS upon request, or AHCCCS may deduct from future payments to the Navajo Nation, any amounts determined by AHCCCS to represent:
 - 8.1 Costs related to services which have been inaccurately reported;
 - 8.2 Costs related to services that have not been provided;
 - 8.3 Costs of services for which the Navajo Nation's books, records, and other documents are not sufficient to clearly confirm were used by the Navajo Nation to provide such services;
 - 8.4 Costs of services sustained as a financial audit exception; or
 - 8.5 Costs of services which have not been provided in accordance with applicable regulations, laws, policies and this Agreement, to include services which AHCCCS has determined to be unnecessary.
9. No profit is allowed under this Agreement. The Navajo Nation is under no obligation to deliver or pay for services unfunded by the Agreement. The Navajo Nation will manage allocated funds in a manner sufficient to enable to perform under the Agreement for the entire state fiscal year.
10. The Navajo Nation shall submit a Contractor Expenditure Report ("CER") with supporting documentation for reimbursement of State General Funds for Non-Title XIX/XXI Supported Housing and Crisis. In accordance with A.R.S. § 35-190, State General Funds are appropriated by the State Legislature and must be expended (based on dates of service) by June 30 of each year at both the Navajo Nation and contracted provider levels. Navajo Nation and its subcontractors may not defer State General Funds past the current SFY. Any general funds allocated for housing must be spent in accordance with an approved housing plan for Individuals meeting the Seriously Mentally Ill designation.

11. Costs and Payments

- 11.1 Payments shall comply with the requirements of A.R.S. Titles 35 and 36.
- 11.2 Applicable Taxes
 - 11.2.1 Payment of Taxes. The Navajo Nation shall be responsible for paying all applicable taxes.
 - 11.2.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
 - 11.2.3 Tax Indemnification. Navajo Nation and all subcontractors shall pay all Federal,

state and local taxes applicable to its operation and any persons employed by the Navajo Nation. The Navajo Nation shall, and require all subcontractors to, hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

11.2.4 In order to receive payment, the Navajo Nation shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

11.3 Funds may not presently be available for performance under this Agreement beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Agreement beyond the current state fiscal year until funds are made available for performance of this Agreement.

11.4 Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

11.4.1 Accept a decrease in price offered by the Navajo Nation; or

11.4.2 Cancel the Agreement.

B. FINANCIAL REPORTING AND RECONCILIATION

1. The Navajo Nation shall have a system to produce complete, timely, reliable and accurate financial records in accordance with the following requirements for financial reporting:

1.1 The Navajo Nation shall design and implement its financial operations system to ensure compliance with Generally Accepted Accounting Principles.

1.2 AHCCCS will provide the Navajo Nation the template entitled "Revenue and Expense Report" that will include a "Disclosures and Adjustments" page. This Report will correlate with the funding sources outlined in the State Fiscal Year (SFY) Allocation Schedule.

1.3 Reclassifications, adjustments, titles of positions and number of Full-Time Equivalents funded with Title XIX/XXI Tribal administrative funds, any rationale for over/under spending, and month over month change should be noted on the Disclosures and Adjustments page. The Navajo Nation will disclose adjustments to prior years and prior months in the current year.

1.4 The Navajo Nation shall submit a monthly report by the 30th calendar day following the end of each month detailing the Title XIX Tribal Administration and Non-Title XIX/XXI Revenues and Expenditures to AHCCCS-DHSM. The monthly report will be used by AHCCCS to reconcile the monthly payments made to the Navajo Nation. If there is an overpayment or underpayment, AHCCCS will adjust future payments to the Navajo

Nation accordingly to make the account whole. Failure of the Navajo Nation to submit timely monthly financial reports shall result in payment delays to the Navajo Nation.

- 1.5 The Navajo Nation shall submit a Monthly Certification Statement that actual costs are in accordance with 2 C.F.R. Parts 200 and 300, and 45 C.F.R. Part 75.
 - 1.6 AHCCCS recognizes that interim financial statements are based on information available at the end of the reporting period, which may be incomplete. Revisions to a prior period will invalidate the previously submitted report.
 - 1.7 The Navajo Nation is required to submit annual audited Financial Statements prepared in accordance with 2 C.F.R. Part 200, Subpart F after the Nation's fiscal year ends.
2. Requests for extension of reporting deadlines shall be submitted in writing and must be received by AHCCCS prior to the report due date. Approvals for extension are valid only if issued in writing by AHCCCS.
 3. Health Insurance Portability and Accountability Act (HIPAA). The Navajo Nation shall comply with the Administrative Simplification requirements of Subpart F of the HIPAA of 1996 (Public Law 107-191, 110 Statutes 1936) and all Federal regulations implementing the Subparts that are applicable to the operations of the Navajo Nation by the dates required by Federal regulations.
 4. The Navajo Nation's financial monitoring of Non-Title XIX/XXI funding, including general funds, must include:
 - 4.1 Policies and procedures that outline internal monitoring of Non-Title XIX/XXI funds, including general funds, requirements.
 - 4.2 Monitor Non-Title XIX/XXI activities to ensure Non-Title XIX/XXI funds, including general funds, are expended for authorized purposes.
 - 4.3 Add to contracts with subcontractors the requirement that subcontractors have internal policies and procedures monitoring Non-Title XIX/XXI funds, including general funds.

III. TERMS AND CONDITIONS

A. Definitions and Policy Incorporated by Reference

Unless otherwise defined in this Agreement or an incorporated document, all terms shall have the same meaning as set forth in Title 36 of the Arizona Revised Statutes and the AHCCCS Medical Policy Manual, Chapter 100. In addition to any policies specifically identified in this Agreement, the following policies are incorporated by reference into this Agreement:

1. AHCCCS Complete Care (ACC) Contractor: A contracted Managed Care Organization (also known as a health plan) that, except in limited circumstances, is responsible for the provision of both physical and behavioral health services to eligible Title XIX/XXI persons enrolled by the administration.
2. Agreement: This document; any document incorporated by reference; any and all attachments, appendices, exhibits, schedules; and amendments to the Agreement.
3. Behavioral Health Services: Those services listed in the AHCCCS Medical Policy Manual 310-B, Title XIX XXI Behavioral Health Service Benefit.
4. Budget Term: The period of time for which the contract budget has been created and during which funds must be expended.
5. Day: A calendar day, unless specified otherwise.
6. Non-Title XIX/XXI Person: An individual who needs or may be at risk of needing covered services, but does not meet Federal and State requirements for Title XIX or Title XXI eligibility.
7. Non-Title XIX/XXI Funds: Fixed, non-capitated funds, State appropriations, counties and other funds, which are used for services to Non-Title XIX/XXI eligible persons.
8. Review: An analysis of all factors affecting a family's or person's eligibility.
9. AMPM Policy 320-O, Behavioral Health Assessments and Treatment Service Planning;
10. AMPM Policy 320-P, Serious Mental Illness Eligibility Determination;
11. AMPM Policy 320-R, Special Assistance for Persons Determined to Have a Serious mental Illness;
12. AMPM Policy 450, Out-of-State Placements for Behavioral Health Treatment; and
13. AMPM Policy 1040, Outreach, Engagement, Re-Engagement and Closure for Behavioral Health;
14. AMPM Policy 580, Behavioral Health Referral and Intake Process
15. AMPM Policy 830, Quality of Care and Fee-for-Service Provider Requirements

16. To the extent a policy refers to another policy, only the policy referred to in this Agreement is incorporated by reference. If AHCCCS amends a policy incorporated by reference into this Agreement, the Navajo Nation and AHCCCS agree to enter into good-faith negotiations to incorporate the updated policy into this Agreement. The Navajo Nation agrees not to unreasonably withhold its agreement to follow the policy as amended.

B. Contract Administration and Operation

1. Records

- 1.1 Under A.R.S. § 35-214 and § 35-215, the Navajo Nation shall retain and shall contractually require each subcontractor to retain all data and other “records” relating to the acquisition and performance of the Agreement for a period of five years after the completion of the Agreement. All records shall be subject to inspection and audit by the State at reasonable times.
- 1.2 All books and records shall be maintained to the extent and in such detail as required by AHCCCS Rules and Policies. The AHCCCS records management guidelines are located at: <http://www.azahcccs.gov>. Records shall include, but not be limited to, financial statements, case files (both hard copy and stored data), and other records specified by AHCCCS. Within five business days of receiving a written request from AHCCCS, the Navajo Nation will provide records to AHCCCS via U.S. or secured electronic mail, or facsimile. To the extent that the records contain protected health information of a Navajo Nation member receiving services under this Agreement, the Parties agree that the records can be disclosed pursuant to Section 86(A) of the Navajo Nation Privacy and Access to Information Act.
- 1.3 At any time during the term of this Agreement and five (5) years thereafter, the Navajo Nation’s or any subcontractor’s books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Agreement or a subcontract. The Navajo Nation shall make available at its office at all reasonable times during the term of this Agreement and the period set forth in this section, any of its records for inspection, audit or reproduction by any authorized representative of AHCCCS, State or Federal government.
- 1.4 The Navajo Nation shall preserve and make available all records for a period of five (5) years from the date of final payment under this Agreement except as provided below:
 - 1.4.1 If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination.
 - 1.4.2 Records that relate to grievances, disputes, litigation or the settlement of claims arising out of the performance of this Agreement, or costs and expenses of this Agreement to which exception has been taken by AHCCCS, shall be retained by the Navajo Nation for a period of five years after the date of final disposition or resolution thereof.
 - 1.4.3 Completed case files shall be scheduled for archive shipment to AHCCCS, as defined by AHCCCS Policy and Procedures.

2. Offshore Performance of Work Prohibited: Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the Agreement. This provision applies to work performed by subcontractors at all tiers.
3. Licenses: The Navajo Nation shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Navajo Nation.
4. Term of Agreement and Option to Renew
 - 4.1 The initial term of this Agreement shall be for one (1) initial year with four (4) one-year options to extend, not to exceed a total contracting period of five (5) years. The terms and conditions of any such Agreement extension shall remain the same as the original Agreement, as amended.
 - 4.2 All Agreement extensions shall be through amendment, and shall be at the sole option of AHCCCS.
5. Contract Changes
 - 5.1 Amendments. The Agreement may be modified only through a Contract Amendment within the scope of the Agreement. Changes to the Agreement, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Navajo Nation are violations of the Agreement and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Navajo Nation shall not be entitled to any claim under this Agreement based on those changes.
 - 5.2 Subcontracts. The Navajo Nation shall not enter into any Subcontract under this Agreement for the performance of this Agreement without the advance written approval of the Procurement Officer. The Navajo Nation shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Agreement.
 - 5.3 Assignment and Delegation. The Navajo Nation shall not assign any right nor delegate any duty under this Agreement without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.
6. Contract Interpretation
 - 6.1 Arizona Law. This Agreement, including any claim or dispute arising hereunder submitted to binding arbitration, shall be interpreted under the applicable laws of the State of Arizona without regard to any choice of law provisions.
 - 6.2 Severability. The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

- 6.3 No Parole Evidence. This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 6.4 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

7. Contractual Remedies

- 7.1 Right to Assurance. If AHCCCS in good faith has reason to believe that the Navajo Nation does not intend to, or is unable to perform or continue performing under this Agreement, AHCCCS may demand in writing that the Navajo Nation give a written assurance of intent to perform. Failure by the Navajo Nation to provide written assurance within the number of days specified in the demand may, at the State's option, be the basis for terminating the Agreement or exercising other rights and remedies available by law or provided by the Agreement.
- 7.2 Corrective Action Plans. The Navajo Nation shall implement corrective action to bring performance into compliance with AHCCCS requirements in accordance with the corrective action plan and timelines agreed to by the Navajo Nation and the AHCCCS. AHCCCS and the Navajo Nation will develop corrective action plans collaboratively.
- 7.3 Non-exclusive Remedies. The rights and the remedies of the State under this Agreement are not exclusive.
- 7.4 AHCCCS' provision of technical assistance to help the Navajo Nation achieve compliance with any relevant Agreement terms or Agreement subject matter issues does not relieve the Navajo Nation of its obligation to fully comply with any relevant Agreement term or subject matter issue or any and all other terms in this Agreement.
- 7.5 Right of Offset. The State shall be entitled to offset against any sums due the Navajo Nation, any expenses or costs incurred by the State, or damages or sanctions assessed by the State concerning the Navajo Nation's non-conforming performance or failure to perform the Agreement.
- 7.6 Sanctions
 - 7.6.1 AHCCCS reserves the right to impose financial sanctions if the Navajo Nation fails to comply with the terms of this Agreement, including the following:
 - 7.6.1.1 Failure to provide required case management to a Member;
 - 7.6.1.2 Misrepresentation or falsification of information provided to AHCCCS;

- 7.6.1.3 Misrepresentation or falsification of information provided to a Member, potential Member, subcontractor or health care provider;
- 7.6.1.4 Noncompliance with quality of care and quality management requirements;
- 7.6.1.5 Submitting untimely, incomplete or inaccurate reports, deliverables or other information requested by AHCCCS;
- 7.6.1.6 Engaging in conduct which jeopardizes Federal Financial Participation;
or
- 7.6.1.7 Failure to actively participate in care coordination activities/initiatives.
- 7.6.2 AHCCCS shall consider the severity of the violation and determine the amount of sanction. The amount of the sanction will be proportionate to the severity of the non-compliance action.
- 7.6.3 AHCCCS shall provide written notice to the Navajo Nation specifying the amount of the sanction, the grounds for the sanction, the amount of funds to be withheld from the Navajo Nation's administrative revenue payments, the steps necessary to avoid future sanctions and the Navajo Nation's right to file a claims dispute to challenge the sanction.
- 7.6.4 The Navajo Nation shall complete all necessary steps to correct the violation that precipitated the sanction. AHCCCS may impose additional sanctions, which may be equal to or greater than the sanction imposed for the unresolved violation, in the event the Navajo Nation fails to adequately correct the violation within established timeframes.
- 7.6.5 AHCCCS may offset against any payments due the Navajo Nation until the full sanction amount is paid.

8. Contract Termination

- 8.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Agreement within three (3) years after Agreement execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State is or becomes at any time while the Agreement or an extension of the Agreement is in effect an employee of or a consultant to any other party to this Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when the Navajo Nation receives written notice of the cancellation unless the notice specifies a later time. If the Navajo Nation is a political subdivision of the State, it may also cancel this Agreement as provided in A.R.S. § 38-511.
- 8.2 Gratuities. The State may, by written notice, terminate this Agreement, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Navajo Nation or a representative of the Navajo Nation to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing

the Agreement, an amendment to the Agreement, or favorable treatment concerning the Agreement, including the making of any determination or decision about Agreement performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Navajo Nation.

8.3 Suspension or Debarment. The State may, by written notice to the Navajo Nation, immediately terminate this Agreement if the State determines that the Navajo Nation has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of an Agreement shall attest that the Navajo Nation is not currently suspended or debarred. If the Navajo Nation becomes suspended or debarred, the Navajo Nation shall immediately notify the State.

8.4 Termination for Convenience. Upon thirty (30) days written notice to the other Party, either Party may terminate the Agreement, in whole or in part, without penalty or recourse. In the event of termination under this paragraph, all documents, data and reports prepared by the Navajo Nation under the Agreement shall become the property of and be delivered to the State upon demand. The Navajo Nation shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

8.5 Termination for Default.

8.5.1 In addition to the rights reserved in the Agreement, the State may terminate the Agreement in whole or in part due to the failure of the Navajo Nation to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Agreement. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Navajo Nation.

8.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Navajo Nation under the Agreement shall become the property of and be delivered to the State on demand.

9. Contract Disputes and Arbitration

9.1 In the event of a dispute, claim or controversy ("Dispute") arising out of or related to this Agreement, the Parties agree that it is in their mutual best interest to meet as promptly as possible for the purpose of informally resolving said Dispute.

9.2 In the event that the Parties cannot resolve their Dispute informally after attempting to work in good faith toward resolution, the Parties to this Agreement agree to resolve all Disputes arising out of or relating to this Agreement through binding arbitration as provided in A.9.3 below.

9.3 Arbitration and Award

9.3.1 Upon notice by a Party to the other of the intent to arbitrate, the Dispute shall

be finally and exclusively settle by submission of such Dispute to the American Arbitration Association (“AAA”) under its then prevailing procedural rules contained in the AAA’s Commercial Arbitration Rules to the extent that such rules shall not be interpreted to diminished, limit or void the limited waiver of sovereign immunity set forth in Section 1 above or to increase the enforcement right of the Parties. Within ten (10) days after the notice of intent to arbitrate, each party shall select one person to act as arbitrator and the two selected shall select a third arbitrator within ten (10) days of their appointment. The third arbitrator shall be a practicing attorney, actively engaged in the practice of law for at least ten (10) years and a member in good standing of the bar of the State of Arizona. Alternatively, the third arbitrator may be a retired judge of the federal court or the trial court of the State of Arizona. At least one of the arbitrators shall be knowledgeable with federal Indian law and one arbitrator shall have AAA-acknowledged expertise in the appropriate subject matter. By agreement of the parties, when the amount in controversy renders the cost of three arbitrators unreasonable, the parties may agree to select a single arbitrator to resolve a dispute. All arbitrators' proceedings shall be held in Maricopa County, or at such other place as shall be agreed by the Parties

9.3.2 The award shall be made within sixty (60) days of the filing of the notice of intent to arbitrate, and the arbitrators shall agree to comply with the schedule before accepting appointment. However, this time limit may be extended by agreement of the Parties or by the majority of the Parties or by the majority of the arbitrators, if necessary. Any award rendered in any such arbitration proceeding shall be final and binding upon all Parties to the proceeding.

9.3.3 Enforcement

9.3.3.1 Failure by either Party to arbitrate any Dispute pursuant to the procedures set forth herein shall constitute a material breach of the Agreement and shall entitle the Party who demanded arbitration to cease performance of any obligation set forth in the Agreement.

9.3.3.2 Failure of either Party to comply with an arbitration award shall constitute a material breach of the Agreement and shall entitle the other Party to cease performance of any obligation set forth in the Agreement.

9.4 AHCCCS may take any action described in the Financial Provisions and/or Sections A.7 or A.8 of these Terms and Conditions prior to initiating or engaging in any process described under Section A.9.2 of these Terms and Conditions.

10. Sovereign Immunity: Nothing in this Agreement shall be construed as an express or implied waiver of either Party’s sovereign immunity from suit in any forum or jurisdiction.

11. Survival of Rights and Obligations after Agreement Expiration or Termination

11.1 Any provision of this Agreement that contemplates performance or observance subsequent to termination or expiration of this Agreement shall survive termination or expiration of this Agreement and continue in full force and effect.

11.2 All representations and warranties made by the Navajo Nation under this Agreement shall survive the expiration or termination hereof.

B. Compliance

1. The Navajo Nation shall report, in writing, all cases of suspected fraud, waste and/or abuse involving the programs administered by AHCCCS to the AHCCCS Office of the Inspector General (OIG). To report fraud, waste and/or abuse, the Navajo Nation shall complete the online form at: <https://www.azahcccs.gov/Fraud/ReportFraud/onlineform.aspx>.
2. The Navajo Nation shall cooperate with AHCCCS/OIG in any audit, review, investigation and/or request for information of the Navajo Nation.
3. The Navajo Nation shall permit and cooperate with any onsite review. The Navajo Nation shall provide contact information for coordinating these activities. A review by the AHCCCS-OIG and/or AHCCCS may be conducted without notice and for the purpose of ensuring program compliance. The Navajo Nation also agrees to respond to electronic, telephonic or written requests for information within the timeframe specified by AHCCCS-OIG and/or AHCCCS/DFSM. The Navajo Nation agrees to provide documents, including original documents, to representatives of the AHCCCS/DFSM and/or AHCCCS-OIG, upon request and at no cost. The AHCCCS/DFSM and/or AHCCCS-OIG shall allow a reasonable time for the Navajo Nation to copy the requested documents, not to exceed twenty (20) business days from the date of the AHCCCS/DFSM and/or AHCCCS-OIG request.

C. Risk and Liability

1. The Navajo Nation acknowledges that it will be responsible for claims of damages arising from personal injury or damages to persons or property to the extent they result from the negligence of Tribal officials or employees as provided for and in accordance with 1 N.N.C. §§ 551 et seq. Nothing herein shall be construed as a waiver of the Navajo Nation's sovereign immunity.
2. Should the Navajo Nation utilize a contractor(s) and subcontractor(s) the indemnification clause between the Navajo Nation and its contractor(s) and subcontractor(s) shall include the following:
 - 2.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the Navajo Nation and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, , officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor.
 - 2.2 This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform

to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims.

- 2.3 It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.
- 2.4 Additionally, on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.
3. The Navajo Nation shall require any non-governmental contractor(s) or subcontractor(s) performing services in performance of this Agreement to comply with the Minimum Subcontract Provisions found on AHCCCS' website.
4. The Navajo Nation shall be responsible for issuing payment for services performed by the Navajo Nation's employees and will be responsible for and hold AHCCCS harmless for all claims whatsoever growing out of the lawful demands of employees, contractors, subcontractors, suppliers or any other third party incurred in the furtherance of the performance of the Agreement. The Navajo Nation shall, at AHCCCS' request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.
5. Force Majeure
 - 5.1 Except for payment of sums due, neither Party shall be liable to the other nor deemed in default under this Agreement if and to the extent that such Party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the Party declaring force majeure which such Party is unable to prevent by exercising reasonable diligence.
 - 5.2 Force Majeure shall not include the following occurrences:
 - 5.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
 - 5.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition;
or
 - 5.2.3 Inability of either the Navajo Nation or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

- 5.3 If either Party is delayed at any time in the progress of the work by force majeure, the delayed Party shall notify the other Party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed Party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed Party from performing in accordance with this Agreement.
6. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

ATTACHMENT A: THE NAVAJO NATION CHART OF DELIVERABLES

The following table is a summary of the periodic reporting requirements for the Navajo Nation and is subject to change at any time during the term of the Agreement. The table is presented for convenience only and should not be construed to limit the Navajo Nation's responsibilities in any manner.

All required reports shall be submitted to the appropriate AHCCCS Division/programmatic area as established in the deliverable chart and IGADeliverables@azahcccs.gov no later than 5:00 p.m. Local Time on the date due.

If directed by AHCCCS program area to submit a specific report to a location other than what has been established, the Navajo Nation shall post notification of the submission upon delivery to the alternate location.

REPORT	WHEN DUE	SOURCE/ REFERENCE	SUBMIT TO
Report of High Profile ALERTS of Incidents, Accidents and Deaths Involving members	Within one (1) day of awareness	Agreement; Navajo Nation Clinical Operations Manual	AHCCCS QM Portal and Integrated Services Administrator
Quality of Concern (QOC) report	Ad Hoc, as identified	Agreement	DFSM QM Portal or email DFSM QM Manager
Notification of a Person in Need of Special Assistance	Ad Hoc, within three (3) business days of identifying	Agreement; AMPM 320-R	AHCCCS Office of Human Rights
Notification of a Person No Longer in Need of Special Assistance	Ad Hoc, within ten (10) business days of determination	Agreement; AMPM 320-R	AHCCCS Office of Human Rights
Comprehensive Report of Persons Identified as in Need of Special Assistance	Quarterly, 15th day of month after quarter end	Agreement; AMPM 320-R	AHCCCS Office of Human Rights
Updates regarding Quarterly Report of Persons Identified as in need of Special Assistance	Quarterly, 10 th day of month following receipt of draft report from Office of Human Rights	Agreement; AMPM 320-R	AHCCCS Office of Human Rights
High Needs/High Cost Clinical Staffing Sheets	Five (5) business days prior to the established meeting time	Agreement	AIHP Clinical Care SharePoint

High Needs/High Cost Outcome Summaries	Annually, 30 days after end of state fiscal year	Agreement	AHCCCS DFSM
Housing Spending Plan	Annually, no later than thirty (30) days from notification by AHCCCS that State funds have been allocated for housing development.	Agreement	DHCM Housing Administrator
Member Satisfaction Survey, Adult and Youth Reports	Annually, 60days after surveys have been conducted.	Agreement	AHCCCS DFSM
Revenue and Expense Summary Report with Certification Statement	Quarterly - Within 60 days of end of quarter (quarters based on state fiscal year)	Agreement; State of Arizona Accounting Manual	AHCCCS DHCM Finance
Audited Financial Statements and Single Audit for the Navajo Nation	Annually, No later than nine (9) months after the Navajo Nation's fiscal year end	Agreement; 2 CFR Parts 200 and 300, and 45 CFR Part 75	AHCCCS DHCM Finance
Notice of Projected Unexpended Funds (all funding sources)	Annually, April 15th March 31 st	Agreement; State of Arizona Accounting Manual	AHCCCS DHCM Finance
Reporting incidents of Suspected Fraud, Waste and/or Program Abuse	Ad Hoc - within one day of identification of incident	Agreement; https://www.azahcccs.gov/Fraud/ReportFraud/	Office of Inspector General (OIG)
A list of trainings provided to behavioral health staff	Annually; 15th day after end of fiscal year	Agreement	AHCCCS DFSM
Changes in Key Personnel	Ad Hoc; Within seven (7) days of notification of intended resignation or change	Agreement	DFSM Integrated Services Administrator
Submit Data and Records Included in Agreement	Monthly, Ad Hoc	Agreement	AHCCCS DUGless Portal
Status of Administrative Review Work Plan Updates	Due upon request, or upon schedule sent by AHCCCS	Agreement	AHCCCS DFSM
Response to Tribal Member Problem Resolution	<u>Ad Hoc</u> , As specified on a request from AHCCCS	Agreement	AHCCCS DFSM and/or DHCM Clinical Resolution Unit

Disposition Unreviewed Cases in Quality Management Portal	Ad Hoc	Agreement	AHCCCS QM Portal
Member Handbook	Annually and Ad Hoc, within thirty (30) days of changes made to AHCCCS	Agreement	AHCCCS DFSM
Data/Reports/Information for Audits conducted by AHCCCS	Ad Hoc, upon request	Agreement	AHCCCS DFSM
Access to Care/Gaps in Services	Ad Hoc, Immediately upon identification	Agreement	AHCCCS DFSM

ATTACHMENT B: BUSINESS ASSOCIATE ADDENDUM

This Addendum is made part of this Contract between the Arizona Health Care Cost Containment System ("AHCCCS") and the Contractor, referred to as "Business Associate" in this Addendum.

AHCCCS and Business Associate agree that the underlying Contract shall comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"), as amended. In the event of conflicting terms or conditions, this Addendum shall supersede the underlying Contract.

1. DEFINITIONS

The following terms used in this Addendum shall have the same meaning as those terms in the HIPAA rules set forth in Title 45, Parts 160 and 164 of the CFR: 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.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

Business Associate agrees to:

- 2.1. Not use or disclose protected health information ("PHI") other than as permitted or required by this Addendum or as required by law;
- 2.2. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of protected health information other than as provided for by this Addendum;
- 2.3. Report to AHCCCS any use or disclosure of PHI not provided for by this Addendum 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 in the following manner:
 - 2.3.1. Reporting. Business Associate shall report to AHCCCS any use or disclosure of PHI that is not authorized by the Contract, by law, or in writing by AHCCCS. Business Associate shall make an initial report to the AHCCCS Privacy Official not more than twenty-four (24) hours after Business Associate learns of such unauthorized use or disclosure. The initial report shall include all of the following information to the extent known to the Business Associate at the time of the initial report:
 - A. A description of the nature of the unauthorized use or disclosure, including the number of individuals affected by the unauthorized use or disclosure;

- B. A description of the PHI used or disclosed;
 - C. The date(s) on which the unauthorized use or disclosure occurred;
 - D. The date(s) on which the unauthorized use or disclosure was discovered;
 - E. Identify the person(s) who used or disclosed the PHI in an unauthorized manner;
 - F. Identify the person(s) who received PHI disclosed in an unauthorized manner;
 - G. A description of actions, efforts, or plans undertaken by the Business associate to mitigate the harm of the unauthorized disclosure;
 - H. A description of corrective actions undertaken or planned to prevent future similar unauthorized use or disclosure;
 - I. An assessment of whether a breach, as defined in 45 CFR 164.402, including, if necessary, an assessment of the probability of harm, and
 - J. Such other information, as may be reasonably requested by the AHCCCS Privacy Official.
- 2.3.2. Business Associate shall provide AHCCCS with supplemental reports promptly as new information becomes available, as assessments and action plans are developed, and as action plans are implemented. In any event, Business Associate shall provide a comprehensive written report including all of the information listed above no later than twenty (20) days after discovery of the unauthorized use or disclosure.
- 2.3.3. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of the Contract.
- 2.3.4. Sanctions. Business Associate shall have and apply appropriate sanctions against any employee, subcontractor or agent who uses or discloses AHCCCS PHI in violation of this Addendum or applicable law.
- 2.4. 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 PHI 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;
- 2.5. Make available PHI in a designated record set to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.524;
- 2.6. Make any amendment(s) to PHI in a designated record set as directed or agreed to by AHCCCS pursuant to 45 CFR §164.526, or take other measures as necessary to satisfy AHCCCS' obligations under 45 CFR §164.526;

- 2.7. Maintain and make available the information required to provide an Accounting of Disclosures to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.528;
- 2.8. To the extent Business Associate is to carry out one of more of AHCCCS' obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to AHCCCS in the performance of such obligation(s); and
- 2.9. Make its internal practices, books and records available to AHCCCS and the Secretary for purposes of determining compliance with the HIPAA rules.

3. PERMITTED USES AND DISLOSURES BY BUSINESS ASSOCIATE

- 3.1. Business Associate may only use or disclosure PHI as necessary to perform the services and obligations set forth in the underlying Contract;
- 3.2. Business Associate may use or disclose protected health information as required by law;
- 3.3. Business Associate agrees to make uses and disclosures and requests for protected health information consistent with Minimum Necessary, as required at 45 § CFR 164.502(b) and 164.514(d).
- 3.4. 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 AHCCCS, except for the specific uses and disclosures set forth below in (3.5 and 3.6);
- 3.5. Business Associate may use protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and
- 3.6. Business Associate may provide data aggregation services relating to the health care operations of AHCCCS.

4. PROVISIONS FOR AHCCCS TO INFORM BUSINESS ASSOCIATE OF PRIVACY PRACTICES AND RESTRICTIONS

- 4.1. AHCCCS shall notify Business Associate of any limitation(s) in the AHCCCS Notice of Privacy Practices (found at www.azahcccs.gov) under 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI;
- 4.2. AHCCCS shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

- 4.3. AHCCCS shall notify Business Associate of any restriction on the use or disclosure of PHI that AHCCCS 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 PHI.

5. TERM AND TERMINATION

- 5.1. Term: This Addendum is effective upon the effective date of the underlying Contract and shall terminate on the date AHCCCS terminates the contract for cause as authorized in paragraph (b) of this Section, or for any other reason permitted under the contract, whichever is sooner.
- 5.2. Termination for Cause: Business Associate authorizes termination of the Contract by AHCCCS if AHCCCS determines that Business Associate has breached a material term of this Addendum and Business Associate has not cured the breach or ended the violation within the time specified by AHCCCS.
- 5.3. Obligations of Business Associate Upon Termination: Upon termination, cancellation, expiration or other conclusion of the Contract, Business Associate, with respect to PHI received from AHCCCS, or created, maintained, or received by Business Associate on behalf of AHCCCS, shall:
 - 5.3.1. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - 5.3.2. Destroy or return to AHCCCS all remaining PHI that the Business Associate still maintains in any form;
 - 5.3.3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
 - 5.3.4. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out in this Addendum that applied prior to termination; and
 - 5.3.5. Destroy or return to AHCCCS the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal and contractual responsibilities.
- 5.4. Survival: The obligations of Business Associate under this Section shall survive the termination of the Contract.

6. INDEMNIFICATION AND MISCELLANEOUS

- 6.1. Regulatory References: A reference in this Addendum to a section in the HIPAA rules means the section as in effect or as amended.
- 6.2. Amendment: The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for compliance with the requirements of the HIPAA rules or any other applicable law.

- 6.3. Interpretation: Any ambiguity in this Addendum shall be interpreted to permit compliance with the HIPAA rules.