



**INTERGOVERNMENTAL AGREEMENT
YH22-0007-02**

This Intergovernmental Agreement (“Agreement”) is entered into by and between The Colorado River Indian Tribes (“Tribes”), and the Arizona Health Care Cost Containment System (“AHCCCS”).

Project Title: Behavioral Health Services

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 Tribes have authority to contract for the performance of the services provided herein pursuant to A.R.S. §§ 11-951 and 11-952, and the laws, rules and sovereign authority of the Tribes;

NOW, THEREFORE, the Tribes 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 Colorado River Indian Tribes:

AHCCCS:

Signature: Amelia Flores

Signature: Megan LaPorte
Megan LaPorte (Jun 29, 2021 16:37 PDT)

Printed Name: Amelia Flores

Printed Name: Megan LaPorte, CPPO, MSW

Title: Chairwoman

Title: Chief Procurement Officer

Date: 7/01/2021

Date: Jun 29, 2021

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.

Alberca A. Lashon

Legal Counsel

date

Rebecca A. Cardbear

Printed Name

CIT 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

Nicole Fries (Jun 29, 2021 14:44 PDT)

Jun 29, 2021

AHCCCS General Counsel

date

Nicole Fries

Printed Name

AHCCCS Associate General Counsel

Title

SCOPE OF SERVICES

1. Purpose

AHCCCS and the Tribes 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 Tribes to provide crisis response services and care coordination services. The Tribes agree to use the funding provided through this Agreement to deliver these services solely to federally-recognized Tribal members who 1) reside on the Tribes' land and 2) do not qualify for services under Titles XIX or XXI of the Social Security Act. The Tribes agrees to provide these services in accordance with this Agreement.

2. Service Delivery

Service delivery shall include, when necessary:

- 2.1. Assisting tribal members seeking appropriate behavioral health services;
- 2.2. Make and/or facilitate referrals to various community agencies for more intensive care;
- 2.3. Exercise caution and due regard for clients' right to self-determination and protection from harm;
- 2.4. Provide face-to-face crisis intervention;
- 2.5. Establish and/or maintain behavioral health records;
- 2.6. Make and/or facilitate referrals to various facilities for more intensive care;
- 2.7. Provide case-oriented consultation to tribal, state, and federal system stakeholders, including but not limited to, law enforcement, courts, child protection services, social services, AHCCCS Complete Care (ACC) Managed Care Health Plans, Regional Behavioral Health Authorities (RBHAs) and U.S. Public Health Service Parker Indian Health Center, Parker AZ;
- 2.8. Provide mental health and substance use disorder services and assessments or evaluations to patients in the Parker Indian Health Center inpatient unit;
- 2.9. Refer persons who qualify for services under Titles XIX or XXI of the Social Security Act to the health plan of enrollment for assessment of the need for covered behavioral health services;
- 2.10. Assist individuals who are referred for, request, or have been determined to need an eligibility determination for Serious Mental Illness (SMI) in the AHCCCS standardized process, pursuant to Arizona Administrative Code Title 9, Chapter 21, Article 303;
- 2.11. Assist individuals with the SMI grievance and appeals process in A.A.C. Title 9, Chapter 21;

- 2.12. Participate in care coordination meetings, including post-crisis care coordination, between the American Indian Health Program, ACC Managed Care Health Plans, the Regional Behavioral Health Authorities (RBHAs), Indian Health Services, and tribally owned and operated facilities within the geographic service area to address issues related to clinically complex (high need/high cost members, crisis and other service delivery issues); and
- 2.13. Provide postvention/aftercare services in coordination with tribal, state, and federal system stakeholders, including but not limited to, law enforcement, courts, child protection services, social services, U.S. Public Health Service Parker Indian Health Center, Parker AZ, the American Indian Health Program, ACC Managed Care Health Plans, and Regional Behavioral Health Authorities (RBHAs).

3. AHCCCS Funding

- 3.1. In exchange for delivering services described in this Agreement, AHCCCS shall pay the Tribes \$50,000.00 per State Fiscal Year in monthly installments.
- 3.2. All funding received under this Agreement must be maintained in a separate fund (account). The Tribes will provide AHCCCS with a semi-annual Revenue and Expense report (Excel Version) detailing all activities of this fund (account).
- 3.3. The Tribes shall reimburse AHCCCS upon request, or AHCCCS may deduct from future payments to the Tribes any amounts determined by AHCCCS to represent:
 - 3.3.1. Costs related to services which have been inaccurately reported by the Tribes;
 - 3.3.2. Costs related to services which have not been provided;
 - 3.3.3. Costs of services for which the Tribes' books, records, and other documents are insufficient to confirm that the costs were incurred as a result of the Tribes providing services under this Agreement;
 - 3.3.4. Costs of services sustained as a financial audit exception; or
 - 3.3.5. Costs of services which have not been provided in accordance with this Agreement include services which AHCCCS has determined are not medically necessary.

TERMS AND CONDITIONS

1.0 Definitions

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.

- 1.1 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.
- 1.2 Agreement: This document; any document incorporated by reference; any and all attachments, appendices, exhibits, schedules; and amendments to the Agreement.
- 1.3 IHS/Tribal Provider Billing Manual: The IHS/Tribal Provider Manual promulgated by AHCCCS. The AHCCCS Provider Manual is available online at: <https://www.azahcccs.gov/PlansProviders/Downloads/IHS-TribalManual/MasterIHSManual.pdf>
- 1.4 Behavioral Health Services: Those services listed in the AHCCCS Medical Policy Manual 310-B, Title XIX/XXI Behavioral Health Service Benefit.
- 1.5 Budget Term: The period of time for which the contract budget has been created and during which funds shall be expended.
- 1.6 Day: A calendar day, unless specified otherwise.
- 1.7 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.
- 1.8 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.
- 1.9 Review: An analysis of all factors affecting a family's or person's eligibility.

2.0 Accreditation/Credentialing

The Tribes shall provide services under this Agreement in accordance with any and all applicable professional accreditation standards. The Tribes shall obtain and maintain all applicable licenses, permits and authority required to provide services under the state and federal law.

3.0 Amendments

- 3.1 Any amendment to this Agreement must be in writing and signed by both parties.

3.2 Amendments signed by each of the Parties and attached hereto are hereby adopted by reference as a part of this Agreement, from the effective date of the amendment, as if fully set out herein.

3.3 All requests for additional services shall be in writing and signed by both parties.

3.4 An amendment shall not be necessary when completing a change of contact person, change of key personnel, change of address, change of signatory or other non-material changes to this Agreement.

4.0 **Arbitration and Disputes**

In accordance with ARS § 12-1518, the Parties to agree to resolve all disputes arising out of or relating to this agreement through arbitration after exhausting applicable administrative procedure or remedy, including the administrative appeals process described in A.R.S. & 36-2903.01(B) and the Administrative Procedures Act of A.R.S. Title 41. Although consent to administrative appeal and arbitration under this Agreement shall not be deemed a waiver of either Party's sovereign immunity, neither Party shall assert sovereign immunity as a defense to an administrative appeal or arbitration under this Agreement.

5.0 **Assignment and Delegation**

This Agreement may not be assigned by any Party without the prior written consent of the other Party. If consent to an assignment is obtained, this Agreement is binding on the successors and assigns of the Parties to this Agreement.

6.0 **Availability of funds for the Next Fiscal Year**

Funds may not be presently available for performance under this Agreement beyond the first year of the Budget Term. The State may reduce payments or terminate this Agreement without further recourse, obligation or penalty in the event that insufficient funds are appropriated in the subsequent Budget Term. The State shall not be liable for any purchases or Subcontracts entered into by the Tribes in anticipation of such funding. The Procurement Officer shall have the discretion in determining the availability of funds.

7.0 **Availability of Funds for the Current Agreement Term**

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

7.1 Accept a decrease in price offered by the Tribes;

7.2 Reduce the number of goods or units of service and reduce the payments accordingly; or

7.3 Cancel the Agreement.

8.0 **Client Grievances**

If applicable, the Tribes and its Subcontractors shall use a procedure through which clients may present grievances about the operation of the program that result in the denial, suspension or reduction of services provided pursuant to this Agreement and which is acceptable to and approved by the State.

9.0 Compliance with Laws, Rules and Regulations

The Tribes and their Subcontractors must comply with all applicable Federal and State laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement.

10.0 E-Verify Requirement

In accordance with ARS § 41-4401, all Parties warrant compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. § 23-214, Subsection A.

11.0 Execution in Counterparts / Electronic Documents

11.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same document.

11.2 Facsimile signatures, electronic signatures and signatures transmitted by email after having been scanned shall be accepted as originals for the purposes of this Agreement.

12.0 Federal Immigration and Nationality Act

The parties shall ensure compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees to include but not limited to sub-contractors. All services under this Agreement shall be performed within the borders of the United States.

13.0 Fingerprint and Certification Requirements/Juvenile Services.

The Tribes shall ensure that all paid and unpaid personnel who are required or are allowed to provide services directly to juveniles have obtained fingerprint clearance cards in accordance with A.R.S. § 41-1758 et. seq. The Tribes shall assume the costs of fingerprint certifications and may charge these costs to its fingerprinted personnel.

14.0 Fraud and Abuse

The Tribes shall report all cases of suspected fraud, waste, and abuse by subcontractors, members or employees to AHCCCS Office of the Inspector General. The Tribes shall provide written notification of all such incidents to the Integrated Services Administrator.

15.0 Health Insurance Portability and Accountability Act (HIPAA) of 1996

The parties certify that each is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Agreement. The parties warrant that each will cooperate in the course of performance of the Agreement so that the parties will be in compliance with HIPAA, including cooperation and coordination with the Arizona Strategic Enterprise Technology (ASET), Statewide Information Security and Privacy Office (SISPO) Chief Privacy Officer and HIPAA Coordinator and other compliance officials required by HIPAA and its regulations. The Tribes will sign any documents that are reasonably necessary to keep AHCCCS in compliance with HIPAA, including, but not limited to, business associate agreements.

16.0 Insurance

The Parties acknowledge that they are self-insured pursuant to statutory authority. The Parties agree that the general liability coverage afforded by the self-insurance programs is sufficient to meet the

purposes of this Agreement. The State is self-insured for liability per A.R.S. 41-621 and the Tribes are self-insured under the Federal Tort Claims Act.

17.0 Liability

The Parties shall each be responsible for any and all liability for their own negligence arising from the Agreement and each shall bear all costs for their own defense of any litigation to the extent allowed by law.

18.0 Mutual Indemnification

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, including the Arizona Health Care Cost Containment System, is self-insured per A.R.S. 41-621.

19.0 New Budget Term

If a Budget Term has been completed in a multi-term Agreement, the parties may agree to change the amount and type of funding to accommodate new circumstances in the next Budget Term. Any increase or decrease in funding at the time of the new Budget Term shall coincide with a change in the Scope of Work and shall be approved by AHCCCS.

20.0 Non-Conforming Performance

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.

21.0 Non-Discrimination

The Tribes shall comply with the Indian Civil Rights Act of 1968. It shall be permissible for the Tribes to engage in Indian preference in hiring. Where applicable, the Tribes shall comply with Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act; and Federal and State Executive Orders numbers 11246 and 99-4, respectively, which mandate that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities. Where applicable, the Tribes shall comply with the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1992 which prohibit discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap/disability. Where applicable, the Tribes shall comply with Title VI of the Civil Rights Act of 1964, which prohibits the denial of benefits of, or participation in, covered services on the basis of race, color, or national origin. Where applicable, the Tribes shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1992 which prohibit discrimination on the basis of handicap/disability, in providing covered services.

23.0 No Parole Evidence

This Agreement is intended by the Parties to be 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 Agreement.

24.0 Qualified Staff

The TRBHA shall have a sufficient number of personnel, capable of and devoted to the successful accomplishment of work to be performed under this Agreement. The TRBHA will ensure that all staff have appropriate training, education, experience, orientation, credentialing and the appropriate licenses, as applicable, to fulfill the requirements of their positions. In addition, should a position remain vacant for a period longer than 30 days, or should a member of staff be removed, the TRBHA shall notify AHCCCS' Integrated Services Administrator of these status updates.

25.0 Records and Audit

Under A.R.S. § 35-214 and A.R.S. § 35-215, the Tribes agree to retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Agreement for a period of five (5) years after the completion of the Agreement. All records shall be subject to inspection and audit by the State and where applicable the Federal Government at reasonable times. Upon request, the Tribes will produce a legible copy of any or all such records.

26.0 Request for Information

AHCCCS may, at any time during the term of the Agreement, request from the Tribes, financial or other information related to the Tribes' performance or compliance under this Agreement. Upon receipt of such request for information, the Tribes shall provide complete information as requested no later than thirty (30) days after the receipt of the request unless, otherwise specified in the request itself.

27.0 Severability

If any provision of this Agreement or the application thereof to any circumstance shall be invalid or unenforceable to any extent, it is the intention of the parties that the remainder of the Agreement and the application of such provision to other circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

28.0 Sovereign Immunity

Nothing in this Agreement shall be construed as an express or implied waiver of the sovereign immunity of either Party in any forum or jurisdiction.

29.0 Contractual Remedies

29.1 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 Tribes receive written notice of the cancellation, unless the notice specifies a later time.

29.2 Right to Assurance.

If the State, in good faith, has reason to believe that the Tribes do not intend to, or are unable to, perform or continue performing under this Agreement, the Procurement Officer may demand in writing that the Tribes give a written assurance of intent to perform. Failure by the

Tribes to provide written assurance within the number of days specified in the demand may, at the State's option, is the basis for terminating the Agreement.

29.3 Mutual Termination_

Either party may terminate this Agreement upon thirty (30) working days with written notice to the other party. Termination will be without further obligation or penalty and will be effective upon receipt, unless specified otherwise.

29.4 Termination for Default_

The State reserves the right to terminate the Agreement in whole or in part due to the failure of the Tribes to comply with any obligation, 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.

29.5 Continuation of Performance through Termination

Upon receipt of the notice of termination and until the effective date of the notice of termination, the Tribes shall perform work consistent with the requirements of the Agreement and, if applicable, in accordance with a written transition plan approved by AHCCCS. If the Agreement is terminated in part, the Tribes shall continue to perform the Agreement to the extent not terminated. After receiving the notice of termination, the Tribes shall immediately notify all subcontractors, in writing, to stop work on the effective date of termination, and on the effective date of termination, the Tribes and subcontractors shall stop all work.

29.6 The Dispute provisions of this Agreement shall exclusively govern any dispute with respect to termination of this Agreement.

30.0 Survival of Terms After Termination or Cancellation of Agreement.

All applicable Agreement terms shall survive and apply after Agreement termination or cancellation to the extent necessary for the Tribes to complete and for AHCCCS to receive and accept any final deliverables that are due after the date of the termination or cancellation.

ATTACHMENT A 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.

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.

- 2.3.2. 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.
- 2.3.3. 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 DISCLOSURES 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. **Indemnification:** Business Associate shall indemnify, hold harmless and defend AHCCCS from and against any and all claims, losses, liabilities, costs, civil and criminal penalties, and other expenses resulting from, or relating to, the acts or omissions of Business Associate, its employees, agents, and sub-contractors in connection with the representations, duties and obligations of Business Associate under this Addendum. The parties' respective rights and obligations under this Section shall survive termination of the Contract.
- 6.2. **Regulatory References:** A reference in this Addendum to a section in the HIPAA rules means the section as in effect or as amended.
- 6.3. **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.
- 6.4. **Interpretation:** Any ambiguity in this Addendum shall be interpreted to permit compliance with the HIPAA rules.