

**INTERGOVERNMENTAL AGREEMENT**  
**(Agreement # BH16-0071)**

This Intergovernmental Agreement (“Agreement”) is entered into by and between White Mountain Apache Behavioral Health Services (“TRBHA”), an agency of the White Mountain Apache Tribe, a federally-recognized Indian Tribe, and the Arizona Health Care Cost Containment System (“AHCCCS”), the agency of the State of Arizona authorized to administer the Medicaid and behavioral health systems in the State of Arizona.

**Project Title: Tribal Regional Behavioral Health Authority**

**Term of Agreement:** The term of the Agreement is from July 1, 2016 through June 30, 2021 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 A.R.S. Title 36, Chapters 29 and 34, and A.R.S. §§ 11-951 and 11-952; and

WHEREAS, the White Mountain Apache Tribe has the authority to contract for the performance of the services provided herein pursuant to the laws, rules and sovereign authority of the White Mountain Apache Tribe; and

WHEREAS, the White Mountain Apache Tribe has delegated to the TRBHA the authority to contract for the performance of the services provided herein;

NOW, THEREFORE, the TRBHA 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:

**TRBHA**

Signature: 

Printed Name: Kevin McKenzie

Title: CEO

Date: 6/28/16

**AHCCCS:**

Signature: 

Printed Name: Meggan Harley, CPPO, MSW

Title: Procurement and Contracts Manager

Date: 6/20/2016

This Agreement has been reviewed by the undersigned Tribal Government Attorney who has determined that this Agreement is in the appropriate form and is within the power and authority granted to the TRBHA under the laws of Arizona and the White Mountain Apache Tribe.

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.

  
Signature \_\_\_\_\_ 4/28/16  
date

Fred Soto  
Printed Name

Deputy Attorney General  
Title

  
Signature \_\_\_\_\_ 6/16/16  
date

Benjamin C. Runkle  
Printed Name

AHCCCS Associate General Counsel  
Title

## I. SCOPE OF WORK

### A. Background and Purpose

1. The Arizona Health Care Cost Containment System has the authority to administer the Medicaid and behavioral health systems in the State of Arizona. The White Mountain Apache Tribe is an agency of the White Mountain Apache Tribe, a federally-recognized Indian Tribe. The White Mountain Apache Tribe has authorized the White Mountain Apache Behavioral Health Services to enter into this Agreement and perform the duties of a Tribal Regional Behavioral Health Authority as defined by Arizona Administrative Code (“A.A.C.”) § R9-22-1201(3)(W) (May 5, 2007).
2. The purpose of this Agreement is to delegate from AHCCCS to the TRBHA the duties described herein. The TRBHA 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:
  - 2.1. Are members of a federally-recognized Native American Tribe and/or individuals who reside in the White Mountain Apache Community; and
  - 2.2. Meet the qualifications for one of the following eligibility groups:
    - 2.2.1. Individuals eligible for services under Titles XIX and XXI of the Social Security Act;
    - 2.2.2. 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);
    - 2.2.3. General Mental Health Adults (“GMH”): persons age eighteen (18) and older who have general behavioral health issues but 1) have not been determined to be

- Seriously Mentally Ill and 2) are not eligible for services under Titles XIX or XXI of the Social Security Act;
- 2.2.4. Substance Abuse Adults (“SA”): persons age eighteen (18) and older who have a substance use disorder, or are referred for DUI screening, education and treatment, but 1) have not been determined to be Seriously Mentally Ill and 2) are not eligible for services under Titles XIX or XXI of the Social Security Act;
  - 2.2.5. Children below the age of 18 who are in need of behavioral health services but do not qualify for services under Titles XIX or XXI of the Social Security Act; or
  - 2.2.6. Any individual who participates in mental-health related prevention programs provided by or through the TRBHA.
3. Throughout this Agreement, the individuals and families who are eligible for the TRBHA’s services shall be referred to as “Members.”

## **B. Care Coordination**

1. The TRBHA shall coordinate healthcare services for Members including:

### **1.1. Treatment Services**

- 1.1.1. Behavioral Health Counseling and Therapy.
- 1.1.2. Assessment, Evaluation and Screening Services.
- 1.1.3. Other Professional Services.

### **1.2. Rehabilitation Services**

- 1.2.1. Skills Training and Development, and Psychosocial Rehabilitation Living Skills Training.
- 1.2.2. Cognitive Rehabilitation.
- 1.2.3. Behavioral Health Prevention/Promotion Education and Medication Training and Support Services (Health Promotion).
- 1.2.4. Psychoeducational Services and Ongoing Support to Maintain Employment.

### **1.3. Medical Services**

- 1.3.1. Medication.
- 1.3.2. Laboratory, Radiology and Medical Imaging.
- 1.3.3. Medical Management.
- 1.3.4. Electro-Convulsive Therapy.

### **1.4. Support Services**

- 1.4.1. Case Management services whose primary purpose is the application of clinical and behavioral knowledge to manage care needs for Members who are medically

or behaviorally complex, and require intensive medical and/or psychosocial support.

- 1.4.2. Personal Care Services.
- 1.4.3. Home Care Training Family (Family Support).
- 1.4.4. Self-Help/Peer Services (Peer Support).
- 1.4.5. Home Care Training to Clients.
- 1.4.6. Unskilled Respite Care.
- 1.4.7. Supported Housing (based on funding availability).
- 1.4.8. Sign Language or Oral Interpretive Services.
- 1.4.9. Medically Necessary Non-Covered Services.
- 1.4.10. Transportation (Emergency and Non-emergency).

#### 1.5. Crisis Intervention Services

- 1.5.1. Crisis Intervention Services (Mobile).
- 1.5.2. Crisis Intervention Services (Stabilization).
- 1.5.3. Crisis Intervention (Telephone).

#### 1.6. Inpatient Services

- 1.6.1. Hospital.
- 1.6.2. Subacute Facility.
- 1.6.3. Residential Treatment Center.

#### 1.7. Residential Services

- 1.7.1. Behavioral Health Short-Term Residential (Level II), Without Room and Board.
- 1.7.2. Behavioral Health Long-Term Residential (Non-medical, Non-acute), Without Room and Board (Level III).
- 1.7.3. Mental Health Services – Not Otherwise Specified (NOS) (Room and Board).

#### 1.8. Behavioral Health Day Program

- 1.8.1. Supervised Behavioral Health Treatment and Day Programs.
- 1.8.2. Therapeutic Behavioral Health Services and Day Programs.
- 1.8.3. Community Psychiatric Supportive Treatment and Medical Day Programs.

#### 1.9. Prevention Services (based on available funding)

- 2. The TRBHA shall conduct the following care coordination activities, and establish and follow care coordination policies and procedures that reflect integration of services by:

- 2.1. Engaging in activities that support Member advocacy, helping Members navigate healthcare systems, and ensuring that Members, families, and healthcare providers work together and communicate effectively to achieve positive outcomes for Members.

- 2.2. Ensuring the provision of appropriate services in the least restrictive settings that meet Members' needs in the most cost-effective manner.
- 2.3. Ensuring that all care coordination activities are for the purpose of improving the quality of Members' care and meeting the requirements set forth in this Agreement.
- 2.4. Specifying under what circumstances services are coordinated by the TRBHA, including the methods for coordination and specific documentation of these processes.
- 2.5. Coordinating AHCCCS-covered services with AHCCCS-registered providers, and community and social services.
- 2.6. Employing a sufficient number of qualified personnel to fulfill all care coordination functions.
- 2.7. Coordinating with AHCCCS-Division of Fee-for-Service Management ("DFSM") to maintain continuity of care for Members transitioning to the TRBHA. If a Member becomes eligible for Title XIX or XXI benefits through the Hospital Presumptive Eligibility process, AHCCCS-DFSM shall notify the TRBHA of such eligibility and shall collaborate with the TRBHA to maintain continuity of care.
- 2.8. Establishing timely and confidential communication of clinical information among providers serving the Member. The TRBHA shall facilitate this communication exchange as needed and establish monitoring activities, such as a record review, to ensure that the exchange occurs as follows:
  - 2.8.1. "Urgent"- Requests for intervention, information, or response within 24 hours.
  - 2.8.2. "Routine"- Requests for intervention, information or response within 10 days.
- 2.9. Establishing a process to ensure coordination of Members' healthcare needs based on early identification of health risk factors or special care needs.
- 2.10. Coordinating care for members with high behavioral or physical healthcare needs, and/or high costs.
  - 2.10.1. The TRBHA 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 TRBHA 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. Ensuring proper care for Members with special healthcare needs, including:

- 2.11.1. Identifying members with special health care needs;
- 2.11.2. Coordinating an assessment by appropriate healthcare professional(s) for the ongoing needs of each Member identified as having special health care need(s) or condition(s); and
- 2.11.3. Allowing direct access to a specialist as appropriate for the Member's condition and identified special health care needs (*e.g.* a standing referral).

2.12. Documenting interventions and changes in the coordination of care as they occur. The TRBHA's records, including treatment plans and communication of clinical and behavioral information for each Member, must reflect all aspects of Members' care coordination. The TRBHA's policies must include processes for digital (electronic) signatures when electronic documents are utilized.

2.13. Implementing interventions to educate Members on the appropriate use of the ED and diverting Members to the right care at the appropriate place of service.

2.13.1. AHCCCS-DFSM will identify and track Members who utilize Emergency Department (ED) services inappropriately 4 or more times within a 6 month time period. AHCCCS-DFSM will transmit that information to the TRBHA.

2.13.2. The TRBHA's interventions to educate Members should include but are not limited to:

- 2.13.2.1. Outreach phone calls/visits;
- 2.13.2.2. Educational letters;
- 2.13.2.3. Behavioral health referrals;
- 2.13.2.4. High Need/High Cost program referrals;
- 2.13.2.5. Disease management referrals; and/or
- 2.13.2.6. Exclusive Pharmacy referrals.

2.14. The TRBHA will maintain a health information system that collects, integrates, analyzes, validates and reports data necessary to implement care coordination. Data elements must include:

- 2.14.1. Member demographics;
- 2.14.2. Services provided to Members; and
- 2.14.3. Other information necessary to guide the selection of, and meet the data collection specifications required for care coordination.

### 3. Referral Network

3.1. The TRBHA 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. Network Assistance

- 3.2.1. The TRBHA shall track gaps in accessibility of services needed by Members, including identifying barriers to accessing care.
  - 3.2.1.1. The TRBHA 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.
  - 3.2.1.2. The TRBHA 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, and adolescent substance abuse services.
  - 3.2.1.3. The TRBHA will assist AHCCCS-DFSM in identifying the number of providers competent in delivering services to Members with developmental disabilities and the number of providers with bilingual capabilities (including sign language).
- 3.2.2. The TRBHA shall track and notify AHCCCS-DFSM of out of state placements.
- 3.2.3. The TRBHA shall track and notify AHCCCS-DFSM of inter-RBHA/TRBHA transfers.
- 3.2.4. AHCCCS will notify the TRBHA 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 TRBHA 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.

3.3. The TRBHA shall collaborate with AHCCCS to ensure that providers shall not be restricted or inhibited in any way from communicating freely with or advocating for persons regarding:

- 3.3.1. Behavioral health care, medical needs and treatment options, even if needed services are not covered by AHCCCS or if an alternate treatment is self-administered;
- 3.3.2. Any information the behavioral health recipient needs in order to decide among all relevant treatment options;
- 3.3.3. The risks, benefits, and consequences of treatment or non-treatment; and
- 3.3.4. The behavioral health recipient's right to participate in decisions regarding his or her behavioral health care, including the right to refuse treatment, and to express preferences about future treatment decisions.

#### 4. Collaboration with Other Entities

4.1. In performing care coordination services, the TRHBA shall work collaboratively with any entity necessary to the effective treatment of Members, including:

- 4.1.1. 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.

- 4.1.2. Regional Behavioral Health Authorities, other Tribal Regional Behavioral Health Authorities and AHCCCS' managed care organizations.
- 4.1.3. Tribal governmental entities, including the White Mountain Apache Detention Center, the Juvenile Court and Youth Counselors, and other social service entities.
- 4.1.4. County and local governmental agencies, including the courts, the probation departments and jails.

4.2. Collaboration activities shall include:

- 4.2.1. Coordinating the delivery of behavioral health services to Members served by more than one entity, including:
  - 4.2.1.1. Sharing information among the entities;
  - 4.2.1.2. Resolving problems;
  - 4.2.1.3. Identifying resources that each entity will contribute to the care and support of Members; and
  - 4.2.1.4. Arranging for co-location as applicable.
- 4.2.2. Coordinating the care of Members co-enrolled with the ADES, Division of Developmental Disabilities ("DDD"), including:
  - 4.2.2.1. Working directly with DDD staff and service providers involved with the Member;
  - 4.2.2.2. Providing assistance in managing difficult behaviors;
  - 4.2.2.3. 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
  - 4.2.2.4. Exchanging information regarding the initial assessment, and Individual or Family Support Plan.

4.3. The TRBHA agrees to meet periodically with AHCCCS outside of clinical staffings.

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

4.4. The TRBHA agrees to address and attempt to resolve coordination of care issues at the lowest possible level. In the event that the TRBHA is unable to resolve an identified issues, the TRBHA shall forward the following in writing to AHCCCS:

- 4.4.1. The issue that the TRBHA is unable to resolve;
- 4.4.2. The actions already taken that have not resulted in resolution of the issue; and
- 4.4.3. Recommendations for resolution of the problem.

5. Performance Standards:

5.1. Definitions

- 5.1.1. "Minimum Performance Standard" is the minimally expected level of performance by the TRBHA.
- 5.1.2. "Goal" is a reachable standard for a given performance indicator for the contract year. If the TRBHA has already met or exceeded the AHCCCS established or approved Minimum Performance Standard for any indicator, the TRBHA shall strive to meet the Goal for that indicator.

5.2. The following table identifies the Minimum Performance Standards and Goals for each required aspect of performance:

Aspect of Performance	Annual Measurement	Minimum Performance Standard	Goal
<p><b>Behavioral Health Service Plan</b> for members with current service plans that incorporate the needs and services recommendations identified in their assessments.</p>	<p>AHCCCS will review medical records of those members that have a current assessment and current treatment plan and will identify which services are on the treatment plan</p>	<p>85%</p>	<p>95%</p>
<p><b>Behavioral Health Service Provision</b> the number of members who receive the services that were recommended in their service plans.</p>	<p>Once the services are identified from the above mentioned treatment plans, AHCCCS will determine if the members are receiving the services identified by checking the encounters for</p>	<p>85%</p>	<p>95%</p>

	those members		
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5.3.If the TRBHA does not show demonstrable and sustained improvement toward meeting AHCCCS established or approved Minimum Performance Standards, AHCCCS shall notify the TRBHA to develop a corrective action plan.

5.3.1. The corrective action plan shall be received by AHCCCS within thirty (30) calendar days after notification to the TRBHA of the deficiencies.

5.3.2. The corrective action plan shall be approved by AHCCCS prior to implementation.

5.3.3. AHCCCS may conduct one or more follow-up onsite reviews or other audit processes to verify compliance with a corrective action plan.

5.3.4. Failure to achieve adequate improvement following the implementation of the corrective action plan without a justifiable explanation may result in an adverse contract action by AHCCCS.

**C. Block Grant Funded Services**

1. The Substance Abuse Prevention and Treatment Block Grant (SABG) and Mental Health Block Grant (MHBG) are annual formula grants provided to the states as authorized by the U.S. Congress to support behavioral health services. AHCCCS is the designated Single State Agency to administer block grants in Arizona.

2. General Requirements

2.1.The TRBHA shall ensure that services funded under the federal block grants meet all legal requirements of the respective block grant.

2.2.The TRBHA shall establish a mechanism for determining eligibility for utilization of block grant funding.

2.3.The TRBHA must ensure that block grant funds are the payor of last resort.

3. General Prohibitions. The TRBHA shall not expend Block Grant funds on the following activities:

3.1.To provide inpatient hospital services, with the exception of detox services (only if provided in an Outpatient setting, a free-standing Level I sub-acute facility, or Rural Substance Abuse Transitional Center.

3.2.To make cash payments to intended recipients of health services.

3.3.To purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment.

- 3.4. To satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds (Maintenance of Effort).
  - 3.5. To provide financial assistance to any entity other than a public or nonprofit private entity.
  - 3.6. To provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for AIDS.
  - 3.7. To pay the salary of an individual through a grant or other extramural mechanism at a rate in excess of Level I of the Executive Salary Schedule for the award year; see [http://grants.nih.gov/grants/policy/salcap\\_summary.htm](http://grants.nih.gov/grants/policy/salcap_summary.htm).
  - 3.8. To purchase treatment services in penal or correctional institutions.
  - 3.9. To provide acute care or physical health care services including payments of co-pays.
  - 3.10. Flex funds purchases.
4. Substance Abuse Block Grant Requirements.
- 4.1. Purpose: The SABG supports primary prevention and treatment services for persons with substance use disorders. It is used to plan, implement and evaluate activities to prevent and treat substance abuse. Grant funds are also used to provide early intervention services for HIV and tuberculosis disease in high-risk substance abusers.
  - 4.2. SABG funds are used to ensure access to treatment and long-term recovery support services for (in order of priority):
    - 4.2.1. Pregnant women/teenagers who use drugs by injection;
    - 4.2.2. Pregnant women/teenagers who use substances;
    - 4.2.3. Other persons who use drugs by injection;
    - 4.2.4. Substance using women and teenagers with dependent children and their families, including females who are attempting to regain custody of their children; and
    - 4.2.5. All other clients with a substance abuse disorder, regardless of gender or route of use, (as funding is available).
  - 4.3. As a condition of receiving SABG Treatment funding, the TRBHA shall establish mechanisms to ensure that each pregnant woman who requests and is in need of substance use disorder treatment is admitted within forty-eight (48) hours and is provided interim services through admission.

4.4. The TRBHA shall utilize the AHCCCS online waitlist portal for documenting any pregnant woman who is awaiting placement in a residential treatment center. AHCCCS will provide training on the utilization of the AHCCCS online waitlist portal.

4.5. The TRBHA shall ensure that persons with substance use disorders are referred for tuberculosis services.

4.6. The TRBHA shall establish early intervention services for Members diagnosed with HIV or TB.

4.7. Subject to the availability of funds, the TRBHA shall develop and implement primary substance abuse prevention services. Prevention services shall be made available for all individuals to reduce the risk of development or emergence of substance use disorders and to improve overall behavioral health status in targeted families and communities.

4.7.1. The TRBHA shall utilize evidenced based prevention strategies.

4.7.2. The TRBHA shall submit a Prevention Strategic Plan once annually by May 1st for the following state fiscal year. In addition, the TRBHA shall submit an annual report on the utilization of prevention funds by November 1<sup>st</sup> for the previous state fiscal year.

## 5. Mental Health Block Grant

5.1. The MHBG establishes or expands an organized community-based system of care for providing mental health services to adults determined to have a serious mental illness (“SMI”) and children determined to have a serious emotional disturbance (“SED”).

5.2. Services funded through the MHBG are based on available funding. The TRBHA shall prioritize expenditures of block grant funds and delivery of services for the following priority populations:

5.2.1. Non-Title XIX/XXI SMI; and

5.2.2. Non-Title XIX/XXI SED.

## D. Crisis Response System

1. The TRBHA shall maintain a twenty-four (24) hours per day, seven (7) days per week crisis response system.

2. The crisis response system shall fulfill the following requirements:

2.1. The TRBHA shall have one toll free crisis telephone number and may have a local crisis telephone number. The crisis telephone number shall be widely publicized within the service area, including being listed in the resource directory of local telephone books. Having one publicized telephone crisis response line for the service area does not preclude the TRBHA from allowing or requesting providers to be the primary contact for crisis calls from behavioral health recipients that the provider serves.

- 2.2. A telephone crisis response line shall be sufficiently staffed to meet the reasonably expected service demand of all persons in the service area. The crisis phone response service shall, to the extent possible, be answered within three (3) telephone rings. Crisis phone response shall include triage, referral and dispatch of service providers and patch capabilities to and from 911 and other crisis providers as applicable.
- 2.3. Response to crisis calls shall be designed to meet the immediate and urgent response requirements as outlined in the AHCCCS policy and have the ability to record referrals, dispositions, and overall response time.
- 2.4. The TRBHA shall coordinate with appropriate providers to obtain substance use disorder/psychiatric stabilization services for Members on a 24-hour basis.
- 2.5. The crisis response system may respond with any of the services outlined in the Scope of Work of this Agreement but the service shall be clinically responsive to the needs of the person.
- 2.6. Services provided in response to immediate and urgent response needs shall be provided in order to intervene and offer resolutions, not merely triage and transfer, and shall be provided in the least restrictive setting possible, consistent with individual and family need and community safety.
- 2.7. The crisis response system must have the capacity to communicate with individuals who do not speak or understand English.
- 2.8. The TRBHA's customer service shall have patch capabilities to the crisis response system.
- 2.9. The TRBHA shall initiate and maintain a collaborative effort with fire, police, emergency medical services, hospital emergency departments, AHCCCS Health Plans and other providers of public health and safety services as appropriate, to inform them of how to use the crisis response system. The TRBHA shall meet periodically with representatives of fire, police, emergency medical services and hospital emergency departments to coordinate services and to assess and improve the TRBHA's crisis response services.
- 2.10. The TRBHA is responsible for coordinating psychiatric and/or psychological consultations provided to Title XIX and Title XXI enrolled behavioral health recipients in emergency room settings. If a provider determines that the person receiving services may need court-ordered evaluation and the person is off reservation, the TRBHA shall comply with A.R.S. §36-520 *et seq.* If the person is on reservation the TRBHA shall comply with the relevant laws of the White Mountain Apache Tribe.

## **E. Persons who Have Been Determined to Be Seriously Mentally Ill**

1. Overview: 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, the TRBHA shall fulfill the additional requirements set forth in this section to meet the needs of persons with a serious mental illness.
2. Eligibility Determinations for Serious Mental Illness
  - 2.1. The TRBHA, or its designee, shall conduct reviews to determine if an adult person is seriously mentally ill as defined in A.R.S. § 36-550(4) in accordance with the Arizona Administrative Code Title 9, Chapter 21, Article 3 and the SMI Eligibility Determination Policy contained within 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 as outlined in the AHCCCS policy.
  - 2.2. The TRBHA shall ensure that processes developed and utilized to determine if a person has a serious mental illness do not result in barriers for behavioral health recipients and excessive expense due to multiple layers of reviews beyond what is required by the SMI Eligibility Determination Policy.
3. Delivery of Services. Delivery of services for persons determined to have a serious mental illness shall comply with Arizona Administrative Code Title 9, Chapter 21. In addition to the other services described in this Scope of Work, the TRBHA shall fulfill the following services delivery requirements for Members who have been determined to have a serious mental illness.
  - 3.1. Special Assistance
    - 3.1.1. 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.
    - 3.1.2. The TRBHA shall require its staff and those subcontractors serving persons with a SMI to have the necessary skill and knowledge to identify and refer all persons in need of Special Assistance to the AHCCCS Office of Human Rights.
    - 3.1.3. The TRBHA will require its staff and subcontractors serving persons with a SMI to communicate regularly with any person designated by the AHCCCS Office of Human Rights (OHR advocate, guardian, family member or friend) to provide Special Assistance to the TRBHA’s Member.

### 3.2.Housing Program

- 3.2.1. At AHCCCS' discretion and in collaboration with the TRBHA, the development of SMI housing shall be based upon the availability of funding, approval of the TRBHA's spending plan and the identified need of the Members.
- 3.2.2. Residential Placements or Independent Housing: The TRBHA shall not place persons with a serious mental illness in a residential program where more than No more than twenty-five percent (25%) of any housing complex can house individuals with a serious mental illness.
- 3.2.3. Supervisory Care Homes and Unlicensed Board & Care Homes
  - 3.2.3.1. The TRBHA 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.
  - 3.2.3.2. The TRBHA shall ensure that any situations observed that pose a threat to the health or safety of a person is promptly resolved.
- 3.2.4. The TRBHA 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.

### 3.3.Services for Incarcerated Individuals Determined to have a Serious Mental Illness

- 3.3.1. The TRBHA 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.
- 3.3.2. The TRBHA shall collaborate with the appropriate County and White Mountain Apache Tribe's jail diversion programs for persons with a serious mental illness.

### 3.4.Arizona State Hospital

- 3.4.1. The TRBHA shall 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.
- 3.4.2. The TRBHA shall ensure coordination and continuity of care for Members admitted to the Arizona State Hospital, including:
  - 3.4.2.1. Diversion of potential admission from the Arizona State Hospital, as appropriate;
  - 3.4.2.2. Coordination of the admission process with the Arizona State Hospital Admissions Office;
  - 3.4.2.3. Participation in the Arizona State Hospital treatment and discharge planning;
  - 3.4.2.4. Forwarding of available clinical and medical record information upon or shortly after admission; and
  - 3.4.2.5. Responding promptly to any other requested communication and/or collaboration with the Arizona State Hospital.

- 3.4.3. The TRBHA shall 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.

## **F. Member Complaints, Grievances and Appeals**

1. The TRBHA will ensure that Members are aware of their rights and how to file a complaint, grievance and/or appeal.
2. The TRBHA will work with each Member to attempt resolution of the matter at the lowest level possible.
3. Complaints: the TRBHA shall develop and implement written internal procedures that guide the informal dispute resolution process including timeframes for resolution.
4. Grievances and appeals for Members who have not been determined to have a SMI
  - 4.1. For any adverse action taken by AHCCCS (*e.g.* denial of prior authorization for an AHCCCS-covered service), the TRBHA will assist the Member in filing and pursuing any applicable grievance and/or appeal.
  - 4.2. For any adverse action taken by the TRBHA (*e.g.* denial of a block grant service), the TRBHA will follow the procedures described in Arizona Administrative Code Title 9, Chapter 34, Article 2 as though the TRBHA is a “Contractor” and the Member is an “Enrollee” as defined in that Article
5. Grievances and appeals for Members who have been determined to have a SMI
  - 5.1. For any adverse action taken by AHCCCS (*e.g.* denial of prior authorization for an AHCCCS-covered service), the TRBHA will assist the Member in filing and pursuing any applicable grievance and/or appeal.
  - 5.2. For any adverse action taken by the TRBHA (*e.g.* denial of SMI eligibility):
    - 5.2.1. The TRBHA shall comply with the appeals, grievances and requests for investigation processes described in Arizona Administrative Code Title 9, Chapter 21, Article 4.
    - 5.2.2. The TRBHA shall 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.
  - 5.3. AHCCCS shall work collaboratively with the TRBHA in identifying any actions to be taken resulting from an SMI grievance or appeal.

## **G. Quality Management**

1. The TRBHA shall institute processes to assess, plan, implement and evaluate the quality of care and quality of service provided to Members. The TRBHA must identify quality of care concerns and accept quality of care referrals from any source.
2. The TRBHA shall work with AHCCCS Clinical Quality Management (“CQM”) on reporting and performance improvement activities.
  - 2.1. The TRBHA 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 TRBHA that has resulted or has the potential to result in media attention/involvement.
  - 2.2. 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-CQM.
  - 2.3. The TRBHA will assist AHCCCS in tracking and trending, and in providing assistance to Members in a timely manner, when there are quality of care or quality of service concerns.
  - 2.4. The TRBHA shall actively participate in data collection and analysis in partnership with AHCCCS. Information may be shared among AHCCCS, the Regional Behavioral Health Authorities, and the TRBHAs to improve coordination of care throughout AHCCCS.
  - 2.5. The TRBHA will assist AHCCCS-CQM, as needed, in the process to provide resolution of any quality of care issues. Member and system resolutions may occur independently from one another.
3. The TRBHA shall coordinate with AHCCCS when Members placed in facilities must be relocated due to quality of care or quality of service concerns.
4. The TRBHA shall provide AHCCCS with an Immediate Jeopardy/Serious Incident contact person.
5. Behavioral Health Recipient Satisfaction Survey: The TRBHA shall actively participate in the development and implementation of the annual satisfaction survey.
  - 5.1. The TRBHA shall use findings from the Satisfaction Survey to improve care for Members.
  - 5.2. There are two surveys that will be implemented: 1) an Adult Member Survey and, 2) a Youth Services Survey for Families.

5.3.The TRBHA shall send completed member surveys to AHCCCS for analysis and reporting of the results.

5.4.AHCCCS and the TRBHA shall work collaboratively to develop TRBHA-specific surveys.

#### **H. Communication with Members, Members' Families, Stakeholders and Providers**

1. The TRBHA shall be proactive in communicating information to Members, Members' families, stakeholders and providers to foster a community that understands the behavioral health delivery system. Such communication will include:

1.1.How to access services, including emergency behavioral health/crisis services;

1.2.What covered behavioral health services are available;

1.3.Information on prevention and treatment of behavioral health problems;

1.4.Customer service contact information, for both the TRBHA and AHCCCS;

1.5.Information pertaining to new initiatives, projects, programs, and/or opportunities within the behavioral health system; and

1.6.Information describing the AHCCCS registered-provider network.

2. Upon request, the TRBHA shall assist AHCCCS in the dissemination of information to Members prepared by the federal government or AHCCCS. The cost of disseminating and communicating information shall be borne by the TRBHA.

3. All advertisements, publications, and printed materials which are produced by the TRBHA that refer to AHCCCS-covered services shall state that such services are funded through AHCCCS.

4. Communications with Members

4.1.Written Communication

4.1.1. The TRBHA shall educate Members about covered behavioral health services and where and how to access services. All materials created will be shared with AHCCCS.

4.1.2. Member Handbook.

4.1.2.1. The TRBHA will provide each Member with a Member Handbook based on a template provided by AHCCCS that the TRBHA may adapt with TRBHA-specific information.

4.1.2.2.The Member Handbook shall be reviewed and updated by the TRBHA at least annually.

- 4.1.2.3. The Member Handbook shall be provided to Members within ten (10) days of receiving a first service.
- 4.1.2.4. The TRBHA's updated Member Handbook must be provided to all Members on an annual basis
- 4.1.3. Other information.
  - 4.1.3.1. Written material shall contain easily understood language and format. The TRBHA shall make every effort to ensure that all information prepared for distribution to behavioral health recipients is written in easily understood language.
  - 4.1.3.2. When there are program changes, written notification shall be provided to the affected persons at least thirty (30) days before implementation.
  - 4.1.3.3. All informational materials intended for distribution to Members shall be reviewed for accuracy by the TRBHA.
- 4.2. Oral Interpretation Requirements: the TRBHA shall make oral interpretation services available free of charge to all persons enrolled with AHCCCS based on eligibility for federally-funded services. This applies to all non-English languages, not just those that the TRBHA identifies as prevalent.

## 5. Written Translation Requirements

- 5.1. All materials shall be translated into another language when the TRBHA is aware that the other language is spoken by three thousand (3,000) individuals or ten percent (10%), whichever is less, of behavioral health recipients in the service area who also have Limited English Proficiency (LEP).
- 5.2. All vital material should be translated into another language when the TRBHA is aware that the other language is spoken by one thousand (1,000) or five percent (5%), whichever is less, of behavioral health recipients in the service area who also have LEP. Vital materials include, at a minimum, notice for denials, reductions, suspensions or terminations of services and consent forms.
- 5.3. All written notices informing persons of their right to interpretation and translation services shall be translated when the TRBHA is aware that one thousand (1,000) or five percent (5%), whichever is less, of the behavioral health recipients in the service area speak that language and have LEP.
- 5.4. Written materials shall be available in alternative formats for the visually impaired.
- 5.5. The TRBHA shall inform all behavioral health recipients that information is available in alternative formats and how to access those formats.
- 5.6. This section on Written Translation Requirements applies solely to languages that can be represented in written form. If a language covered by this section does not have a written form, the TRBHA is under no obligation to create a written form.

## 6. Communications with Members' Families, Stakeholders, and State Agencies

6.1. The TRBHA shall, at a minimum, make available the following general written information:

- 6.1.1. Where and how to access behavioral health services including emergency behavioral health/crisis services;
- 6.1.2. Information on the family members' role in the assessment and treatment for behavioral health recipients;
- 6.1.3. Generic information on the treatment of behavioral health problems;
- 6.1.4. Any limitations in involving family members or providing Members' information for adult persons who do not want information shared with family members;
- 6.1.5. Customer service telephone numbers and hours of operation;
- 6.1.6. How to identify and contact a behavioral health recipient's Acute Health Plan and Provider Coordinator(s) (to the extent applicable to TRBHA), and
- 6.1.7. Covered behavioral health services.

6.2. The TRBHA shall give the above stated written materials to providers to distribute to family members.

## 7. Member Information to Family Members

7.1. The TRBHA shall encourage adult persons to include family members in the assessment and treatment for Members, unless it is contraindicated by family circumstances.

7.2. The TRBHA shall ensure that information regarding Members is shared in accordance with confidentiality and HIPAA rules and policy as outlined in Federal, State and Tribal law.

## 8. Web Posting/ Online Media

8.1. The TRBHA shall maintain a website that is up to date, informative, relative, and user friendly. The website shall be organized to allow for easy access of information by behavioral health recipients, family members, providers and stakeholders.

8.2. The website shall contain at a minimum the following information or links:

- 8.2.1. How to access behavioral health services, including crisis contact information;
- 8.2.2. Member Handbook;
- 8.2.3. Customer service contact information for the TRBHA and AHCCCS;
- 8.2.4. TRBHA's hours of operation; and
- 8.2.5. Information for advocacy organizations, including advocacy for family members.

## **I. Outreach**

1. The TRBHA shall conduct outreach activities to inform persons regarding the availability of behavioral health services.
2. Outreach activities shall include, but are not limited to:
  - 2.1. Participation in local health fairs, or health promotion activities;
  - 2.2. Involvement with local school districts;
  - 2.3. Routine contact with AHCCCS Health Plan Behavioral Health Coordinators and/or primary care providers (PCPs); and/or Indian Health Services;
  - 2.4. Publication and distribution of informational materials;
  - 2.5. Liaison activities with local, Tribal and county jails, Arizona Department of Corrections, and Arizona Department of Juvenile Corrections;
  - 2.6. Routine interaction with agencies that have contact with substance abusing pregnant women;
  - 2.7. Development and implementation of outreach programs that identify persons with co-morbid medical and behavioral health disorders, persons with co-occurring developmental disabilities and behavioral health disorders, and those who may be seriously mentally ill within the TRBHA 's service area, including persons that reside in jails, homeless shelters or other settings; and
  - 2.8. Providing information to mental health advocacy organizations.
3. Family Partnership and Leadership
  - 3.1. The TRBHA shall make a good faith effort to have genuine representation of peers, family members and youth who receive services in policy making and leadership roles (e.g. roles or membership on Boards of Directors, committees and/or advisory groups which develop and implement programs, policies, and quality management activities).
  - 3.2. The TRBHA shall utilize family members, peer-run, family-run, and parent-support organizations to provide technical assistance, training, coaching and support to peers, family members and youth who assume leadership roles within the behavioral health system (i.e. roles or membership on Boards of Directors and advisory groups which develop and implement programs, policies, and quality management activities).
  - 3.3. If no peer-run, family-run or parent support organizations exist or have a presence in a certain geographical region, then the TRBHA and providers shall work to strengthen or establish new formal relationships with these organizations.

4. Outreach activities shall include dissemination of information to the general public, other human service providers, county, state and/or tribal governments, school administrators and teachers and other interested parties regarding behavioral health services available to eligible persons.

#### **J. Key Personnel and Staff Requirements**

1. 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.

2. Key Personnel.

- 2.1. The TRBHA will assign a specific individual or individuals to the following key positions:

- 2.1.1. Director, who has ultimate responsibility to oversee the management of, and adherence to, requirements set forth in this Agreement.
    - 2.1.2. Chief Medical Officer, who is a State licensed physician, board-certified in psychiatry, and will be actively involved in all major clinical programs and quality management components, and will ensure timely medical decisions. Based on extenuating circumstances, such as undue hardship in filling this role with a licensed physician, AHCCCS may approve replacing this position with a Chief Clinical Officer, who is a licensed registered nurse or behavioral health professional with appropriate education and experience to be actively involved in all major clinical programs and quality management components.
    - 2.1.3. Care Coordination Administrator: a registered nurse or individual with a Master's degree in health services, health care administration, or business administration if not required to make medical necessity determinations. The primary functions of the Care Coordination Administrator are:
      - 2.1.3.1. Develop, implement and monitor the provision of care coordination, care management and case management functions; and
      - 2.1.3.2. Monitor, analyze and implement appropriate interventions based on utilization data provided by AHCCCS, including identifying and correcting over or under utilization of services.

- 2.2. The TRBHA agrees that, once assigned to work under this Agreement, removal of Key Personnel will require written notice to AHCCCS prior to removal whenever reasonably possible.

- 2.3. 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 than initially anticipated, the TRBHA will notify AHCCCS within seven (7)

calendar days, and will, subject to the concurrence of AHCCCS, replace the personnel with other personnel of substantially equal ability and qualifications.

### 3. Staff Requirements

3.1. The TRBHA will maintain organizational, managerial and administrative systems and staff capable of fulfilling all Agreement requirements.

3.2. In addition to the required Key Personnel listed above, at a minimum, the TRBHA will employ, contract with or assign staff to fulfill these identified functions:

3.2.1. Clinical Operations Administrator, who is responsible for clinical program development and oversight of personnel and services to children/adolescents, adults with serious mental illness, adults with substance use disorders and adults with general mental health conditions. Additionally, the Clinical Operations Administrator will oversee vocational/employment and housing.

3.2.2. Prevention Services Administrator, if the TRBHA accepts prevention funds, the TRBHA will designate a lead prevention services administrator who will serve as the primary liaison to AHCCCS. The TRBGA will have representation in all AHCCCS-facilitated Prevention Administrator meetings.

3.2.3. Financial Manager, who is responsible for accurate and timely submission of financial reporting requirements.

3.2.4. Quality Management Administrator, who is responsible for oversight of the quality management requirements of the Agreement and coordinates with the AHCCCS-CQM.

3.2.5. Customer Services Administrator, who coordinates communications with eligible and enrolled persons and acts as, or coordinates with, advocates, providers and others to resolve member/SMI grievances.

3.2.6. Information Systems Administrator, who is responsible for oversight of the management information systems requirements of the Agreement.

3.2.7. Quality Improvement Specialist, who will be a Certified Professional in Healthcare Quality (CPHQ) or have comparable education and experience in data and outcomes measurement; be responsible for improving clinical quality performance measures; develop and implement performance improvement projects; utilize data to develop intervention strategies to improve outcomes; and report quality improvement/performance outcomes.

3.2.8. Care Coordinator(s), who assess the level and type of care needed and develop a care plan, are responsible for starting and ongoing implementation of the care plan, and coordinate the efforts of key support systems.

3.3. An individual may fulfill more than one Staff Requirement function so long as that individual can meet all of the duties required of each function required by this Agreement.

4. The TRBHA will maintain the following points of contact:
  - 4.1. Interagency Liaison Contact, who will be a point of contact regarding coordination of care with AHCCCS Health Plans, Regional Behavioral Health Authorities (RBHAs), State and Tribal Agencies.
  - 4.2. Child Welfare System Expert, who is an expert in the requirements of the White Mountain Apache Tribe and Arizona child welfare systems, as applicable, and the special needs of children taken into the care and custody of those child welfare systems and the special needs of adopted children. This expert shall assist the TRBHA in designing, implementing and coordinating care for Members.
  - 4.3. Immediate Jeopardy (IJ) contact, who will be a point of contact responsible for communicating with AHCCCS to coordinate the care of individuals enrolled with the TRBHA during cases of an Immediate Jeopardy (e.g. fires or other public emergency situations). The contact person(s) who is(are) designated by the TRBHA will be accessible 24 hours a day, seven days a week to work with AHCCCS and/or other governmental agencies on urgent issue resolutions. These staff person(s) will have 1) access to information necessary to identify members who may be at risk and their current health/service status, 2) ability to initiate new placements/services, and 3) availability to perform status checks at affected facilities and potentially conduct ongoing monitoring, if necessary. The TRBHA will supply AHCCCS with the contact information for these staff persons, such as a telephone number, to call in these urgent situations.

#### **K. Management Information System**

1. The Contractor shall maintain a management information system that meets AHCCCS data processing and interface requirements as outlined in this Agreement and in the following documents incorporated by reference:
  - 1.1. Client Information System Technical Specifications Manual;
  - 1.2. CIS File Layout Specifications Manual;
  - 1.3. AHCCCS Program Support Policies and Procedure Manual; and
  - 1.4. The Demographic and Outcome Data Set User Guide (DUG).
2. The management information system shall be capable of sending and receiving information to and from AHCCCS and capable of receiving information from service providers. All electronic data submitted shall be encrypted per HIPAA privacy security requirements. The TRBHA shall have a sufficient number of management information system personnel to support the maintenance and functioning of the management information system. These personnel shall have management information system technical knowledge as well as knowledge of health care or behavioral health delivery systems knowledge.

3. If the TRBHA plans to make any modifications that may affect any of the data interfaces, it shall first provide AHCCCS the details of the planned changes, the estimated impact upon the interface process, and unit and parallel test files. The TRBHA shall allow sufficient time for AHCCCS to evaluate the test data before approving the proposed change. The TRBHA shall also notify AHCCCS in advance of the exact implementation date of all changes so AHCCCS can monitor for any unintended side effects of the change.
4. AHCCCS will provide the TRBHA at least ninety (90) days of notice prior to a system change unless it has been determined that the change is immediately needed and vital to system operations.
5. The TRBHA will identify staff who will utilize the PMMIS system, the SMI Grievance and Appeals database, the AHCCCS FTP Server, the AHCCCS Client Information System and all other AHCCCS systems that require user registration and monitoring of continued access and discontinuation of access rights of the TRBHA's staff.

## **II. FINANCIAL PROVISIONS**

### **A. Payments to the TRBHA (General Requirements for All Funding Sources)**

1. AHCCCS will provide to the TRBHA a document detailing the amounts to be paid to the TRBHA by funding source (the "Allocation Schedule" or "Payment Report"). Any deviation from the Allocation Schedule must be approved by AHCCCS in writing. AHCCCS will make payments to the TRBHA in compliance with the Allocation Schedule.
2. Payments are conditioned upon the rights and obligations of this Agreement and the availability to AHCCCS of funds authorized and appropriated by the State Legislature for expenditure in the manner and for the purposes stated in this Agreement. AHCCCS or the State shall not be liable for any purchase(s) entered into by the TRBHA in anticipation of such funding.
3. Payments made by AHCCCS to the TRBHA are conditioned upon receipt by AHCCCS of applicable timely, accurate and complete reports, documentation and any other information due from the TRBHA, unless prior written approval waiving such requirement(s) is obtained from the AHCCCS Director or designee. If the TRBHA 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 TRBHA 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 withhold final payment to the TRBHA until all final reports and deliverables are received.

4. 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 shall be used by the TRBHA in the management, recording and reporting of Agreement funds received from AHCCCS and in producing audited financial statements.
5. Revenue and Expense Report
  - 5.1. AHCCCS will provide the TRBHA with a form entitled "Revenue and Expense Report" that shall include a "Disclosures and Adjustments" page/tab. This Report will correlate with the funding sources outlined in the Allocation Schedule.
  - 5.2. The TRBHA will complete the Revenue and Expense Report on an accrual basis and submit it to AHCCCS-DFSM no later than sixty (60) days after the end of each quarter.
  - 5.3. Reclassifications, adjustments, titles of positions and number of Full-Time Equivalents funded with Title XIX/XXI administrative funds, and any rationale for over/under spending should be noted on the Disclosures and Adjustments page/tab. The TRBHA will disclose adjustments to prior years and prior months in the current year.
6. Funding received through this agreement shall be retained by the TRBHA 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 TRBHA shall provide AHCCCS with a quarterly report detailing all activities in this fund (account) as described in the Chart of Deliverables.
7. 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.
8. If applicable, the TRBHA will provide AHCCCS with a copy of its most recent Indirect Cost Agreement by October 1 of each year.
9. The TRBHA will have a system to produce complete, timely, reliable and accurate financial records and reports in accordance with the following requirements for financial reporting:
  - 9.1. The TRBHA will design and implement its financial operations system and reports to ensure compliance with Generally Accepted Accounting Principles, Government Auditing Standards and, as applicable, 2 C.F.R. Parts 200 and 300, and 45 C.F.R. Part 75.
  - 9.2. The TRBHA shall submit a quarterly Certification Statement signed and dated by the TRBHA's chief financial officer (attached hereto as Exhibit 1).
  - 9.3. The TRBHA will submit annual audited financial statements to AHCCCS-DFSM no later than nine (9) months after the end of the state fiscal year. If the TRBHA received \$750,000.00 or more during the state fiscal year, an audit conducted pursuant to 2 C.F.R. Part 200, Subpart F is required. These audited financial statements must be prepared by an independent auditor and include supplemental schedules and audit opinions.

10. 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.
11. 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 TRBHA and subcontractor levels.
  - 11.1. The TRBHA and its subcontractors may not defer State General Funds.
  - 11.2. Goods and/or services ordered by June 30 but received on or after July 1 may generally be charged to the previous state fiscal year if all three of the following conditions are met:
    - 11.2.1. The expenditure is valid for the previous state fiscal year;
    - 11.2.2. The contractual liability related to the claim was created on or before June 30; and
    - 11.2.3. When the invoice arrives, there must be sufficient spending authority available to make the payment.
  - 11.3. No later than April 15 of each year, the TRBHA will provide AHCCCS-DFSM with a list of State General Funds, by funding source, that the TRBHAs and its subcontractors will not expend by the end of the state fiscal year.
  - 11.4. The TRBHA will return unexpended State General Funds to AHCCCS within fifteen (15) days of AHCCCS' request regardless of whether the TRBHA or a subcontractor holds those funds.
  - 11.5. The TRBHA will notify its subcontractors of the requirements under this section.
12. The TRBHA shall reimburse AHCCCS upon request, or AHCCCS may deduct from future payments to the TRBHA, any amounts determined by AHCCCS to represent:
  - 12.1. Costs related to services which have been inaccurately reported;
  - 12.2. Costs related to services that have not been provided;
  - 12.3. Costs of services for which the TRBHA's books, records, and other documents are not sufficient to clearly confirm were used by the TRBHA to provide such services;
  - 12.4. Costs of services sustained as a financial audit exception; or
  - 12.5. Costs of services which have not been provided in accordance with applicable regulations, laws, policies and this Agreement, to include services which have been determined to be unnecessary.

13. "State fiscal year" means the period beginning with July 1 and ending June 30.

14. No profit is allowed under this Agreement. The TRBHA is under no obligation to deliver or pay for services unfunded by the Agreement. The TRBHA will manage allocated funds in a manner sufficient to enable to perform under the Agreement for the entire state fiscal year.

15. Costs and Payments

15.1. Applicable Taxes.

15.1.1. Payment of Taxes. The TRBHA shall be responsible for paying all applicable taxes. The TRBHA and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the TRBHA. The TRBHA 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.

15.1.2. 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.

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

15.2. Availability of Funds for the Next State Fiscal Year. 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.

15.3. Availability of Funds for the Current State Fiscal Year. 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:

15.3.1. Accept a decrease in price offered by the TRBHA; or

15.3.2. Cancel the Agreement.

**B. Management of Title XIX/XXI Administrative Funding**

1. To determine the annual budget for the TRBHA, 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 TRBHA in compliance with A.R.S. Titles 35, 36 and 41.

2. The TRBHA will submit a quarterly report by the 60<sup>th</sup> calendar day following the end of each quarter detailing the Title XIX Revenues and Expenditures to AHCCCS-DFSM. The quarterly report will be used by AHCCCS to reconcile the monthly payments made during the quarter to the TRBHA. If there is an overpayment or underpayment, AHCCCS will adjust future payments to the TRBHA accordingly to make the account whole. Failure of the TRBHA to submit timely quarterly financial reports will result in payment delays to the TRBHA.
3. Any Title XIX/XXI administrative funds remaining subsequent to the state’s fiscal year end shall be used in accordance with this Agreement within 90 days. For funds not expended within 90 days after the state’s fiscal year end, the TRBHA shall present a plan for AHCCCS’ approval describing its plan to utilize remaining funds within 180 days of the state’s fiscal year end. The following year’s revenue may be adjusted if the TRBHA does not provide a reasonable plan to spend remaining funds.

#### **C. Management of State General Funds for NTXIX Services**

1. At AHCCCS’ request, the TRBHA will submit a Contractor Expenditure Report (“CER”) with supporting documentation for reimbursement of State General Funds for NTXIX Services, Supported Housing, and Crisis.
2. Any State General Funds allocated for housing must be spent in accordance with an approved housing plan for individuals meeting the Seriously Mental Ill designation.
3. Mortgages and Financing of Property: AHCCCS shall be under no obligation to assist, facilitate, or help the TRBHA secure the mortgage or financing if a TRBHA intends to obtain a mortgage or financing for the purchase of real property or construction of buildings on real property.

#### **D. Management of Federal Block Grant and other NTXIX Federal Funds**

1. The TRBHA will use SABG funds solely for planning, implementing and evaluating activities to prevent and treat substance abuse, and provide early intervention services for HIV and tuberculosis disease in high-risk substance users.
2. The TRBHA will use MHBG funds solely for services for adults determined to have a SMI and children determined to have a SED, and evidence-based practices for first episode psychosis.
3. The TRBHA will use other grant funding as allocated by AHCCCS for the purposes set forth in the applicable federal grant requirements.

4. The TRBHA will:

- 4.1. Manage, record, maintain fiscal controls, and report federal grant funds in accordance with the practices, procedures, and standards in the State of Arizona Accounting Manual ("SAAM"), 2 CFR Parts 200 and 300, 45 C.F.R. Part 75, and applicable federal grant requirements;
- 4.2. No later than April 15 of each year, the TRBHA will provide AHCCCS-DFSM with a list of Block Grant Funds, by funding source, that the TRBHAs and its subcontractors will not expend by the end of the state fiscal year.
- 4.3. Comply with all terms, conditions, and requirements of the SABG and MHBG Block Grants, including but not limited to:
  - 4.3.1. Confidentiality of Alcohol and Drug Patient Records (42 C.F.R. Part 2);
  - 4.3.2. Charitable Choice Provisions; Final Rule (42 C.F.R. Parts 54 and 54a);
  - 4.3.3. Substance Abuse Prevention and Treatment Block Grant; Interim Final Rule (45 C.F.R. §§ 96.45, 96.51, and 96.120-121);
  - 4.3.4. Health Omnibus Programs Extension Act of 1988, Subtitle E General Provisions, November 4, 1988 (P.L.100-607) (42 U.S.C. § 300ee-5);
  - 4.3.5. Children's Health Act of 2000 (P.L. 106-310);
  - 4.3.6. ADAMHA Reorganization Act of 1992 (P.L. 102-321); and
  - 4.3.7. Public Health Service Act (includes Title V and Title XIX).
- 4.4. Report MHBG and SABG grant funds and services separately and provide information related to block grant expenditures to AHCCCS upon request.
- 4.5. Submit TRBHA and subcontractor expenditure data to AHCCCS consistent with the annual funding levels in the Allocation Schedule.
- 4.6. Manage the federal block grant funds during each fiscal year to make funds available for obligation and expenditure until the end of the fiscal year for which the funds were paid. When making transfers involving federal block grant funds, the TRBHA shall comply with the requirements in accordance with the Federal Block Grant Funds Transfers Cash Management Improvement Act of 1990 and any rules or regulations promulgated by the U.S. Department of the Treasury including, 31 CFR Part 205, and the State of Arizona Accounting Manual (SAAM).
- 4.7. Not discriminate against non-governmental organizations on the basis of religion in the distribution of Block Grant funds.
- 4.8. Comply with prevention funds management;
- 4.9. Comply with all terms, conditions, and requirements for any federal grant funding as outlined in the Allocation Schedule.

5. The TRBHA's financial monitoring of SABG and MHBG funding must include:
  - 5.1. Policies and procedures that outline internal monitoring of federal block grant requirements.
  - 5.2. Notify relevant subcontractors of required subaward information and Single Audit submission requirements. Non-Federal entities that expend \$750,000 or more in a year in federal awards shall have a Single Audit conducted for that year in accordance with 2 CFR Part 200 Subpart F.
  - 5.3. Maintain tracking tool to monitor receipt of Single Audits. At a minimum, the tool should contain the following information: Provider Name, Audit Received Date, Management Decision Letter Date, Audit Findings (Y/N) and Date Response/Corrective Action Plan Received.
  - 5.4. Issue management decisions for audit findings as required by §200.521 Management decision.
  - 5.5. Track grant funds, including Flex Funds (if applicable) and unexpended funds, for appropriate allocation by category, recoupment and/or return to AHCCCS.
  - 5.6. Monitor grant activities to ensure SABG and MHBG funds are expended for authorized purposes.
  - 5.7. Ensure that relevant subcontractors comply with 2 C.F.R. Part 200, Subpart F, and have internal policies and procedures related to SABG and MHBG.

### III. TERMS AND CONDITIONS

#### **A. Agreement Administration and Operation**

1. **Offshore Performance of Work Prohibited:** Any services that are described in the 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 will 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.
2. **Licenses:** The TRBHA will maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the TRBHA.

### 3. Term of Agreement

- 3.1. The term of the Agreement is from July 1, 2016, through June 30, 2021, unless otherwise terminated or extended by mutual agreement of the Parties in a duly authorized and executed amendment.
- 3.2. All Agreement extensions will be through written amendment executed by both Parties. The terms and conditions of any such extension will remain the same as the original Agreement, as amended.

### 4. Agreement Changes

- 4.1. Amendments. The Agreement may be modified only through an 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 TRBHA are violations of the Agreement. Such changes, including unauthorized written Amendments will be void and without effect, and the TRBHA will not be entitled to any claim under this Agreement based on those changes.
- 4.2. Subcontracts. The TRBHA will not enter into any subcontract under this Agreement for the performance of any administrative function required by this Agreement without advance written notice to AHCCCS-DFSM. The TRBHA will clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The subcontract will incorporate by reference the terms and conditions of this Agreement. This section does not apply to subcontracts with behavioral health service providers.
- 4.3. Assignment and Delegation. The TRBHA will not assign any right nor delegate any duty under this Agreement without the prior written approval of AHCCCS-DFSM. AHCCCS will not unreasonably withhold approval.

### 5. Agreement Interpretation

- 5.1. Governing Law. This Agreement will be interpreted under the applicable laws of the United States, State of Arizona, and the White Mountain Apache Tribe. If any laws conflict, the laws of the United States will control.
- 5.2. Severability. The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid will not affect any other term or condition of the Agreement.
- 5.3. 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 will supplement or explain any terms used in this document and no other understanding either oral or in writing will be binding.

5.4.No Waiver. Either party's failure to insist on strict performance of any term or condition of the Agreement will 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.

## 6. Contractual Remedies

6.1.Notice and Opportunity to Cure. In the event of a breach of the Agreement, the non-breaching party must notify the breaching party of the breach in writing. If the breach is capable of cure, the non-breaching party must describe how the breach can be cured and identify a reasonable deadline by which any cure must be completed.

6.2.Corrective Action Plans. AHCCCS and the TRBHA may collaboratively develop a corrective action plan to address a breach of this Agreement. The TRBHA will implement the corrective action plan to bring performance into compliance in accordance with the corrective action plan, and within the timeframes agreed to by the TRBHA and AHCCCS.

6.3.Non-exclusive Remedies. The rights and the remedies of AHCCCS under this Agreement are not exclusive.

6.4.Technical Assistance. AHCCCS' provision of technical assistance to the TRBHA to assist in achievement of compliance with any relevant Agreement terms does not relieve the TRBHA of its obligation to fully comply with any relevant Agreement term or any other terms of this Agreement.

6.5.Right of Offset. AHCCCS will be entitled to offset against any sums due the TRBHA, any expenses or costs incurred by AHCCCS, or damages or sanctions assessed by AHCCCS concerning the TRBHA's non-conforming performance or failure to perform the Agreement.

### 6.6.Sanctions

6.6.1. AHCCCS reserves the right to impose financial sanctions if the TRBHA engages in any of the following conduct: :

6.6.1.1.Misrepresentation or falsification of information provided to AHCCCS;

6.6.1.2.Misrepresentation or falsification of information provided to an enrolled person, potential enrolled person, subcontractor or health care provider;

6.6.1.3.Noncompliance with quality of care or quality management requirements;

- 6.6.1.4. Submitting incomplete or inaccurate reports, deliverables or other information requested by AHCCCS;
- 6.6.1.5. Submitting reports, deliverables or other information requested by AHCCCS more than 180 days after the deadline for production; or
- 6.6.1.6. Engaging in conduct which jeopardizes Federal Financial Participation or other federal funding.
- 6.6.2. AHCCCS will consider the severity of the violation to determine the amount of sanction. The amount of the sanction will be proportionate to the severity of the non-compliance action.
- 6.6.3. AHCCCS will provide written notice to the TRBHA specifying the amount of the sanction, the grounds for the sanction, the amount of funds to be withheld from the TRBHA's payments, the steps necessary to avoid future sanctions and the TRBHA's right to file a claims dispute to challenge the sanction.
- 6.6.4. The TRBHA will 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 TRBHA fails to adequately correct the violation within established timeframes. Sanctions are not subject to the Notice and Opportunity to Cure provisions in A.6.1.

## 7. Agreement Termination

- 7.1. Cancellation for Conflict of Interest. AHCCCS 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 will be effective when the TRBHA receives written notice of the cancellation unless the notice specifies a later time.
- 7.2. Gratuities. AHCCCS 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 TRBHA or a representative of the TRBHA to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing of the Agreement, an amendment to the Agreement, or favorable treatment concerning the Agreement, including the making of any determination or decision about Agreement performance. AHCCCS, in addition to any other rights or remedies, will be entitled to recover exemplary damages in the amount of three times the value of the gratuity offered by the TRBHA.
- 7.3. Suspension or Debarment. AHCCCS may, by written notice to the TRBHA, immediately terminate this Agreement if AHCCCS determines that the TRBHA 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 will attest that the TRBHA is not currently suspended or debarred. If the TRBHA becomes suspended or debarred, the TRBHA will immediately notify AHCCCS.

7.4. 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 will. The TRBHA will be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

7.5. Termination for Default. Subject to section A 6.1, in addition to the rights reserved in the Agreement, AHCCCS may terminate the Agreement in whole or in part due to the failure of the TRBHA to materially comply with any term or condition of the Agreement, or to make satisfactory progress in performing the Agreement. The Procurement Officer will provide written notice of the termination and the reasons for it to the TRBHA.

7.6. In the event that the Agreement terminates for any reason, the Parties agree to collaborate on transitioning the care of any enrolled persons potentially affected by the termination within a reasonable period of time. The Parties agree to work together to ensure that such a transition occurs in an orderly manner and without significant disruption in services to enrolled persons.

8. Sovereign Immunity: Except as provided in section A.9.4.3.2 below, nothing in this Agreement will be construed as an express or implied waiver of either Party's sovereign immunity from suit in any forum or jurisdiction.

#### 9. Agreement 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 agree that Disputes arising out of this Agreement will be administratively adjudicated in accordance with A.R.S. § 2903.01(b)(4), the relevant portions of Arizona's Administrative Procedures Act, and AHCCCS' rules pertaining to appeals and grievances, except that the TRBHA may elect to enter into binding arbitration to dispute a Director's Decision rather than file for a judicial review of an administrative decision.

9.3. After exhausting applicable administrative remedies, the Parties to this Agreement agree to resolve all Disputes arising out of or relating to this Agreement through binding arbitration as provided in the Federal Arbitration Act and A.9.4 below.

#### 9.4. Arbitration and Award

- 9.4.1. Upon notice by a Party to the other of the intent to arbitrate, the Dispute will 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 will not be interpreted to diminished, limit or void the limited waiver of sovereign immunity set forth in Section A.8 above or to increase the enforcement right of the Parties. Within ten (10) days after the notice of intent to arbitrate, each party will select one person to act as arbitrator and the two selected will select a third arbitrator within ten (10) days of their appointment. The third arbitrator will 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 retired judge of the federal court or the trial court of the State of Arizona. At least one of the arbitrators will be knowledgeable with federal Indian law and one arbitrator will 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 will be held in Maricopa County, or at such other place as will be agreed by the Parties
- 9.4.2. The award will be made within sixty (60) days of the filing of the notice of intent to arbitrate, and the arbitrators will 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 will be final and binding upon all Parties to the proceeding.
- 9.4.3. Enforcement
- 9.4.3.1. Judgment upon any award rendered by the arbitrators may be entered only in the U.S. District Court for the District of Arizona.
- 9.4.3.2. For the purposes of this Agreement, and subject to the terms of this section, the Parties agree to a limited waiver of sovereign immunity from suit and consent to be sued on an arbitration award. The Parties agree that this section provides a limited waiver of sovereign immunity solely for the purpose of enforcing any arbitration award hereunder and for no other purpose.

9.5. AHCCCS may take any action described in the Financial Provisions and/or Sections A.6 or A.7 of these Terms and Conditions prior to initiating or engaging in any process described under Section A.9 of these Terms and Conditions. The TRBHA may use the process described under Section A.9 of these Terms and Conditions to appeal such an action.

## 10. Survival of Rights and Obligations after Agreement Expiration or Termination

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

10.2. All representations and warranties made by the TRBHA under this Agreement will survive the expiration or termination hereof.

## **B. Compliance**

1. Reporting Fraud, Waste and Abuse. The TRBHA will 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 TRBHA will complete the AHCCCS “Referral for Preliminary Investigation” form and submit it to AHCCCS-OIG with a copy sent to AHCCCS-DFSM.

2. Records.

2.1. The TRBHA will retain, and will 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.

2.2. All books and records will 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 will include, but not be limited to, financial statements, case files (both hard copy and stored data), and other records specified by AHCCCS.

2.3. At any time during the term of this Agreement and five (5) years thereafter, the TRBHA’s or any subcontractor’s books and records will be subject to audit by AHCCCS 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 TRBHA will make available, at all reasonable times during the term of this Agreement and the period set forth in in this section, any of its records for inspection, audit or reproduction by any authorized representative of AHCCCS, the State of Arizona or the Federal government.

2.4. The TRBHA will 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:

2.4.1. If this Agreement is completely or partially terminated, the records relating to the work terminated will be preserved and made available for a period of five years from the date of any such termination.

2.4.2. 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, will be retained by the TRBHA for a period of five years after the date of final disposition or resolution thereof.

- 2.4.3. Completed case files will be scheduled for archive shipment to AHCCCS, as defined by AHCCCS Policy and Procedures.
- 2.4.4. To the extent that the Agreement or applicable law require the disclosure of records to AHCCCS and/or the Federal government, such disclosure will be made at no cost to AHCCCS or the Federal government.

### 3. Audits and Inspections.

3.1. The TRBHA will cooperate with AHCCCS and/or the Federal government in any audit, review, investigation and/or request for information of the TRBHA and/or its subcontractors. In no event will this Agreement be construed to authorize any audit, review, investigation and/or request for information outside the scope of this Agreement.

3.2. Audits: AHCCCS may conduct periodic audits to confirm the TRBHA's and subcontractor(s)' compliance with applicable law and this Agreement. These audits include, but are not limited to:

#### 3.2.1. Annual Administrative Review

3.2.1.1. AHCCCS will conduct an Annual Administrative Review for the purpose of ensuring compliance with applicable law and this Agreement.

3.2.1.2. The Annual Administrative Review will be conducted to recommend improvements, monitor the TRBHA's progress toward implementing mandated programs and corrective action plans, and provide the TRBHA with technical assistance as necessary.

3.2.1.3. In preparation for the Annual Administrative Review, AHCCCS will work with the TRBHA to identify and request records needed for the Review, and to obtain a right of entry if an inspection is part of the Review.

3.2.1.4. AHCCCS will furnish a copy of the Annual Administrative Review Report to the TRBHA and give the TRBHA an opportunity to comment on any review findings. AHCCCS and the TRBHA will develop a Corrective Action Plan to correct any deficiencies identified in the Annual Administrative Review Report.

3.2.1.5. AHCCCS may conduct follow-up reviews to determine the TRBHA's progress in implementing the Corrective Action Plan.

#### 3.2.2. Program Integrity Review

3.2.2.1. AHCCCS-OIG and/or AHCCCS-DFSM may conduct reviews of the TRBHA and/or its subcontractors without notice for the purpose of ensuring program integrity.

3.2.2.2. Upon notice that a review involves program integrity, the TRBHA will respond to electronic, telephonic or written requests for information within the reasonable timeframe specified by AHCCCS-OIG and/or AHCCCS-DFSM.

3.3. Inspections: Should it be necessary for AHCCCS-OIG and/or AHCCCS-DFSM to conduct an onsite review of the TRBHA and/or any of its subcontractors, the TRBHA will cooperate with AHCCCS to obtain a right of entry from the White Mountain Apache

Tribe. If AHCCCS requests an immediate onsite review due to a program integrity concern, the TRBHA will obtain a right of entry for AHCCCS within one (1) business day. If the TRBHA cannot obtain a right of entry within the timeframe requested by AHCCCS, such failure will constitute a material breach of the Agreement and AHCCCS may terminate the Agreement.

### **C. Risk and Liability**

1. 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, AHCCCS, is self-insured per A.R.S. 41-621.
2. Should the TRBHA utilize a contractor(s) or subcontractor(s) to fulfill the terms of this Agreement, the indemnification clause between the TRBHA and its contractor(s) and subcontractor(s) will include the following:

To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless the White Mountain Apache Tribe 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. 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 will, 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. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors will 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 TRBHA will 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. The TRBHA has the discretion, based on the work performed by the TRBHA's contractor(s) or subcontractor(s), to determine which of the insurance provisions in the Minimum Subcontract Provisions apply to each of the TRBHA's contractor(s) or subcontractor(s)

4. Responsibility for Payments: The TRBHA will be responsible for issuing payment for services performed by the TRBHA'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 TRBHA will, at AHCCCS' request, furnish satisfactory evidence that all obligations described under this subsection have been paid, discharged or waived.
5. Force Majeure.
  - 5.1. Except for payment of sums due, neither Party will 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 will 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 TRBHA 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 will 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 will specify the causes of such delay in such notice. Such notice will be delivered or mailed certified-return receipt and will make a specific reference to this article, thereby invoking its provisions. The delayed Party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by 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.

5.4. Any delay or failure in performance by either party hereto will 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.

**D. Documents Incorporated by Reference**

1. In addition to any policies specifically identified in this Agreement, the following policies are incorporated by reference into this Agreement:
  - 1.1. AHCCCS Contractor Operations Manual Policy 448, Housing for Individuals Determined to Have a Serious Mental Illness
  - 1.2. AMPM Policy 320-O, Service Planning, Assessments, and Discharge Planning;
  - 1.3. AMPM Policy 320-P, Serious Mental Illness Eligibility Determination;
  - 1.4. AMPM Policy 320-R, Special Assistance for Persons Determined to Have a Serious mental Illness;
  - 1.5. AMPM Policy 320-T, Special Populations;
  - 1.6. AMPM Policy 450, Out-of-State Placements for Children or Young Adults for Behavioral Health Treatment; and
  - 1.7. AMPM Policy 1040, Outreach, Engagement, Re-Engagement and Closure for Behavioral Health.
2. To the extent a policy refers to another policy, only the policy referred to in this Agreement is incorporated by reference.
3. If AHCCCS amends a policy incorporated by reference into this Agreement, the TRBHA and AHCCCS agree to enter into good-faith negotiations to incorporate the updated policy into this Agreement. The TRBHA agrees not to unreasonably withhold its agreement to follow the policy as amended.

## ADDENDUM 1: CHART OF DELIVERABLES

The following Chart of Deliverables describes the periodic reporting requirements under Agreement # BH16-0071. The Chart of Deliverables should not be construed to limit the TRBHA's responsibilities in any manner. All required reports will be submitted to the established AHCCCS SFTP site no later than 5:00 pm Mountain Standard Time (no daylight savings) on the due date.

If directed by AHCCCS to submit a specific report to a location other than the established SFTP, the TRBHA will post notification of the submission upon delivery to the alternative location.

Report	Frequency	When Due	Reference	Submit To:
Incidents of Suspected Fraud or Abuse	Ad Hoc	Immediately after discovery	Agreement; <a href="https://www.azahcccs.gov/fraud/ReportFraud/">https://www.azahcccs.gov/fraud/ReportFraud/</a>	OIG
Submit Data and Records included in Agreement	Ad Hoc	Upon Request	Agreement	DFSM
Report of High Profile ALERTS	Ad Hoc	Within one (1) calendar day of awareness	Agreement	CQM portal, DFSM Behavioral Health Administrator
Incident/Accident/Death Reports	Weekly	Day of week established by CQM	Agreement	CQM
Quality of care concerns	Weekly	Weekly on Wednesday or as directed by AHCCCS	Agreement	CQM
Data/Reports/ Information for Audits conducted by AHCCCS	Ad Hoc	Upon request	Agreement	DFSM
Member Handbook	Ad Hoc	Within thirty (30) days of changes made to AHCCCS	Agreement	DFSM
Status of Administrative Review Corrective Actions	Annually, if needed	Upon request	Agreement	DFSM
Member Satisfaction Surveys 1. Adult and 2. Youth	Annually	Upon request	Agreement, as developed in collaboration with AHCCCS	DFSM
Member Survey Report	Annually	30 days after state fiscal year	Agreement, as developed in collaboration with AHCCCS	DFSM
List of trainings provided to TRBHA staff	Annually	15 days after end of fiscal year	Agreement	DFSM
Changes in Key Personnel	Ad Hoc	Within seven (7) days of notification of intended resignation or change	Agreement	DFSM
Response to Tribal Member Problem Resolution	Ad Hoc	As specified on a request from AHCCCS	Agreement	DFSM and/or DHCM customer service
Seclusion Restraint Reports Concerning Persons with a SMI	Monthly	15th day after month end	Agreement	Office of Human Rights

Comprehensive Report of Persons Identified in Need of Special Assistance	Quarterly	15th day of month after quarter end	AMPM 320	Office of Human Rights
Notification of a Person in Need of Special Assistance	Ad Hoc	Within three (3) working days of identifying	AMPM 320	Office of Human Rights
Notification of a Person <b>No Longer</b> in Need of Special Assistance	Ad Hoc	Within ten (10) working days of the determination	AMPM 320-R	Office of Human Rights
Access to Care/Gaps in Services Due to Rates Report	Quarterly	Ten (10) days following the end of each quarter	Agreement	DFSM
Access to Care/Gaps in Services – Member issues	Ad hoc	Immediately upon identification	Agreement	DFSM
Request for Re-Allocation	Ad Hoc	Immediately upon identification	Agreement	DBF/ DHCM
Identification of excluded individual/entity	Ad Hoc	Immediately upon identification	Agreement	DFSM
Revenue and Expense Report with Certification Statement	Quarterly	Within 60 days of end of quarter (quarters based on state fiscal year)	Agreement	DHCM
Unexpended funds report	Annually	As directed by AHCCCS	Agreement	DBF/ DHCM
SABG/MHBG Provider Expenditure Report	Ad Hoc	As directed by AHCCCS	Agreement	DHCM
SABG and MHBG Grant Goal Annual Report	Annually	As directed by AHCCCS	Agreement	DHCM
SABG Wait List Report	Quarterly	Sixty (60) days after end of quarter	Agreement, SABG FAQ	DHCM
Indirect Cost Agreement, if applicable	Annually	October 1 <sup>st</sup>	Agreement	DHCM
Audited Financial Statements for the TRBIA	Annually	No later than nine (9) months after TRBIA fiscal year end	Agreement, 2 CFR 200	DHCM
Prevention Report	Annually	November 1 <sup>st</sup> or next business day	Agreement	DHCM
Prevention Program Description	Annually	Sixty (60) days before the beginning of any new prevention program	Agreement	DHCM
Comprehensive Prevention Needs Assessment	Ad Hoc	As directed by AHCCCS	Agreement, SABG FAQ	DHCM
Grievance or Appeals by eligible or enrolled persons and/or subcontracted providers (non-TXIX)	Ad Hoc	Within three (3) business days of receipt	Agreement	DFSM/OALS
Quality Management Plan and Work Plan	Annually	As directed by AHCCCS	Agreement	CQM
Housing Spending Plan	Annual	No later than	Agreement	DHCM

		thirty (30) days from notification by AHCCCS that state funds have been allocated for housing development		
High Needs/High Cost Clinical Staffing Sheets	Monthly	Five (5) business days prior to the established meeting	Agreement	DFSM
Care Coordination Member Satisfaction Survey	Semi-annually	As indicated in survey protocol	Agreement	DFSM
High Needs/High Cost Outcome Summaries	Annually	30 days after end of state fiscal year	Agreement	DFSM

## **ADDENDUM 2: BUSINESS ASSOCIATE AGREEMENT**

Amended 2013

This Addendum is made part of Agreement # BH16-0071 between the Arizona Health Care Cost Containment System ("AHCCCS") and the White Mountain Apache Behavioral Health Services, 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 not authorized by the Contract, by law, or in writing by AHCCCS. Business Associate shall make the report to AHCCCS's Privacy Official not less than twenty-four (24) hours after Business Associate learns of such unauthorized use or disclosure. Business Associate's report shall at least:
    - A. Identify the nature of the unauthorized use or disclosure;
    - B. Identify the PHI used or disclosed;
    - C. Identify who made the unauthorized use or received the unauthorized disclosure;
    - D. Identify what Business Associate has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure;
    - E. Identify what corrective action Business Associate has taken or shall take to prevent future similar unauthorized use or disclosure; and

- F. Provide such other information, including a written report, as reasonably requested by AHCCCS's Privacy Official.
- 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 or 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 AHCCCS' Minimum Necessary Policy, located at [www.azahcccs.gov](http://www.azahcccs.gov) ;
- 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](http://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. 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.

**EXHIBIT 1: Certification Statement**

**CERTIFICATION STATEMENT  
White Mountain Apache BHS  
FOR THE PERIOD ENDED:**

**Name of Preparer:**

Alethea Velasquez

**Title:**

Chief Financial Officer

**Telephone Number:**

928-338-4811

I hereby attest that the information submitted in the reports herein is current, complete and accurate to the best of my knowledge and actual costs are in accordance with 2 C.F.R. Parts 200 and 300, and 45 C.F.R. Part 75. I understand that whoever knowing and willfully makes or causes to be made a false statement or representation with this report may be prosecuted under applicable federal and/or state laws. In addition, knowing and willfully failing to fully and accurately disclose the information requested might result in denial of a request to participate, or where the entity already participates, a termination of a TRBHA's agreement or contract with Arizona Health Care Cost Containment System (AHCCCS). Failure to sign a Certification Statement will result in AHCCCS' non acceptance of the attached reports.

June 28, 2016  
Date Signed

Alethea Velasquez  
Chief Financial Officer