INTERGOVERNMENTAL AGREEMENT (IGA)
Contract No. HG032008

Project Title: Behavioral Health Services
Begin Date: July 1, 2009
Termination Date: June 30, 2014

Arizona Department of Health Services has authority to contract for services specified herein in accordance with A.R.S. §§ 11-951, 11-952, 36-104 and 36-132. The Contractor represents that it has authority to contract for the performance of the services provided herein pursuant to:

- Indian Tribes: A.R.S. §§ 11-951, 11-952 and the rules and sovereign authority of the contracting Indian Nation.
- City of Phoenix: Chapter 5, §§ 1 & 2, Charter, City of Phoenix.
- City of Tempe: Chapter 1, Article 1, §§ 1.01 & 1.03, Charter, City of Tempe.

The Contractor warrants compliance with all Federal Immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

The Contractor agrees to perform all the services set forth in the Agreement and Work Statement. Amendments signed by each of the parties and attached hereto are hereby adopted by reference as a part of this Contract, from the effective date of the Amendment, as if fully set out herein.

Arizona Transaction (Sales) Privilege:
Federal Employer Identification No.: 36-0092226
Tax License No.:

Contractor Name: The Colorado River Indian Tribe
Address: 2660 Mohave Rd
Page, AZ 85344
City, State Zip Code

Pursuant to A.R.S. § 11-952, the undersigned Contractor's Attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of Arizona.

Signature __________________________ Date 6/29/09
Print Name and Title

VYEN D LE, DEP ATT GEN

Arizona Attorney General Contract, No. PIGA2009020730 which is an Agreement between public agencies has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those parties to the Agreement represented by the Attorney General.

The Attorney General, By:

Signature __________________________
Print Name, Assistant Attorney General

FOR CLARIFICATION, CONTACT:
Name: ELDRED ENAS
Phone: 928-669-1280
FAX No.: 928-669-1216

Signature of person authorized to sign __________________________ Date __________________________

This contract shall henceforth be referred to as Contract No. HG032008

The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until Contractor receives a fully executed copy of the contract.

State of Arizona
Signed this 21st day of July, 2009
Christine Rieb
Chief Procurement Officer

RESERVED FOR USE BY THE SECRETARY OF STATE
No. 30938
Filed with the Secretary of State
Date Filed: 7/24/09

Kzenz
Secretary of State
1. **Definition of Terms.** As used in this Contract, the terms listed below are defined as follows:

A. **"Attachment"** means any document attached to the Contract and incorporated into the Contract.

B. **"ADHS"** means Arizona Department of Health Services.

C. **"Budget Term"** means the period of time for which the contract budget has been created and during which funds should be expended.

D. **"Change Order"** means a written order that is signed by a Procurement Officer and that directs the Contractor to make changes authorized by the Uniform Terms and Conditions of the Contract.

E. **"Contract"** means the combination of the Uniform and Special Terms and Conditions, the Specifications and Statement or Scope of Work, Attachments, Referenced Documents, any Contract Amendments and any terms applied by law.

F. **"Contract Amendment"** means a written document signed by the Procurement Officer and the Contractor that is issued for the purpose of making changes in the Contract.

G. **"Contractor"** means any person who has a Contract with the Arizona Department of Health Services.

H. **"Cost Reimbursement"** means a contract under which a contractor is reimbursed for costs, which are reasonable, allowable and allocable in accordance with the contract terms and approved by ADHS.

I. **"Days"** means calendar days unless otherwise specified.

J. **"Fixed Price"** establishes a set price per unit of service. The set price shall be based on costs, which are reasonable, allowable and allocable.

K. **"Gratuity"** means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

L. **"Materials"** unless otherwise stated herein, means all property, including but not limited to equipments, supplies, printing, insurance and leases of property.

M. **"Procurement Officer"** means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

N. **"Purchase Order"** means a written document that is signed by a Procurement Officer, that requests a vendor to deliver described goods or services at a specific price and that, on delivery and acceptance of the goods or services by ADHS, becomes an obligation of the State.

O. **"Services"** means the furnishing of labor, time or effort by a Contractor or Subcontractor.

P. **"Subcontract"** means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of this Contract.

Q. **"State"** means the State of Arizona and/or the ADHS. For purposes of this Contract, the term "State" shall not include the Contractor.
2. **Contract Type.**

This Contract shall be: (check one)

- [x] Fixed Price  
- [ ] Cost Reimbursement  
- [ ] Not to Exceed

3. **Contract Interpretation.**

3.1 **Arizona Law.** Applicable law of Arizona applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.

3.2 **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

3.3 **Contract Order of Precedence.** In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

3.3.1 Special Terms and Conditions;  
3.3.2 Uniform Terms and Conditions;  
3.3.3 Statement or Scope of Work;  
3.3.4 Attachments  
3.3.5 Referenced Documents

3.4 **Relationship of Parties.** The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

3.5 **Severability.** The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

3.6 **No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.

3.7 **No Waiver.** Either party’s failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3.8 **Headings.** Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning.

4. **Contract Administration and Operation.**

4.1 **Term.** As indicated on the signature page of the Contract, the Contract shall be effective as of the Begin Date and shall remain effective until the Termination Date.

4.2 **Contract Renewal.** This Contract shall not bind, nor purport to bind, the State for any contractual commitment in excess of the original Contract period. The term of the Contract shall not exceed five years. However, if the original contract period is for less than five years, the State shall have the right, at its sole option, to renew the Contract, so long as the original Contract period together with the renewal periods does not exceed five years. If the State exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the exception of price and Scope of Work, which may be renegotiated.

4.3 **New Budget Term.** If a budget term has been completed in a multi-term Contract, the parties may agree to
change the amount and type of funding to accommodate new circumstances in the next budget term. Any increase or decrease in funding at the time of the new budget term shall coincide with a change in the Scope of Work.

4.4 Non-Discrimination. The Contractor shall comply with State Executive Order No. 99-4, as applicable, and all other applicable Federal and State non-discrimination laws, rules and regulations, including, but not limited to Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1975, Federal Executive Order 11246, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, Title VI of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act of 1990 (Public Law 101-366), and all other acts required for compliance with the federal funding source.

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

4.6 Financial Management. For all contracts, the practices, procedures, and standards specified in and required by the Accounting and Auditing Procedures Manual for the ADHS funded programs shall be used by the Contractor in the management of contract funds and by the State when performing a contract audit. Funds collected by the Contractor in the form of fees, donations and/or charges for the delivery of these contract services shall be accounted for in a separate fund.

4.6.1 Federal Funding. Contractors receiving federal funds under this contract shall comply with the certified finance and compliance audit provision of the Office of Management and Budget (OMB) Circular A-133, if applicable. The federal financial assistance information shall be stated in a Change Order or Purchase Order.

4.6.2 State Funding. Contractors receiving state funds under this contract shall comply with the certified compliance provisions of A.R.S. § 35-181 03

4.7 Inspection and Testing. The Contractor agrees to permit access, at reasonable times, to its facilities.

4.8 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the signature page by the Contractor, unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to an ADHS Procurement Officer, unless otherwise stated in the Contract. An authorized ADHS Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice, and an amendment to the Contract shall not be necessary.

4.9 Advertising and Promotion of Contract. The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of an ADHS Procurement Officer.

4.10 Property of the State

4.10.1 Equipment. Except as provided below or otherwise agreed to by the parties, the title to any and all equipment acquired through the expenditure of funds received from the State shall remain the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. When this Contract is terminated, the disposition of all such property shall be determined by the ADHS. For Fixed Price contracts, when the Contractor provides the services/materials required by the contract, any and all equipment purchased by the Contractor remains the property of the Contractor. All purchases of equipment need to be reported to the ADHS Office of Inventory Control.
4.10.2 Title and Rights to Materials. As used in this section, the term "Materials" means all products created or produced by the Contractor under this Contract, including, but not limited to: written and electronic information, recordings, reports, research, research findings, conclusions, abstracts, results, software, data and any other intellectual property or deliverables created, prepared, or received by the Contractor in performance of this Contract. Contractor acknowledges that all Materials are the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. The Contractor is not entitled to a patent or copyright on these Materials and may not transfer a patent or copyright on them to any other person or entity. To the extent any copyright in any Materials may originally vest in the Contractor, the Contractor hereby irrevocably transfers to the ADHS, for and on behalf of the State, all copyright ownership. The ADHS shall have full, complete and exclusive rights to reproduce, duplicate, adapt, distribute, display, disclose, publish, release and otherwise use all Materials. The Contractor shall not use or release these Materials without the prior written consent of the ADHS. When this Contract is terminated, the disposition of all such Materials shall be determined by the ADHS. Further, the Contractor agrees to give recognition to the ADHS for its support of any program when releasing or publishing program Materials.

Notwithstanding the above, if the Contractor is a State agency, the following shall apply instead: It is the intention of ADHS and Contractor that all material and intellectual property developed under this Agreement be used and controlled in ways to produce the greatest benefit to the parties to this Contract and the citizens of the State of Arizona. As used in this paragraph, "Material" means all written and electronic information, recordings, reports, findings, research information, abstracts, results, software, data, discoveries, inventions, procedures and processes of services developed by the Contractor and any other materials created, prepared or received by the Contractor and subcontractors in performance of this Agreement. "Material" as used herein shall not include any pre-existing data, information, materials, discoveries, inventions or any form of intellectual property invented, created, developed or devised by Contractor (or its employees, subcontractors or agents) prior to the commencement of the services funded by this Agreement or that may result from Contractor’s involvement in other service activities that are not funded by the Agreement.

Title and exclusive copyright to all Material shall vest in the State of Arizona, subject to any rights reserved on behalf of the federal government. As State agencies and instrumentalities, both ADHS and Contractor shall have full, complete, perpetual, irrevocable and non-transferable rights to reproduce, duplicate, adapt, make derivative works, distribute, display, disclose, publish and otherwise use any and all Material. The Contractor’s right to use Material shall include the following rights: the right to use the Material in connection with its internal, non-profit research and educational activities, the right to present at academic or professional meetings or symposia and the right to publish in journals, theses, dissertations or otherwise of Contractor’s own choosing. Contractor agrees to provide ADHS with a right of review prior to any publication or public presentation of the Material, and ADHS shall be entitled to request the removal of its confidential information or any other content the disclosure of which would be contrary to the best interest of the State of Arizona. Neither party shall release confidential information to the public without the prior expressly written permission of the other, unless required by the State public records statutes or other law, including a court order. Each party agrees to give recognition to the other party in all public presentations or publications of any Material, when releasing or publishing them.

In addition, ADHS and Contractor agree that any and all Material shall be made freely available to the public to the extent it is in the best interest of the State. However, if either party wants to license or assign an intellectual property interest in the material to a third-party for monetary compensation, ADHS and Contractor agree to convene to determine the relevant issues of title, copyright, patent and distribution of revenue. In the event of a controversy as to whether the Material is being used for monetary compensation or in a way that interferes with the best interest of the state or ADHS, then the Arizona Department of Administration shall make the final decision. Notwithstanding the above, "monetary compensation" does not include compensation paid to an individual creator for traditional publications in academia (the copyrights to which are Employee-Excluded Works under ABOR Intellectual Property Policy Section 6-908C 4), an honorarium or other reimbursement of expenses for an academic or professional presentation, or an unprofitable
5. Costs and Payments

5.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate Contractor’s Expenditure Report for payment from the State within thirty (30) days, as provided in the Accounting and Auditing Procedures Manual for the ADHS.

5.2 Recoupment of Contract Payments.

5.2.1 Unearned Advanced Funds. Any unearned State funds that have been advanced to the Contractor and remain in its possession at the end of each budget term, or at the time of termination of the Contract, shall be refunded to the ADHS within forty-five (45) days of the end of a budget term or of the time of termination.

5.2.2 Contracted Services. In a fixed price contract, if the number of services provided is less than the number of services for which the Contractor received compensation, funds to be returned to the ADHS shall be determined by the Contract price. Where the price is determined by cost per unit of service or material, the funds to be returned shall be determined by multiplying the unit of service cost by the number of services the Contractor did not provide during the Contract term. Where the price for a deliverable is fixed, but the deliverable has not been completed, the Contractor shall be paid a pro rata portion of the completed deliverable. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by Generally Accepted Accounting Procedures up to the date of contract termination.

5.2.3 Refunds. Within forty-five (45) days after the end of each budget term or of the time of termination of the Contract, the Contractor shall refund the greater of: i) the amount refundable in accordance with paragraph 4.2.1, Unearned Advanced Funds; or ii) the amount refundable in accordance with paragraph 5.2.2, Contracted Services.

5.2.4 Unacceptable Expenditures. The Contractor agrees to reimburse the ADHS for all Contract funds expended, which are determined by the ADHS not to have been disbursed by the Contractor in accordance with the terms of this Contract. The Contractor shall reimburse ADHS within 45 days of the determination of unacceptability.

5.3 Unit Costs/Rates or Fees. Unit costs/rates or fees shall be based on costs, which are determined by ADHS to be reasonable, allowable and allocable as outlined in the Accounting and Auditing Procedures Manual for the ADHS.

5.4 Applicable Taxes.

5.4.1 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 taxes from the buyer does not relieve the seller from its obligation to remit taxes.

5.4.2 Tax Indemnification. The Contractor and all subcontractors shall pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall 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.

5.4.3 I.R.S. W9 Form. In order to receive payment under any resulting Contract, the Contractor shall
have a current I.R.S. W9 Form on file with the State of Arizona.

5.5 Availability of Funds for the Next Fiscal Year. Funds may not be presently available for performance under this Contract beyond the first year of the budget term or Contract term. The State may reduce payments or terminate this contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated in the subsequent budget term. The State shall not be liable for any purchases or Subcontracts entered into by the Contractor in anticipation of such funding. The Procurement Officer shall have the discretion in determining the availability of funds.

5.6 Availability of Funds for the Current Contract Term. Should the State Legislature enter back into session and reduce the appropriations or for any reason these goods or services are not funded, ADHS may take any of the following actions.

5.6.1 Accept a decrease in price offered by the Contractor;

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

5.6.3 Cancel the Contract.


6.1 Amendments, Purchase Orders and Change Orders. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment, Purchase Order and/or Change Order within the scope of the Contract, unless the change is administrative or otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized State employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized Contract Amendments, Purchase Orders and/or Change Orders, shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

6.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract without the advance written approval of the Procurement Officer. The Subcontract shall incorporate by reference all material and applicable terms and conditions of this Contract.

6.3 Assignments and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

7. Risk and Liability.

7.1 Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received and accepted by authorized personnel at the location designated in the Purchase Order, Change Order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

7.2 Mutual Indemnification. Each party (as "indemnitee") agrees to indemnify, defend and hold harmless the other party (as "indemnitor") 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 indemnitee, its officers, officials, agents, employees or volunteers.

7.3 Indemnification - Patent and Copyright. To the extent permitted by A.R.S. § 41-621 and A.R.S. § 35-154, the Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of performance of the Contract or use by the State of materials furnished by or work performed under this Contract. The State shall
reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

7.4 **Force Majeure.**

7.4.1 **Liability and Definition.** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract 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; acts of terrorism; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-interventions not caused by or resulting from the act or failure to act of the parties; failures or refusals to act by government authority not caused by or resulting from the act or failure to act of the parties; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence.

7.4.2 **Exclusions.** Force Majeure shall not include the following occurrences:

7.4.2.1 Late delivery of Materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
7.4.2.2 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
7.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

7.4.3 **Notice.** If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

7.4.4 **Default.** Any delay or failure in performance by either party 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.

7.5 **Third Party Antitrust Violations.** The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor for or toward the fulfillment of this Contract.

8. **Description of Materials.** The following provisions shall apply to Materials only:

8.1 **Liens.** The Contractor agrees that the Materials supplied under this Contract are free of liens. In the event the Materials are not free of liens, Contractor shall pay to remove the lien and any associated damages or replace the Materials with Materials free of liens.

8.2 **Quality.** Unless otherwise modified elsewhere in these terms and conditions, the Contractor agrees that, for one year after acceptance by the State of the Materials, they shall be:

8.2.1 Of a quality to pass without objection in the Contract description;
8.2.2 Fit for the intended purposes for which the Materials are used;
8.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
8.2.4 Adequately contained, packaged and marked as the Contract may require; and
8.2.5 Conform to the written promises or affirmations of fact made by the Contractor.
8.3 **Inspection/Testing.** Subparagraphs 8.1 through 8.2 of this paragraph are not affected by inspection or testing of or payment for the Materials by the State.

8.4 **Compliance With Applicable Laws.** The Materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements

8.5 **Survival of Rights and Obligations After Contract Expiration and Termination.**

8.5.1 **Contractor’s Representations.** All representations and warranties made by the Contractor under this Contract in paragraphs 7 and 8 shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12 510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

8.5.2 **Purchase Orders and Change Orders.** Unless otherwise directed in writing by the Procurement Officer, the Contractor shall fully perform and shall be obligated to comply with all Purchase Orders and Change Orders received by the Contractor prior to the expiration or termination hereof, including, without limitation, all Purchase Orders and Change Orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

9. **State's Contractual Remedies.**

9.1 **Right to Assurance.** If the State, in good faith, has reason to believe that the Contractor does not intend to, or is unable to, perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State’s option, be the basis for terminating the Contract.

9.2 **Stop Work Order.**

9.2.1 **Terms.** The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period up to ninety (90) Days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

9.2.2 **Cancellation or Expiration** If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

9.3 **Non-exclusive Remedies.** The rights and remedies of ADHS under this Contract are not exclusive, and ADHS is entitled to all rights and remedies available to it, including those under the Arizona Uniform Commercial Code and Arizona common law.

9.4 **Right of Offset.** The State shall be entitled to offset against any sums due the Contractor in any Contract with the State or damages assessed by the State because of the Contractor’s non-conforming performance or failure to perform this Contract. The right to offset may include, but is not limited to, a deduction from an unpaid balance and a collection against the bid and/or performance bonds. Any offset taken for damages assessed by the State shall represent a fair and reasonable amount for the actual damages and shall not be a penalty for non-performance.
10 Contract Termination.

10.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 36-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is, or becomes at any time while the Contract or an extension of the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation, unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 36-511.

10.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratitude was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement, securing the Contract or an Amendment to the Contract, or receiving favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

10.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor or its subcontractor 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.

10.4 Termination Without Cause.

10.4.1 Both the State and the Contractor may terminate this Contract at any time with thirty (30) days notice in writing specifying the termination date. Such notices shall be given by personal delivery or by certified mail, return receipt requested.

10.4.2 If the Contractor terminates this Contract, any monies prepaid by the State, for which no service or benefit was received by the State, shall be refunded to the State within 5 days of the termination notice. In addition, if the Contractor terminates the Contract, the Contractor shall indemnify the State for any sanctions imposed by the funding source as a result of the Contractor’s failure to complete the Contract.

If the State terminates this Contract pursuant to this Section, the State shall pay the Contractor the Contract price for all Services and Materials completed up to the date of termination. In a fixed price contract, the State shall pay the amount owed for the Services or Materials by multiplying the unit of service or item cost by the number of unpaid service units or items. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by GAAP up to the date of termination. Upon such termination, the Contractor shall deliver to the ADHS all deliverables completed. ADHS may require Contractor to negotiate the terms of any remaining deliverables still due.

10.5 Mutual Termination. This Contract may be terminated by mutual written agreement of the parties specifying the termination date and the terms for disposition of property and, as necessary, submission of required deliverables and payment therein.

10.6 Termination for Default. The State reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material obligation, term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. In the event the ADHS terminates the Contract in whole or in part as provided in this paragraph, the ADHS may procure, upon such terms and in such manner as deemed appropriate, Services or Materials, similar to those terminated, and Contractor shall be liable to the ADHS for any excess costs incurred by the ADHS in obtaining such similar Services or Materials.
10.7 Continuation of Performance Through Termination. Upon receipt of the notice of termination and until the effective date of the notice of termination, the Contractor shall perform work consistent with the requirements of the Contract and, if applicable, in accordance with a written transition plan approved by the ADHS. If the Contract is terminated in part, the Contractor shall continue to perform the Contract to the extent not terminated. After receiving the notice of termination, the Contractor shall immediately notify all subcontractors, in writing, to stop work on the effective date of termination, and on the effective date of termination, the Contractor and subcontractors shall stop all work.

10.8 Disposition of Property. Upon termination of this Contract, all property of the State, as defined herein, shall be delivered to the ADHS upon demand.

11. Arbitration.

11.1 Matters to be submitted to Arbitration. All disputes and controversies of every kind and nature between the parties to this Agreement as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance or termination shall be submitted to arbitration pursuant to the procedure set forth herein.

11.2 Procedure. Either of the parties may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy. Within twenty (20) days after such demand, the other party shall name its arbitrator, or in default of such naming, said arbitrator shall be named by the American Arbitration Association ("AAA"), and the two arbitrators so selected shall name a third arbitrator within twenty (20) days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to appoint a third arbitrator within thirty (30) days of the request therefore, the appointment shall be made by the AAA. The arbitration costs and expenses of each party shall be borne by that party and all arbitrator’s fees and other expenses shall be borne equally by both parties. The arbitration hearing shall be held at such time and place as designated by the arbitrators on at least twenty (20) days written notice to the parties. An award rendered by a majority of the arbitrators appointed pursuant to this Agreement shall be final and binding on all parties to the Agreement. As to the procedures regarding the conduct of the arbitration that are not specified either in this Agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration Rules of the American Arbitration Association.

11.3 Arbitration as a Bar to Suit. The parties stipulate that the arbitration provisions of this Agreement shall be a complete defense to any suit, action, or proceeding instituted in any federal, state, or tribal court or administrative tribunal with respect to any controversy or dispute arising during the period of this Agreement and which is subject to arbitration as set forth in this Agreement. The arbitration provisions of this Agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this Agreement.

11.4 Lack of Arbitrators’ Authority to Modify Agreement. Nothing contained in this Agreement shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from, any of the provisions of this Agreement.

11.5 Enforcement. Failure by either party to arbitrate any dispute in accordance to the procedures set forth herein when a written demand to do so has been made by the other party or failure of either party to comply with the arbitration award shall amount to a material breach of this Agreement and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in this Agreement at the sole discretion of that party.

11.6 Non-Applicability of Uniform Arbitration Act. This Agreement is not subject to enforcement under the Uniform Arbitration Act (A.R.S. Sections 12-1501 through 12-1518).

12. Communication.

12.1 Program Report. When reports are required by the Contract, the Contractor shall provide them in the
format approved by ADHS.

12.2 Information and Coordination. The State will provide information to the Contractor pertaining to activities that affect the Contractor’s delivery of services, and the Contractor shall be responsible for coordinating their activities with the State’s in such a manner as not to conflict or unnecessarily duplicate the State’s activities. As the work of the Contractor progresses, advice and information on matters covered by the Contract shall be made available by the Contractor to the State throughout the effective period of the Contract.

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

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

15. Insurance. The Arizona Department of Health Services is self-insured for liability per A.R.S. 41-621 and the Colorado River Indian Tribe is self-insured under the Federal Tort Claims Act.


16.1 Paid and Unpaid Personnel. The Contractor shall ensure that all paid and unpaid personnel who are required or are allowed to provide Services directly to juveniles have obtained fingerprint clearance cards in accordance with A.R.S. § 41-1758 et. seq.

16.2 Costs. The Contractor shall assume the costs of fingerprint certifications and may charge these costs to its fingerprinted personnel.

17. Administrative Changes. The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment. Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently send to the Contractor notice of corrections to administrative errors in a written confirmation letter with a copy of the corrected Administrative Change attached.

18. Survival of Terms After Termination or Cancellation of Contract. All applicable contract terms shall survive and apply after contract termination or cancellation to the extent necessary for Contractor to complete and for the ADHS to receive and accept any final deliverables that are due after the date of the termination or cancellation.


19.1 The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A R.S. § 23-214, Subsection A.

19.2 A breach of warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

19.3 Failure to comply with a State audit process to randomly verify the employment records of Contractors and Subcontractors shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

19.4 The State Agency retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or Subcontractor is complying with the warranty under paragraph 1.
20. **A.R.S. 35-397.**

   In accordance with A.R.S. 35-397, the Contractor shall not have scrutinized business operations in Iran or Sudan.

21. **Comments Welcome.** The ADHS Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: ADHS Procurement Administrator, Arizona Department of Health Services, 1740 West Adams, Suite 303, Phoenix, Arizona, 85007
WHEREAS the ADHS is duly authorized to execute and administer agreements under Arizona Revised Statutes Sections 36-104, 36-3401 et seq; and

WHEREAS the Tribal Contractor is duly authorized to execute and administer agreements under its Constitution and By-Laws; and

WHEREAS the ADHS and the Tribal Contractor are authorized by A.R.S. § 36-104, 36-3401 et seq and the Tribal Contractor's Constitution and By-Laws to enter into agreements for the joint exercise of any power common to the contracting parties as to governmental functions necessary to the public health, safety and welfare, and the proprietary functions of such public agencies;

WHEREAS, the ADHS and the Tribal Contractor endeavor to provide accessible, timely behavioral health services tailored to the person and family in accordance with best practices, provided in the most appropriate setting, designed in collaboration with the person, family and others to achieve functional outcomes; and

WHEREAS the ADHS desires that the Tribal Contractor provide case management services and the Tribal Contractor has agreed to provide case management services pursuant to the terms and conditions contained herein;

THEREFORE the ADHS and the Tribal Contractor agree as follows:

1. Definition of Terms

"ADHS" means the Arizona Department of Health Services.

"Agreement" means the Intergovernmental Agreement between the Arizona Department of Health Services and the Colorado River Indian Tribes.

"Amendment" means a written document signed by ADHS that is issued for the purpose of making changes in the Agreement.

"Appeal" means a request for a review of an action in accordance with 42 CFR 438.400, and for a person with a serious mental illness, an appeal of an SMI eligibility determination; decisions regarding eligibility for behavioral health services, including Title XIX/XXI services, fees, and waivers; assessments and further evaluations; service and treatment plans and planning decisions; and the implementation of those decisions.

"Behavioral Health Services" means those services listed in the ADHS Behavioral Health Covered Services Guide.

"Claim Dispute" means a dispute involving a payment of a claim, denial of a claim, or imposition of a sanction.

"Complaint" means any expression of dissatisfaction with behavioral health services other than an appeal.

"Covered Services" means those services listed in the ADHS Covered Behavioral Health Services Guide.

"DBHS" means the Division of Behavioral Health Services within the Arizona Department of Health Services.

"Materials" means all property including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

"Medically Necessary Covered Services" means those covered services provided by qualified service providers within their scope of practice to prevent disease, disability, and other adverse health conditions or their progression or to prolong life.

"Non-Title XIX/XXI Person" means an individual who needs or may be at risk of needing covered services, but does not meet Federal and State requirements for Title XIX or Title XXI eligibility.

"Non-Title XIX/XXI Funds" means fixed, non-capitated funds State appropriations, counties and other funds, which
are used for services to Non-Title XIX/XXI eligible persons.

“Party” or “Parties” means the Arizona Department of Health Services or the Colorado River Indian Tribes.

“Provider” means an organization or behavioral health professional that provides behavioral health services to enrolled persons.

“Serious Mental Illness” means a condition of persons who are eighteen years of age or older and who, as a result of a mental disorder as defined in A.R.S. 36-501, exhibit emotional or behavioral functioning which is so impaired as to interfere substantially with their capacity to remain in the community without supportive treatment or service of a long term or indefinite duration. In these persons mental disability is severe and persistent, resulting in long term limitation of their functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation.

“Service Plan” means a written description of the covered behavioral health services and other informal supports that have been identified through the assessment process that will assist the person to meet her/his personal goals.

“SMI Grievance” means a written grievance regarding an act, omission, condition or violation of a right of an individual with a serious mental illness.

“State” means the State of Arizona or the agency responsible for implementing this Agreement, the Arizona Department of Health Services.

“Subvention” means fixed, non-capitated source of funds, including CMHS and SAPT funding, State appropriations, county and other funds, which are used for non-entitled populations.

“Tribal Contractor” means the Colorado River Indian Tribes.

2. Termination for Default

Notwithstanding paragraph 10 6 of the Uniform Terms and Conditions, the State reserves the right to terminate the Agreement in whole or in part due to the failure of the Tribal Contractor to comply with any material obligation, term or condition of the Agreement, to acquire and maintain all required, bonds, licenses and permits, or to make satisfactory progress in performing the Agreement. The Tribal Contractor should receive written notice detailing the area of non-performance and have thirty (30) days to correct non-performance prior to termination for default.

3. Budget Term

If a budget term has been completed in a multi-term Agreement, the parties may agree to change the amount and type of funding to accommodate new circumstances in the next budget term. Any increase or decrease in funding at the time of the new budget term shall coincide with a change in the Scope of Work or change in cost of services as approved by the Arizona Department of Health Services (ADHS).

4. Interpretation of the Agreement

4.1 Arizona Law. Arizona law applies to this Agreement.

4.2 Severability. The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

4.3 No Waiver. Either party’s failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

4.4 Entire Agreement. This Agreement shall constitute the entire Agreement between the parties, and supersedes all other previous understandings, oral or written.
4.5 No Parole Evidence. This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

4.6 No Waiver of Immunity. Nothing contained herein shall be construed to affect or be deemed a waiver of immunity from action, counterclaim, suit, etc., by the Colorado River Indian Tribes.

5. Administration and Operation of the Agreement

5.1 Records and Audit. Under A.R.S. § 35-214 and § 35-215, the Tribal Contractor shall retain all data and other records relating to the acquisition and performance of the Agreement for a period of three (3) years after the completion of the Agreement. All records related to pending litigation shall be retained until the litigation is completed. All records shall be subject to inspection, copying and audit by the State at reasonable times. Upon request, the Tribal Contractor shall produce a legible copy of any or all such records.

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

5.3 Notices.

Notices required in this Agreement from ADHS to the Tribal Contractor shall be made to:

Name: Daniel Eddy, Jr.
Tribal Chairman
Address: Colorado River Indian Tribes
Route 1
Box 23-B
Parker, AZ 85344

Notices required in this Agreement from the Tribal Contractor to ADHS shall be made to:

Name: Dr. Laura Nelson, Acting Deputy Director
Address: Arizona Department of Health Services
Division of Behavioral Health Services
150 N. 16th Avenue Suite 200
Phoenix Arizona 85007-3240

5.4 Request for Information. The ADHS may, at any time during the term of the Agreement, request from the Tribal Contractor, financial or other information related to the Tribal Contractor's performance or compliance under this Agreement. Upon receipt of such request for information, the Tribal Contractor shall provide complete information as requested no later than thirty (30) days after the receipt of the request unless, otherwise specified in the request itself.
5.5 **Qualified Staff.** The Tribal Contractor shall maintain sufficient qualified staff to perform Agreement terms, conditions, and scope of work.

6. **Agreement Changes**

6.1 **Amendments.** The ADHS and the Tribal Contractor may re-negotiate any provision(s) of this Agreement. Any change to this Agreement shall be carried out in accordance with the following: A written amendment signed by both parties to this Agreement shall be required whenever there is a change in a reimbursement rate negotiated by the ADHS and the Tribal Contractor; whenever there is a change in services provided under this Agreement, the service provision methodology or the level of service as defined in the Scope of Work; or for any other change in the terms and conditions in this Agreement which the ADHS deems substantial. When the ADHS issues an amendment to modify the Agreement, the provisions of such amendment shall be deemed to have been accepted sixty (60) days after the date of mailing by the ADHS, even if the amendment has not been signed by the Tribal Contractor, unless within that time the Tribal Contractor notifies the ADHS in writing that it refuses to sign the amendment.

6.2 **Assignment and Delegation.** The Tribal Contractor shall not assign any right nor delegate any duty under this Agreement without the prior written approval of the ADHS. The Agreement is voidable and subject to immediate cancellation by the ADHS upon the Tribal Contractor assigning rights or obligations under the Agreement without prior written approval of the ADHS.

7. **Risks and Liability**

7.1 **Insurance.** Each party is self-insured and is responsible for its own negligence. The Tribal Contractor at the execution of this Agreement and when the certificate is renewed shall submit a complete and valid certificate of insurance to ADHS.

7.2 **Indemnification.** Neither party to this Agreement agrees to indemnify the other party or hold harmless the other party from liability. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this Agreement, then the right to pursue one or both of these remedies is preserved.

7.3 **Force Majeure.**

7.3.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-interventions-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.

7.3.2 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so.

7.3.3 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.
8. Warranties

8.1 Compliance with Applicable Laws. The ADHS and the Tribal Contractor shall comply with all applicable Federal, Tribal, and State laws, rules, regulations, standards, and Executive orders without limitation to those designated herein. Applicable laws and regulations of the State and Federal government shall govern the rights of the parties with respect to the performance.

9. State's Remedies

9.1 If the Tribal Contractor violates any federal/state law; Federal or State laws, rules and regulations; ADHS policies and procedures; or this Agreement, the ADHS may refuse to renew, or terminate this Agreement in accordance with the terms of this Agreement and applicable law.

9.2 If the ADHS in good faith has reason to believe that the Tribal Contractor does not intend to, or is unable to perform or continue performing under this Agreement, the ADHS may demand in writing that the Tribal Contractor give a written assurance of intent to perform. Failure by the Tribal Contractor to provide written assurance within the number of days specified in the demand may, at the ADHS' option, be the basis for terminating the Agreement or other rights and remedies available by law or provided by the Agreement.

9.3 The ADHS shall be entitled to offset against any sums due the Tribal Contractor, any expenses or costs incurred by the ADHS, or damages assessed by the ADHS concerning the Tribal Contractor's non-conforming performance or failure to perform the Agreement.

9.4 The rights and the remedies of the State under this Agreement are not exclusive.

10. Agreement Termination

10.1 This Agreement may be terminated without cause upon sixty (60) days written notice by either party during the term of this Agreement or may be terminated pursuant to a subsequent superseding agreement between the parties. The ADHS has the right to terminate this Agreement upon twenty-four (24) hour notice when the ADHS deems that the health, welfare or safety of enrolled persons is endangered. The State may cancel this Agreement as provided in A.R.S. § 38-511.

10.2 In the event the Agreement is terminated for any reason, or expires, the Tribal Contractor shall assist ADHS in the transition of its enrolled persons to other contractors. In addition, ADHS reserves the right to extend the term of the Agreement on a month-to-month basis to assist in any transition of enrolled persons. The Tribal Contractor shall continue to provide all necessary services until the transition of all enrolled persons is completed and all other requirements of this Agreement are satisfied. The Tribal Contractor shall be responsible for providing all reports set forth in this Agreement and necessary for the transition process and shall be responsible for the notification to enrolled persons.

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

10.4 Any funds, advanced to Tribal Contractor for coverage of enrolled persons for periods after the date of termination, shall be returned to ADHS within thirty (30) days of termination of the Agreement, unless the funds were demonstrably used for transition purposes according to Section I G.2. of this Agreement.

11. Disputes

11.1 Informal Resolution. Whenever a dispute arises regarding the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this Agreement, the parties shall attempt to first resolve the dispute informally at an administrative level prior to resorting to arbitration.

11.2 Arbitration. In the event a dispute cannot be resolved informally at an administrative level, either party may request that the dispute be arbitrated pursuant to this procedure set forth herein. Although consent
to arbitration under this Agreement shall not be deemed a waiver of either party's sovereign immunity, neither party shall assert sovereign immunity as a defense to arbitration under this Agreement.

11.2.1 Procedure

11.2.1.1 Either party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter of controversy.

11.2.1.2 Within twenty (20) days after such demand, the other party shall name its arbitrator, or in default of such naming, such arbitrator shall be named by the American Arbitration Association, and the two arbitrators so selected shall name a third arbitrator within twenty (20) days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of Arizona. In the event said Court fails to appoint a third arbitrator within thirty (30) days of the request therefore, the appointment shall be made by the American Arbitration Association.

11.2.1.3 The arbitration costs and expenses of each party shall be borne by that party and all arbitrators' fees and other expenses shall be borne equally by both parties.

11.2.1.4 The arbitration hearing shall be held at such time and place as designated by the arbitrators on at least twenty (20) days written notice to the parties

11.2.1.5 An award rendered by a majority of the arbitrators appointed pursuant to this Agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

11.2.1.6 As to any procedures regarding the conduct of the arbitration that are not specified either in this Agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration Rules of the American Arbitration Association.

11.2.2 Arbitration as Bar to Suit

11.2.2.1 The parties stipulate that the arbitration provisions of the Agreement shall be a complete defense to any suit, action, or proceeding instituted in any Federal, State, or Tribal Court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this Agreement and which is arbitrable as set forth in this Agreement.

11.2.2.2 The arbitration provisions of this Agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this Agreement.

11.2.3 Nothing contained in this Agreement shall be deemed to give the arbitrators any authority, power, right to alter, change, amend, modify, add to, or subtract from any of the provisions of this Agreement.

11.2.4 Enforcement

11.2.4.1 Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party shall amount to the material breach of this Agreement and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in this Agreement at the sole discretion of that party.
11.2.4.2 Failure of either party to comply with an arbitration award shall amount to the material breach of this Agreement and shall entitle the other party to cease performance of any obligation set forth in this Agreement.

12. Term of Agreement

12.1 Term of Agreement. The term of this Agreement shall commence on the date signed by the Secretary of State and shall remain in effect for a period of five (5) years covering the time span of July 1, 2009 through June 30, 2014, unless terminated, canceled, renewed or extended as otherwise provided herein.


13.1 Dissemination of information. Upon request, the Tribal Contractor shall assist ADHS in the dissemination of information prepared by the ADHS to its enrolled persons. All advertisements, publications and printed materials that are produced by the Tribal Contractor and refer to covered services shall state that such services are funded under Agreement with ADHS.

13.2 Certification of Compliance - Anti-kickback. By signing this Agreement, the Tribal Contractor certifies that it has not engaged in any violation of the Medicare Anti-Kickback statute (42 USC 132a-7b) or the “Stark I” and “Stark II” laws governing related-entity referrals (PL 101-239 and PL 101-432) and compensation therefrom.

13.3 Disclosure of Confidential Information. The Tribal Contractor shall observe and abide by all applicable State, Tribal, and Federal statutes and regulations regarding use or disclosure of information, including, but not limited to, information concerning enrolled persons or applicants for covered services.

13.4 Ownership of Property.

13.4.1 Information and Data

13.4.1.1 Any materials, including reports, computer programs and other deliverables, created under this Agreement are the sole property of the State. The Tribal Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Tribal Contractor shall not use or release these materials without the prior written consent of the ADHS.

13.4.1.2 The Tribal Contractor agrees to give recognition to the ADHS for its support of the program when publishing program material or releasing program related public information.

13.4.1.3 In recognition of tribal sovereignty, publication or release of any of the Tribal Contractor’s specific reports and data shall be subject to the Tribal Contractor’s review and approval.

13.4.2 Any property, personal or intellectual, created under this Agreement or purchased with funds provided under the Agreement, are the sole property of the State. Upon the termination or expiration of this Agreement, all property created or purchased using funds provided under the Agreement shall be promptly transferred to the ADHS, and the Tribal Contractor shall promptly execute any documents necessary to transfer title to such property.

13.5 Accreditation/Credentialing. The Tribal Contractor shall provide covered services in accordance with any and all applicable professional accreditation standards. The Tribal Contractor shall obtain and maintain all applicable licenses, permits and authority required to provide covered services.

13.6 Fingerprint and certification requirements/juveniles services. The fingerprint and certification requirements listed in this section apply to this Agreement to the extent it pertains to services to juveniles.
13.6.1 The Tribal Contractor shall ensure that all paid and unpaid personnel who are required or are allowed to provide services directly to juveniles have met all fingerprint and certification requirements of A.R.S. §36-425.03 prior to providing such services.

13.6.2 The Tribal Contractor shall ensure and verify that those employees who qualify only for a restricted certification shall be supervised when providing services directly to juveniles.
1. Service Delivery.

Non-Title XIX/XXI persons who are affiliated with the Tribal Contractor by virtue of being federally-recognized Tribal members, and who live on the Tribal Contractor’s reservation and who are assessed as needing covered behavioral health services shall be provided covered behavioral health services by the Tribal Contractor in accordance with the ADHS/DBHS Covered Services Guide.

1.1 Service delivery to persons with Serious Mental Illness shall include:

1.1.1 Provide diagnostic psychological testing by a doctoral level licensed psychologist, when available;

1.1.2 Develop appropriate and timely treatment/service plans for SMI individuals and families served. The comprehensive treatment/service plan will outline the problem(s), need(s), and the planned service response for each client. The SMI client(s) is/are encouraged to participate to the maximum extent possible in the planning process and the plans are developed with the client's involvement. Treatment planning and provision of services are guided by assessment findings. The most appropriate, least restrictive or intrusive alternatives, which best meet client needs, are selected. Treatment planning is designed and implemented to provide service in a manner that strengthens and supports family relationships, and empowers and enables children, adolescents, significant others, parents, and family members to assume their roles;

1.1.3 Make referrals to various community agencies for more intensive care when necessary;

1.1.4 Exercise caution and due regard for clients rights to self-determination and protection from harm; and

1.1.5 Termination from treatment reflects an orderly process that is carried out between BHS and the client in which necessary aftercare plans are developed, when indicated.

1.2 Service delivery to persons with Substance Abuse conditions shall include;

1.2.1 Coordinate services through the Colorado River Indian Tribes Alcohol and Substance Abuse Program (ASAP); and

1.2.2 Provide psychological evaluations when indicated on behalf of ASAP.

1.3 Service delivery to children and their families shall include:

1.3.1 Provide both direct and indirect mental health services, including individual, group, marital, and family counseling, crisis intervention, inpatient care, case management, and case-oriented consultation;

1.3.2 Provide face-to-face crisis intervention;

1.3.3 Establish and/or maintain mental health records;

1.3.4 Make referrals to various community facilities for more intensive care when necessary;

1.3.5 Provide case-oriented consultation to tribal law enforcement, courts, child protection services, social services, and the U.S. Public Health Service Parker Indian Health Center, Parker, AZ;

1.3.6 Provide mental health services and assessments or evaluations to patients in the Parker Indian Health Center inpatient unit;

1.3.7 Provide in-service workshops to Parker Indian Health Center staff on mental health issues related
to providing medical care;

1.3.8 Provide assessments or evaluations, when appropriate, of incarcerated individuals at the Colorado River Indian Tribes jail or Detention Center;

1.3.9 Provide adjunct services to and assessments or evaluations, when appropriate, of individuals enrolled in the Parker Unified School District, Parker, AZ;

1.3.10 Provide consultation to school psychologists, teachers, and local school administrative personnel on mental health problems;

1.3.11 Provide adjunct services to and assessments or evaluations, when appropriate, of individuals enrolled at Parker/Excel (a Regional Behavioral Health Agency) and Yuma/Excel; and

1.3.12 Provide adjunct services to and assessments or evaluations of individuals enrolled at Arizona Department of Economic Security, Division of Developmental Disabilities, Parker, AZ.

1.4 Prevention Services delivery shall include:

1.4.1 The prevention branch of Colorado River Indian Tribes BHS is responsible for implementing such activities and will inform the surrounding community about the availability of such resources;

1.4.2 Provide direct consultation services to the Parker Indian Health Center staff;

1.4.3 Provide consultation services on mental health issues to tribal, county, state and Federal agencies;

1.4.4 Network with resources to implement primary and secondary prevention activities in order to address mental health concerns on a system-wide level;

1.4.5 Design and implement various workshops for tribal agencies when appropriate;

1.4.6 Provide policy-oriented consultation to various tribal departments with regard to mental health related issues;

1.4.7 Provide on-site consultation and education services to various community agencies as requested and appropriate;

1.4.8 Inform the community about services available through Colorado River Indian Tribes BHS; and

1.4.9 Develop conferences on mental health issues.

1.5 Title XIX/XXI persons who request covered behavioral health services shall be referred to the Regional Behavioral Health Authority for assessment of the need for covered behavioral health services; and

1.6 On-reservation providers that deliver covered behavioral health services must be certified by CMS (Center for Medicaid/Medicare Services). Off-reservation providers that deliver covered behavioral health services must be either licensed by the ADHS Office of Behavioral Health Licensure, or certified by the ADHS/DBHS, and operating within their scope of practice.

2. Administrative Functions.

2.1 Eligibility and Scope of Services.

2.1.1 The Tribal Contractor shall assess the eligibility of Non-Title XIX/XXI persons referred for or requesting covered behavioral health services in accordance with the requirements of the ADHS/DBHS Provider Manual and the ADHS/DBHS Program Support Procedures Manual;
2.1.2 The Tribal Contractor shall be responsible for the provision of covered behavioral health services by practitioners within their scope of practice to Non-Title XIX/XXI eligible/enrolled children and adults in accordance with Federal and State laws, rules, and regulations. The Tribal Contractor shall use Non-Title XIX/XXI funding, subject to availability, to deliver Non-Title XIX/XXI covered behavioral health services to Non-Title XIX/XXI enrolled persons for Non-Title XIX/XXI covered services; and

2.1.3 The Tribal Contractor shall ensure that covered behavioral health services are sufficient in amount, duration or scope to reasonably be expected to achieve the purpose for which the services are furnished. Covered behavioral health services must be related to the enrolled person’s ability: to achieve age-appropriate growth and development; to attain, maintain or regain functional status; and are sufficient in amount or scope to reasonably be expected to achieve the purpose for which the services are furnished.

2.2 Informational Materials.

2.2.1 Informational material intended for distribution to enrolled Non-Title XIX/XXI persons, and prepared by the Tribal Contractor, shall be approved by the ADHS/DBHS, in writing, prior to distribution to enrolled Non-Title XIX/XXI persons.

2.3 Complaints, SMI Grievances, Member Appeals and Claim Disputes.

2.3.1 ADHS/DBHS shall provide the appropriate personnel to establish, implement and maintain the necessary functions of the SMI Grievance, Member Appeal and Provider Appeal processes. The Tribal Contractor shall provide the appropriate personnel to establish, implement and maintain the necessary functions of the complaint process for enrolled persons.

2.3.2 The Tribal Contractor shall endeavor to informally resolve complaints whenever possible; however, the Tribal Contractor shall not prohibit or interfere with an enrolled person’s or provider’s right to use the SMI grievance and appeal processes; and


2.4 Corrective Action.

2.4.1 The Tribal Contractor shall implement corrective action to bring performance into compliance with ADHS/DBHS requirements, in accordance with the corrective action plan and timelines agreed to by the Tribal Contractor and the ADHS/DBHS. Corrective action plans may be developed by the ADHS at its discretion. In addition to any other remedies available to ADHS, the ADHS may impose financial sanctions against the Tribal Contractor for breaches of the Agreement by the Tribal Contractor or its subcontracted providers.

3. FINANCIAL PROVISIONS

3.1 Funding.

3.1.1 Payments shall be made by the ADHS/DBHS to the Tribal Contractor in compliance with A R S. Titles 35 and 41. Payments are conditioned upon the rights and obligations of this Agreement and the availability to the ADHS/DBHS of funds authorized and appropriated by the State legislature for expenditure in the manner and for the purposes stated in this Agreement. The ADHS/DBHS or the State shall not be liable for any purchase(s) entered into by the Tribal Contractor in anticipation of
such funding;

3.1.2 Subvention: (Non Title XIX/XXI funds). The Non-Title XIX/XXI Allocation Schedule outlines the specific funding sources by program. Subject to available funding, the ADHS shall pay the Tribal Contractor Non-Title XIX/XXI funds in 12 monthly installments annually, within the first 10 business days of each succeeding month. These funds will be used for delivery of services for the programs outlined in the ADHS Non-Title XIX/XXI Allocation Schedule to Non-Title XIX/XXI eligible populations. ADHS/DBHS reserves the right to re-evaluate this schedule periodically. If at the time of the re-evaluation the Tribal Contractor has not expended at least 88% of the subvention funds advanced in any particular allocation, ADHS/DBHS may, at its discretion, reduce the remaining amount of remaining fiscal year allocations to match estimated expenditures. Subvention funds shall be paid on a monthly basis not later than the 10th working day of each month;

3.1.3 Payments made by the ADHS/DBHS to the Tribal Contractor pursuant to the Agreement are conditioned upon the availability to the ADHS/DBHS of funds authorized for expenditure in the manner and for the purposes provided herein. Neither the ADHS/DBHS nor the Tribal Contractor shall be liable for any purchases in anticipation of funding;

3.1.4 Payments made by the ADHS/DBHS to the Tribal Contractor are conditioned upon receipt by the ADHS/DBHS of applicable timely, accurate and complete reports, documentation and any other information due from the Tribal Contractor, unless written approval waiving such requirement(s) is obtained from the ADHS/DBHS Deputy Director. If the Tribal Contractor is in any matter in default in the performance of any material obligation under the Agreement, or if financial, compliance or performance audit exceptions are identified, the ADHS/DBHS may, at its 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 Tribal Contractor shall have the right to 30 days written notice of the ADHS/DBHS’ action in adjusting the amount of payment or withholding payment. Under no circumstances shall the ADHS/DBHS authorize payments that exceed an amount specified in the Agreement without an approved written amendment to the Agreement. The ADHS/DBHS may, at its option, withhold final payment to the Tribal Contractor until all final reports and deliverables are received;

3.1.5 The practices, procedures and standards specified in and required by the Accounting and Auditing Procedures Manual for Arizona Department of Health Services Funded Programs and any Uniform Financial Reporting Requirements shall be used by the Tribal Contractor in the management, recording and reporting of Agreement funds by the ADHS/DBHS when performing an Agreement audit;

3.1.6 Funding received through this contract shall be retained by the Tribal Contractor to be used for covered behavioral health services. All funding received under this contract, must be maintained in a separate fund (account). The Tribal Contractor should provide ADHS/DBHS with a semi-annual report detailing all activities in this fund (account). Any funds remaining subsequent to fiscal year end shall be used in accordance with this contract within 90 days. For funds not expended within 90 days after fiscal year end, the Tribal Contractor shall present a plan for ADHS/DBHS’ approval describing its plan to utilize remaining funds within 180 days of fiscal year end. The following year’s revenue may be adjusted if the Tribal Contractor does not provide a reasonable plan to spend remaining funds; and

3.1.7 The Tribal Contractor shall reimburse the ADHS/DBHS upon request, or the ADHS/DBHS may deduct from future payments to the Tribal Contractor, any amounts determined by the ADHS/DBHS to represent:

3.1.7.1 Costs related to Agreement services which have been inaccurately reported by the Tribal Contractor;

3.1.7.2 Costs related to Agreement services which have not been provided;
3.1.7.3 Costs of Agreement services for which the Tribal Contractor’s books, records, and other documents are not sufficient to clearly confirm were used by the Tribal Contractor to provide Agreement services;

3.1.7.4 Costs of Agreement services sustained as a financial audit exception; or

3.1.7.5 Costs of services which have not been provided in accordance with applicable regulations, laws, policies and this Agreement, to include services which the ADHS/DBHS or AHCCCS has determined not medically necessary.

3.2 Financial Information and Financial Reporting

3.2.1 The Tribal Contractor shall have a system to produce complete, timely, reliable and accurate financial records in accordance with the following requirements for financial reporting:

3.2.1.1 The Tribal Contractor shall design and implement its financial operations system to ensure compliance with Generally Accepted Accounting Principles;

3.2.1.2 The Tribal Contractor shall file a semi-annual report detailing the Non-Title XIX/XXI Revenues and Expenditures;

3.2.1.3 Certification Statement as outlined in the ADHS/DBHS Financial Reporting Guide; and

3.2.1.4 The Tribal Contractor is required to submit audited Financial Statements prepared in accordance with OMB Circular A-133 for Colorado River Indian Tribes within 9 months after the Tribal Contractor’s fiscal year.

3.2.2 Requests for extension of reporting deadlines shall be submitted in writing and must be received by the ADHS/DBHS prior to the report due date. Approvals for extension are valid only if issued in writing by the ADHS/DBHS.

3.2.3 Health Insurance Portability and Accountability Act (HIPAA):

3.2.3.1 The Tribal Contractor shall comply with the Administrative Simplification requirements of Subpart F of the HIPAA of 1996 (Public Law 107-191, 110 Statutes 1936) and all federal regulations implementing the Subparts that are applicable to the operations of the Tribal Contractor by the dates required by the implementing federal regulations.
The following table is a summary of the periodic reporting requirements for the Tribal Contractor and is subject to change at any time during the term of the Agreement. The table is presented for convenience only and should not be construed to limit the Tribal Contractor's responsibilities in any manner.

All required reports shall be submitted to the following email address:

bhocompliance@azdhs.gov, no later than 5:00 p.m. M.S.T. on the date due. Deliverables marked with "***" in the table below shall be submitted directly to the Sherman server. Notification of the submission of deliverables to the Sherman server shall be sent to bhocompliance@azdhs.gov.

<table>
<thead>
<tr>
<th>REPORT</th>
<th>WHEN DUE</th>
<th>SOURCE/REFERENCE</th>
<th>ADHS CONTACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audited Financial Statement per OMB Circular A-133 for Colorado River Indian Tribes</td>
<td>No later than 9 months after the Tribal Contractor's fiscal year end or September 30th</td>
<td>IGA</td>
<td>Office of Financial Review</td>
</tr>
<tr>
<td>Complete and Valid Certificate of Insurance</td>
<td>Prior to agreement execution and when certificate is renewed</td>
<td>IGA</td>
<td>ADHS Procurement 1740 West Adams Room 303 Phoenix, Arizona 85007</td>
</tr>
<tr>
<td>Complete and Valid Certificate of Insurance (ACORD form or approved equivalent)</td>
<td>Initial copies of all subcontractor Insurance Certificates and when renewed or changed thereafter</td>
<td>IGA</td>
<td>Bureau of Compliance</td>
</tr>
<tr>
<td>Data and Records Related to Agreement</td>
<td>Due Upon Request within 60 days</td>
<td>IGA</td>
<td>Bureau of Quality Management Operations</td>
</tr>
<tr>
<td>Corrective Action Plans</td>
<td>Due Upon Request</td>
<td>IGA</td>
<td>As indicated in Corrective Action Plan request letter</td>
</tr>
</tbody>
</table>