

For RFMH Use Only:	
New P.O. # _____	Change P.O. # _____
Category Breakdown:	
Consulting: \$ _____	
P/T/A: _____	
Project Org: _____	
Period of Performance: _____ to _____	
PI: _____	

**AGREEMENT BETWEEN
RESEARCH FOUNDATION FOR MENTAL HYGIENE, INC.
AND
INDEPENDENT CONTRACTOR**

MADE by and between the RESEARCH FOUNDATION FOR MENTAL HYGIENE, INC., a nonprofit corporation organized and existing under the laws of the State of New York, with its principal offices located at Riverview Center, Suite 301, 150 Broadway, Menands, New York 12204 (hereinafter referred to as "FOUNDATION") and _____ having a place of business at _____, (hereinafter referred to as "INDEPENDENT CONTRACTOR").

WITNESSETH:

WHEREAS, the FOUNDATION has been awarded a certain grant/contract from _____ (hereinafter "Sponsor") to carry out a project entitled "_____", Sponsor grant/contract number _____ (hereinafter the "Project"); and

WHEREAS, the FOUNDATION desires the INDEPENDENT CONTRACTOR to perform certain services for the FOUNDATION in connection with the PROJECT; and

WHEREAS, INDEPENDENT CONTRACTOR has represented to the FOUNDATION that INDEPENDENT CONTRACTOR is competent, willing and able to perform such services for the FOUNDATION.

NOW, THEREFORE in consideration of the promises and the mutual covenants and agreements contained herein, it is mutually agreed by and between the respective parties as follows:

1. Scope of Work

The INDEPENDENT CONTRACTOR agrees to perform, as an independent Contractor, and not as an agent or employee of the FOUNDATION, all of the services set

forth in **Exhibit A** appended hereto and made a part hereof to the satisfaction of the FOUNDATION'S Project Director _____.

2. **Compensation**

In full and complete consideration of the INDEPENDENT CONTRACTOR'S performance hereunder, the FOUNDATION agrees to compensate the INDEPENDENT CONTRACTOR _____ Dollars. The payments should be in accordance with **Exhibit C**.

3. **Term and Termination**

Unless sooner terminated as provided herein, this Agreement shall continue in full force and effect from _____ through _____. A final invoice must be submitted within sixty (60) days of the end of this Agreement. It is understood and agreed that the FOUNDATION may terminate this Agreement upon written notice, including email notification, addressed to INDEPENDENT CONTRACTOR at the address indicated herein, or such other address as INDEPENDENT CONTRACTOR may designate in writing, whenever the FOUNDATION determines, in its discretion, that such termination would be in the best interests of the FOUNDATION. FOUNDATION may terminate this Agreement immediately if the Grant between Sponsor and FOUNDATION is terminated.

Upon notice of termination, INDEPENDENT CONTRACTOR shall immediately terminate work in progress and turn over to FOUNDATION all products, work in progress, reports and other data and information accumulated during the performance of services under this Agreement.

4. **Rights in Work Product**

The INDEPENDENT CONTRACTOR agrees that material produced hereunder shall be considered "work for hire" which shall be owned by the FOUNDATION. Further, the INDEPENDENT CONTRACTOR shall not claim or assert any proprietary interest in any of the data or materials required to be produced or delivered by the INDEPENDENT CONTRACTOR in the performance of its obligation hereunder and hereby assigns all rights, title and interest in said data and materials to the FOUNDATION. The INDEPENDENT CONTRACTOR warrants that any material produced by it hereunder shall be original except for such portion from copyrighted works as may be included with the permission of the copyright owners thereof, that any material shall contain no libelous or unlawful statements or materials, and, will not infringe upon any copyright, trademark, patent, statutory or other

proprietary rights of others. The INDEPENDENT CONTRACTOR will hold the FOUNDATION harmless from any costs, expenses and damages resulting from any breach of this warranty. The INDEPENDENT CONTRACTOR further agrees not to publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results or conclusions made pursuant to this AGREEMENT without the prior written consent of the FOUNDATION.

Notwithstanding the foregoing, the INDEPENDENT CONTRACTOR will retain ownership of intellectual property included in deliverables to the extent that said intellectual property has been independently developed by the INDEPENDENT CONTRACTOR without financial support from the FOUNDATION. With respect to such INDEPENDENT CONTRACTOR owned intellectual property, the INDEPENDENT CONTRACTOR hereby grants to the FOUNDATION a royalty-free, nonexclusive license to use such intellectual property for purposes consistent with the FOUNDATION'S obligations under the contract which funds this project.

5. **Confidential Information**

INDEPENDENT CONTRACTOR acknowledges and agrees that in the course of the performance of the services pursuant to this Agreement, INDEPENDENT CONTRACTOR may be given access to, or come into possession of, confidential information of FOUNDATION and/or Sponsor which information may contain trade secrets, proprietary data or other confidential information. INDEPENDENT CONTRACTOR acknowledges and agrees that it will not use, duplicate, or divulge to others any confidential information, including without limitation, trade secrets belonging to or disclosed to INDEPENDENT CONTRACTOR by FOUNDATION without first obtaining written authorization from FOUNDATION. INDEPENDENT CONTRACTOR shall deliver all tangible embodiments of such information to FOUNDATION upon termination hereof, or upon request by FOUNDATION whichever first occurs.

6. **Assignment**

It is understood and agreed that the services to be rendered by the INDEPENDENT CONTRACTOR are unique and that the INDEPENDENT CONTRACTOR shall not assign, transfer, contract or otherwise dispose of the INDEPENDENT CONTRACTOR'S rights or duties hereunder, in whole or in part, to any other person, firm or corporation.

7. **Status of Parties**

The nature of the relationship which the INDEPENDENT CONTRACTOR shall have to the FOUNDATION pursuant to this AGREEMENT shall be that of an independent contractor. The INDEPENDENT CONTRACTOR hereby warrants that it is in compliance with all tax filing and similar requirements imposed on independent contractors and acknowledges that it is solely responsible for paying income taxes, FICA taxes, and other taxes and assessments which arise from receipt of consulting payments under this Agreement. This AGREEMENT shall not be construed to contain any authority, either express or implied,

enabling the INDEPENDENT CONTRACTOR to incur any expense or perform any act on behalf of the FOUNDATION.

8. **Warranties and Representations**

INDEPENDENT CONTRACTOR warrants and represents that neither the execution, delivery nor performance of this Agreement constitutes a breach or violation of any contract or agreement to which it is a party or by which it is in any manner bound. INDEPENDENT CONTRACTOR further warrants and represents that it has no interests or obligations, nor during the term hereof will it acquire any interests or obligations, which conflict with or hamper its ability to perform as required hereby.

INDEPENDENT CONTRACTOR warrants and represents that it will perform any and all services hereunder in a professional and workmanlike manner and that all such work shall be free of errors and defects. INDEPENDENT CONTRACTOR shall immediately correct such error or defect at no additional cost to FOUNDATION. This remedy is in addition to any and all other remedies which FOUNDATION may have pursuant to this Agreement or otherwise. This warranty is in addition to any warranty that may be implied or imposed by operation of law.

If applicable, INDEPENDENT CONTRACTOR certifies, by signing **Exhibit B** of this Agreement, that he/she is informed of the RFMH Financial Conflict of Interest Policy and the obligation to complete training and submit an Investigator Financial Interests Disclosure Form.

9. **Entire Agreement**

This AGREEMENT represents the entire AGREEMENT and understanding of the parties hereto and no prior writings, conversations or representations of any nature shall be deemed to vary the provisions hereof. This AGREEMENT may not be amended or modified in any way except by a writing duly executed by both parties hereto.

10. **Compliance with Laws and Regulations: General Obligations**

a) In the performance of the work authorized pursuant to this AGREEMENT, the INDEPENDENT CONTRACTOR agrees to comply with all applicable laws and regulations, as well as policies of the Sponsor applicable to the INDEPENDENT CONTRACTOR'S performance hereunder, and the express terms of FOUNDATION'S agreement with the Sponsor, which shall be deemed to be inserted herein, and this AGREEMENT shall be read and enforced between the parties as though all such provisions were included verbatim herein.

b) The INDEPENDENT CONTRACTOR agrees to comply with Department of Health and Human Services Regulation, 45 CFR 46, regarding confidential data and research involving human subjects, if the work involves human subjects.

c) The RFMH retains the right to audit the INDEPENDENT CONTRACTOR regarding the work performed under this Agreement for a period of four (4) years after the expiration date.

11. **Indemnification**

INDEPENDENT CONTRACTOR will indemnify, defend and hold harmless FOUNDATION, the New York State Office of Mental Health, and their respective trustees, directors, officers, agents and employees (collectively “Indemnitees”), against all suits, claims, demands or prosecutions, (hereinafter “Claim”) that may be brought or instituted, and all judgments, damages, liabilities, court costs and expenses (including attorney’s fees) arising out of INDEPENDENT CONTRACTOR’s negligent acts or omissions relating to its performance hereunder or its willful misconduct.

12. **Insurance Requirements**

INDEPENDENT CONTRACTOR shall not commence work under this Agreement until it has obtained, at its own expense, all the insurance required under this Agreement, and within the Scope of Work as provided for in Exhibit A, and such insurance has been approved by FOUNDATION.

- a) Workers’ Compensation and Employers’ Liability Insurance as required by law.
- b) Commercial General Liability Insurance with a combined personal injury, bodily injury (including death) and property damage limit of at least \$1,000,000 for each occurrence and \$3,000,000 in the aggregate.
- c) Professional Liability Insurance, including Medical Malpractice and Clinician’s Liability: if INDEPENDENT CONTRACTOR or any of its employees are providing professional services under this Agreement, Professional Liability in an amount not less than \$1,000,000 for each wrongful act and \$3,000,000 in the aggregate.

13. **Governing Law**

Regardless of the place of physical execution or performance, this AGREEMENT shall be construed according to the laws of the State of New York without regard to its conflict of laws provision, and shall be deemed to have been executed in the State of New York.

14. **Order of Precedence**

In the event of any inconsistency between this AGREEMENT and the attached Exhibit A, the inconsistency shall be resolved by giving precedence to clauses 1 through 13 of this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT.

**RESEARCH FOUNDATION FOR
MENTAL HYGIENE, INC.**

INDEPENDENT CONTRACTOR

By _____
Robert E. Burke
Managing Director

By _____

Date _____

Date _____

Read and Agreed:

Project Director

Institutional Official

By _____

By _____

Date _____

Date _____

**Attach:
CV
W9**

Exhibit A

Scope of Work

FINANCIAL CONFLICT OF INTEREST

Independent Contractor as faculty member or employee of an Academic Institution

Academic Institution: _____ Academic Institution certifies that it has an enforced written Financial Conflict of Interest (“FCOI”) policy that complies with the requirements of 42 CFR Part 50 or 42 CFR Part 94, as applicable. Academic Institution shall report to Research Foundation for Mental Hygiene, Inc. (“RFMH”) any identified FCOI of Independent Contractor participating in the Project, and, for any FCOI that has not been eliminated, shall provide a FCOI report to RFMH that includes all of the information required by 42 CFR 50.605(b)(3). Independent Contractor shall make no obligations against the funds to be awarded under this Agreement until the Independent Contractor’s financial disclosure has been reviewed, RFMH has been provided with a report of any FCOI, and Academic Institution has been notified that the required report has been made to PHS by RFMH. Throughout the term of this Independent Contractor Agreement, Academic Institution will report any newly identified FCOI or change(s) to previously identified FCOI to RFMH within 45 days of their identification/disclosure, in accordance with the provisions of this paragraph.

Academic Institution: _____

Authorized Institution Official: Print name: _____

Signature: _____

Independent Contractor: Print name: _____

Signature: _____

OR

Independent Contractor: individual status

Independent Contractor certifies that he/she will adhere to the Research Foundation for Mental Hygiene, Inc. (“RFMH”) Financial Conflict of Interest (“FCOI”) Policy and procedures (http://corporate.rfmh.org/research_compliance/index.asp?page=fcoi_intro) Contact aaaaaaaaaaaaaaaaaaaaaaaaaaaaaa for specific procedures and documentation instructions.

Independent Contractor will disclose to RFMH their financial interests, and those of their spouse and dependent children, that reasonably appear to be related to the Independent Contractor’s work for RFMH. Such reports will be filed with RFMH in a timely manner to permit RFMH to carry out its review, management and reporting obligations. Independent Contractor disclosures shall be made to RFMH prior to execution of this Agreement. Independent Contractor will subsequently comply with RFMH’s management plan to ensure that any FCOI is managed, reduced, or eliminated. Independent Contractor shall make no obligations against the funds to be paid under this Agreement until any FCOI is managed, reduced, or eliminated in accordance with this paragraph and any required reports have been made to PHS by RFMH. Throughout the term of this Agreement, Independent Contractor will report any new disclosure(s) or change(s) to existing disclosure(s) to RFMH within 5 business days of their identification/disclosure.

Independent Contractor: Print name: _____

Signature: _____

Exhibit C