

<b>For RFMH Use Only:</b>	
New P.O. # _____	Change P.O. # _____
<b>Category Breakdown:</b>	
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, 150 Broadway, Suite 301, Menands, New York 12204, (hereinafter referred to as the "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 premises and the mutual covenants and agreements contained herein it is mutually agreed by and between the respective parties as follows:

1. **Scope of Work**

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 C** appended hereto and made a part hereof to the satisfaction of the FOUNDATION's Principal Investigator, \_\_\_\_\_.

2. **Compensation**

In full and complete consideration of INDEPENDENT CONTRACTOR's performance hereunder, the FOUNDATION agrees to compensate INDEPENDENT CONTRACTOR \$ \_\_\_\_\_ Dollars. The payments shall be in accordance with the rate and payment schedule in **Exhibit D**.

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**

INDEPENDENT CONTRACTOR agrees that material produced by INDEPENDENT CONTRACTOR hereunder shall be considered "work for hire" which shall be owned by FOUNDATION. INDEPENDENT CONTRACTOR agrees that INDEPENDENT CONTRACTOR shall not claim or assert any proprietary interest in any of the data or materials required to be produced or delivered by INDEPENDENT CONTRACTOR in the performance of INDEPENDENT CONTRACTOR'S obligation hereunder, and hereby assigns all rights, title and interest in said data and materials to FOUNDATION. INDEPENDENT CONTRACTOR warrants any material produced by INDEPENDENT CONTRACTOR hereunder shall be original except for such portion from copyrighted works as may be included with the permission of the copyright owners thereof, that it 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, and that INDEPENDENT CONTRACTOR will hold harmless the FOUNDATION from any costs, expenses and damages resulting from any breach of this warranty. 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, INDEPENDENT CONTRACTOR will retain ownership of intellectual property included in deliverables to the extent that said intellectual

property has been independently developed by INDEPENDENT CONTRACTOR without Research Foundation financial support. With respect to such INDEPENDENT CONTRACTOR owned intellectual property, INDEPENDENT CONTRACTOR hereby grants to FOUNDATION a royalty-free, nonexclusive license to use such intellectual property for purposes consistent with the FOUNDATION obligations under the grant or contract which funds this Project.

5. **Confidentiality**

INDEPENDENT CONTRACTOR agrees to hold in confidence all Confidential Information and agrees that it will not use any information for any purpose other than set forth in this Agreement. INDEPENDENT CONTRACTOR will take all reasonable steps to ensure its security. INDEPENDENT CONTRACTOR may disclose Confidential Information to its own employees assisting in the services under this Agreement, provided that such employees shall have agreed to be bound by the terms of this Agreement or have entered into an agreement of similar scope and obligations to protect the Confidential Information. All Confidential Information must be returned within thirty (30) days after FOUNDATION makes a written request for its return or at the conclusion of this Agreement.

6. **Assignment**

It is understood and agreed that the services to be rendered by INDEPENDENT CONTRACTOR are unique and that INDEPENDENT CONTRACTOR shall not assign, transfer, contract or otherwise dispose of 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. In connection with its status as an independent contractor, 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. **Entire Agreement**

This Agreement, including Exhibits, 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.

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

a) In the performance of the work authorized pursuant to this Agreement, INDEPENDENT CONTRACTOR agrees to comply with all applicable laws and regulations, as well as policies of the Sponsor applicable to 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 certifies, by signing **Exhibit A** of this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

c) If applicable, the 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.

d) 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.

e) INDEPENDENT CONTRACTOR agrees to have a single audit made in accordance with the Uniform Guidance, 2 CFR Part 200 if it expends \$750,000 or more in federal funds during its fiscal year, except if it elects to have a program-specific audit conducted. INDEPENDENT CONTRACTOR may elect to have a program specific audit conducted if it expends federal funds only under one federal program and the program's laws, regulations, or grant agreements do not require a financial statement audit. Independent Contractor will provide notice of the completion of required audits and any adverse findings which impact this subaward as required by 2 CFR Parts 200.501 - 200.521, and will provide access to records as required by parts 200.336, 200.337, and 200.201 as applicable.

INDEPENDENT CONTRACTOR agrees to submit written notification to the FOUNDATION promptly following completion of the audit. The written notification must confirm that audits were conducted and filed timely, and whether there were any material issues or non-compliance, reportable internal control conditions, pass-through entity awards, related findings, or prior unresolved findings. INDEPENDENT CONTRACTOR expending \$750,000 or more in federal funds must submit the Data Collection Form for Reporting in addition to the written notification. INDEPENDENT CONTRACTOR understands it has the option of providing its own letter of written notification, or it may request and use the FOUNDATION's letter as a guide.

INDEPENDENT CONTRACTOR agrees it will submit one copy of the reporting package described in the Uniform Guidance to the FOUNDATION when the “schedule of audit findings and questioned costs” discloses findings, or the “summary schedule of prior audit findings” reports findings related to the FOUNDATION. INDEPENDENT CONTRACTOR will inform the FOUNDATION of the corrective action that has been or will be taken for audit findings related to the FOUNDATION. In addition, INDEPENDENT CONTRACTOR will immediately inform the FOUNDATION of material operational weaknesses disclosed in audits performed after execution of this agreement.

INDEPENDENT CONTRACTOR understands that if, in the opinion of the FOUNDATION and/or Sponsor, it fails to comply with the audit requirements, appropriate sanctions may be imposed including, but not limited to, those in the Uniform Guidance, Section 200.338.

INDEPENDENT CONTRACTOR certifies that any penalties or expenditure disallowances imposed on the FOUNDATION resulting from instances of noncompliance with federal laws and regulations will be reimbursed by INDEPENDENT CONTRACTOR.

INDEPENDENT CONTRACTOR agrees to submit written notification, and the Data Collection Form for Reporting and the reporting package (if appropriate) to: The Research Foundation for Mental Hygiene, Inc., Attn: Controller, 150 Broadway, Suite 301, Menands, New York, 12204.

INDEPENDENT CONTRACTOR acknowledges if it expends less than \$750,000 a year in federal awards during its fiscal year it is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, FOUNDATION, and Government Accountability Office (GAO).

10. **Indemnification**

INDEPENDENT CONTRACTOR will indemnify, defend and hold harmless FOUNDATION, 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.

11. **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 C, 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.

12. **Modifications**

This Agreement may be changed, amended, modified or extended only by a writing duly executed by the respective parties hereto.

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 clauses 1-13 of this Agreement, and the attached exhibits, the inconsistency should be resolved by giving precedence to clauses 1-13.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement to be effective on the Effective Date.

**Research Foundation for  
Mental Hygiene, Inc.**

**Independent Contractor**

By \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**Read and Agreed;**

**Principal Investigator**

**Institutional Official**

By \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Attach: CV and W9

**Exhibit A**

Research Foundation for Mental Hygiene, Inc.  
Riverview Center, 150 Broadway, Suite 301  
Menands, New York 12204

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**CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS  
- LOWER TIER TRANSACTION**

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**PURPOSE**

Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM) [www.sam.gov](http://www.sam.gov), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

This form requires you to certify that neither your firm nor principals of the firm are listed on the government wide Excluded Parties List System in the System for Award Management (SAM).

**CERTIFICATION**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Independent Contractor Authorized Signature

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Date



**Exhibit B**

**FINANCIAL CONFLICT OF INTEREST Required: Yes No**

**Independent Contractor as faculty member or employee of an 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](http://corporate.rfmh.org/research_compliance/index.asp?page=fcoi_intro) )

contact \_\_\_\_\_ 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**

Scope of Work

**Exhibit D**

Rate and Payment Schedule:

Independent Contractor must submit invoices to the Foundation Principal Investigator detailing the dates and hours worked.

All travel must be in accordance with the RFMH Travel Policy.

Final invoices must be marked FINAL.

Invoices shall be sent to: