



Agreement for RIKI's provision of consultant services related to differential monitoring, risk assessment, key indicators and quality indicators for NARA and transfer of Key Indicator System Intellectual Property from the Research Institute for Key Indicators, LLC (RIKI) and the National Association for Regulatory Administration (NARA).

This Agreement is made and entered into effective as of this ____ day of _____, 2015, by and among: (i) the National Association for Regulatory Administration ("NARA"), whose principal place of business is located at 403 Marquis Avenue, Suite 200, Lexington, KY 40502; and (ii) Research Institute for Key Indicators, LLC ("RIKI") whose principal place of business is located at 41 Grandview Avenue, Middletown, PA 17057, and Dr. Richard Fiene ("Dr. Fiene" and together with RIKI, the "Sellers"), who has the same address as RIKI.

RECITALS:

WHEREAS, RIKI improves the quality of early care and education programs nationally and internationally through an empirically based Key Indicator Methodology;

WHEREAS, RIKI is directed by Dr. Fiene;

WHEREAS, the Key Indicator Methodology is the intellectual property of RIKI by and through Dr. Fiene;

WHEREAS, NARA is the only professional organization in the United States dedicated to promoting excellence in human care regulation and licensing through leadership, education, collaboration, and services;

WHEREAS, NARA offers the development and implementation of Key Indicator Systems based on Dr. Fiene's model to state and local governments as a means of revenue generation;

WHEREAS, the Sellers seeks to transfer ownership of Key Indicator Methodology intellectual property to NARA, and NARA seeks to acquire said property; and

WHEREAS, NARA and RIKI mutually desire to reach an agreement on the terms of the above as expeditiously as possible;

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NARA and RIKI ("the Parties") do hereby enter into this Agreement and do hereby stipulate and agree to the terms of the contact as follows:

1. RIKI hereby agrees to sell, assign, transfer and convey, and NARA hereby agrees to purchase, assume and accept, shall transfer all intangible assets associated with the Key Indicator Systems, including, without limitation, any and all trademarks, tradenames (including "Key Indicator Systems" and the like), patents, copyrights or other intellectual property associated with the Key Indicator Systems in which the Sellers have an interest; together with all published and unpublished papers on differential monitoring, risk assessment, key indicators, and quality indicators (collectively, the "Property"). Promptly following the execution and delivery of this Agreement, the Parties will execute a separate bill of sale and assignment instrument effecting the transfer of the Property from the Sellers to NARA as contemplated herein, which instrument shall contain customary purchase and sale language.
2. As a material inducement to NARA entering into this Agreement, the Sellers each represent and warrant to NARA as follows:

- a. The Sellers validly own the Property;
- b. The rights of the Sellers in the Property are valid and in good standing, are owned free and clear of any encumbrances of any nature, and will not be adversely affected by the transactions contemplated by this Agreement;
- c. There is no claim or proceeding pending against either of the Sellers alleging that either of the Sellers has infringed, misappropriated or otherwise violated any property right of any person or entity, and no proceeding is pending or threatened seeking the revocation or limitation of rights associated with the Property; and
- d. Enclosed a hereto and made a part hereof contains and complete and accurate list of all existing contracts, agreements and proposals between the Sellers and agencies regarding the Property. These include:
 1. ICFI, National Quality Assurance Center – 2015-2020.
 2. Lewin Group, National Head Start Monitoring System – 2015-2020.
 3. Canadian Province of Ontario, Differential Monitoring Project – 2015-2016.
 4. NY Office of Children and Family Services, Quality Indicator Project - 2015-2016.
 5. ACF, Caring for Our Children Basics Checklist Project - 2015-1016.

The Seller agree, jointly and severally, to indemnify NARA against and hold NARA harmless from any and all liabilities, damages, losses, penalties, fines and expenses (including without limitation reasonable attorneys' fees) resulting from any breach of any of the foregoing representations and warranties. The indemnification obligations set forth in this Section 2 shall survive termination of this Agreement.

3. In furtherance of the transfer of the Property as contemplated hereunder, the Sellers hereby agree that RIKI will perform the following activities:
 - A. In cooperation with NARA, develop an annual work plan to promote and conduct differential monitoring, risk assessment, key indicators and quality indicator products.
 - B. Identify to NARA potential clients for differential monitoring, risk assessment, key indicators and quality indicator products.
 - C. Actively promote the adoption and development of NARA-designed differential monitoring, risk assessment, key indicators and quality indicators products to potential clients;
 - D. Assist NARA in the negotiation process for the purchase and development of NARA-designed differential monitoring, risk assessment, key indicators and quality indicators;
 - E. Provide subject matter and data analysis expertise for NARA's differential monitoring, risk assessment, key indicators and quality indicators contracts, including consultant selection and ensuring deliverables are met.
 - F. In cooperation with NARA, develop pertinent research, educational content, and educational sessions for NARA's cadre of consultants on differential monitoring, risk assessment, key indicators, and quality indicators methodologies.
 - G. Conduct no less than two in-person or online informational educational sessions per year focused on activities and trends in differential monitoring, risk assessment, key indicators and quality indicators. Travel expenses will be reimbursed, subject to receipt by NARA of documentation thereof.

- H. Provide NARA with an estimated number of hours per contract upon request for each key indicator/risk assessment contract.
 - I. Devote such time and attention as is reasonably required to perform the services hereunder.
 - J. Refrain from engaging in any new/future development, consulting or contracting related to differential monitoring, risk assessment, key indicators, or quality indicators unless specifically requested by and under contract with NARA to do so (other than activities related to the existing contracts, agreements and proposals identified in section 2 (d))
4. In consideration of the sale by the Sellers of the Property and the Sellers' agreement to perform the activities contemplated above, NARA agrees to the following activities:
- A. Compensate RIKI with a payment of \$20,000 per year or \$15,000 per new key indicator contract or risk assessment, whichever is more annually. In the event that less than two new key indicators contracts or risk assessments are not generated within a calendar year, RIKI will receive its minimum \$20,000 for such calendar year no later than January 15 of the following calendar year, or as otherwise agreed upon by the Parties. The \$15,000 per contract payment assumes up to 80 hours of consulting/data analysis work. In the event that RIKI anticipates that required work with respect to a contract will exceed 80 hours, RIKI will so notify NARA prior to NARA executing any such contract. New contracts will be accepted and entered into by NARA in its sole discretion.
 - B. Compensate RIKI at a rate of \$200.00/hour for all mutually agreed upon hours beyond the standard 80 hours of work per contract key indicator/risk assessment contracts. All such work will be discussed and agreed upon by NARA and RIKI prior to any commencement thereof.
 - C. RIKI will be given first option for the data related portions of any work as outlined in a project proposal developed by NARA. In the event that RIKI declines any such work, NARA may in its discretion contract with other parties to perform such work.
5. The term of the Sellers' and NARA's respective obligations under Sections 3 and 4 above shall commence effective as of the date first written above and shall through June 30, 2020, unless mutually extended by the Parties in writing prior thereto. Notwithstanding the foregoing, NARA may terminate this Agreement prior to the foregoing expiration date in writing upon: (i) any breach of any of the Sellers' representations and warranties set forth in this Agreement; (ii) any failure by the Sellers to perform their obligations set forth in this Agreement; or (iii) the death or incapacity of Dr. Fiene. The Sellers may terminate this Agreement prior to the foregoing expiration date in writing upon any failure by NARA to perform its obligations set forth in this Agreement.
6. The Sellers understand and agree that NARA is engaging the Sellers only for the purposes and to the extent set forth in this Agreement, including but not limited to the performance of the above-described services by the Sellers and no other individual or company. As such, the Sellers shall function as independent contractors and not as employees, agents or other representatives of the Company. Nothing in this Agreement shall be considered to create the relationship of employer-employee between NARA and the Sellers. The Sellers shall be solely and unconditionally responsible for any and all city, state, local and federal income taxes, social security withholding taxes, and any other self-employment tax obligation relating to the income which the Sellers derive from this Agreement (collectively, "Taxes"). The Sellers, jointly and severally, shall indemnify, defend and hold harmless NARA from and against any and all liabilities, damages, losses, penalties, fines and expenses (including without limitation reasonable attorneys' fees) resulting from the Sellers' failure to timely pay any Taxes that are due as a result of any services provided to NARA pursuant to this Agreement. NARA and the Sellers shall report any and all payments NARA makes to the Sellers pursuant to this Agreement to the appropriate governmental agencies in a manner consistent with the Sellers' status as independent contractors. The indemnification obligations set forth in this Section 6 shall survive termination of this Agreement.

7. Miscellaneous Provisions:

- A. This Agreement supersedes all prior or contemporaneous understandings, agreements, negotiations and discussions, whether oral or written, between the parties concerning this subject matter and constitutes the entire agreement between the parties with regard to this subject matter. The parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to in this Agreement. No amendment, change, or modification of this Agreement shall be valid unless in writing and signed by the party against whom enforcement is sought.
- B. All notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party (including without limitation service by overnight courier service) to whom notice is to be given, or on the third business day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, at the address set forth below, or on the date of service if delivered by facsimile to the facsimile number then utilized by the party receiving the facsimile. All notices shall be addressed to the parties to be served to the addresses for the Parties set forth in the preamble hereto.
- C. If any provision of this Agreement is invalid or unenforceable, in whole or in part, then such provision is deemed modified or restricted to the extent and in the manner necessary to render that provision valid and enforceable, and this Agreement will be construed and enforced to the maximum extent that applicable law permits.
- D. Waiver of the benefit of any provision of this Agreement must be in writing and signed by the party against whom enforcement is sought to be effective. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. No action taken pursuant to this Agreement shall be deemed to constitute a waiver by such party of compliance by the other party with any of the covenants or other obligations contained in this Agreement. A failure by a party to insist upon strict compliance with any term of this Agreement, enforce any right or seek any remedy upon any breach of any other party shall not affect, or constitute a waiver of, such party's right to insist upon such strict compliance, enforce that right or seek that remedy with respect to that default or any prior, contemporaneous or subsequent default.
- E. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky without regard to principles of conflicts of law.
- F. No party may assign this Agreement or any rights, duties or obligations accruing thereunder without the prior written consent of the other parties, which consent may be withheld regardless of the reasonableness of any request therefor.
- G. The terms and provisions of this Agreement are intended solely for the benefit of the, and it is not the intention of the Parties to confer third party beneficiary rights, and this Agreement does not confer any such rights, upon any other person or entity.
- H. This Agreement may be executed in one or more counterparts, including by means of facsimile signatures, each of which shall constitute an original, but all of which together shall constitute one and the same instrument.

Remainder of Page Intentionally Left Blank; Signature Page Follows

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, have executed this Agreement effective as of the date first written above, but actually as of the dates set forth below.

NARA:

RIKI:

Date
Marcus Williams
Executive Director
The National Association
for Regulatory
Administration

Date
Dr. Richard Fiene
Director
Research Institute for Key
Indicators, LLC

Dr. Richard Fiene, individually

Date